

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, OCTOBER 1, 2018 TIME: 7:00PM

- I. CALL TO ORDER
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE

PROCLAMATION

1. Pulmonary Fibrosis Awareness

PRESENTATIONS

1. Testing for Pease Proposal to Study “Non Target” PFAS Compounds – Andrea Amico, Testing for Pease
2. Pease Water Treatment Update – Brian Goetz, Deputy Director of Public Works

V. ACCEPTANCE OF MINUTES – AUGUST 20, 2018

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARINGS & VOTES ON ORDINANCES AND/OR RESOLUTIONS

A. Public Hearing – Parking Ordinance – Downtown High Occupancy Zone

ORDINANCE AMENDING CHAPTER 7, ARTICLE I SECTION 7.102 – PARKING METER ZONES, SUBSECTION A, DOWNTOWN HIGH OCCUPANCY ZONE

- PRESENTATION
- CITY COUNCIL QUESTIONS
- PUBLIC HEARING SPEAKERS
- ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS

(Sample motion – move to pass second reading and hold third and final reading at the October 15, 2018 City Council meeting, as presented)

B. Public Hearing – Zoning Ordinance – Highway Noise Overlay District

ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE – CREATION OF A HIGHWAY NOISE OVERLAY DISTRICT:

- AMENDMENT TO ZONING MAP TO ADD HIGHWAY NOISE OVERLAY DISTRICT AS SHOWN ON THE MAP TITLED “PROPOSED HIGHWAY NOISE OVERLAY DISTRICT”, DATED JULY 17, 2018;

- INSERT NEW SECTION 10.613.60 IDENTIFYING THE HIGHWAY NOISE OVERLAY DISTRICT ON THE ZONING MAP;
- INSERT NEW SECTION 10.670 HIGHWAY NOISE OVERLAY DISTRICT;
- AMEND ARTICLE 15 – DEFINITIONS, SECTION 10.1530 – TERMS OF GENERAL APPLICABILITY

- **PRESENTATION**
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

(Sample motion – move to pass second reading and schedule third and final reading at the October 15, 2018 City Council meeting on the following zoning amendments related to the creation of a Highway Noise Overlay District:

- *Amendment to Zoning Map to Add Highway Noise Overlay District as shown on the map titled “Proposed Highway Noise Overlay District”, dated July 17, 2018;*
- *Insert new Section 10.613.60 identifying the Highway Noise Overlay District on the Zoning Map;*
- *Insert new Section 10.670 Highway Noise Overlay District;*
- *Amend Article 15 – Definitions, Section 10.1530 – Terms of General Applicability)*

C. First reading of Ordinance amending Chapter 7, Article XIX, Section 7.1901 – 7.1905 - Shared Active Transportation ***(Sample motion – moved to pass first reading and schedule a second reading and public hearing of the proposed Ordinance at the October 15, 2018 City Council meeting)***

D. First Reading of Ordinance amending Chapter 14, Article II, Section 14.2 - Demolition Ordinance ***(Sample motion – move to pass first reading and schedule a second reading and public hearing of the proposed Ordinance at the October 15, 2018 City Council meeting)***

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Moose License Plate Conservation Grant ***(Sample motion – move to approve and accept the grant from NH State Library’s Conservation License Plate Grant Program)***
- B. Acceptance of Department of Homeland Security Prospective Grant Award to the Portsmouth Police Department - \$69,638.00

IX. CONSENT AGENDA

(ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)

- A. Letter from Laurie Mantegari, Scarecrows of the Port, requesting permission to place scarecrows in designated locations throughout the Portsmouth Downtown Area on Thursday, October 11th through Saturday, November 3rd ***(Anticipated action – move to refer to the City Manager with power)***
- B. Letter from Carolyn Adams, American Volkssport Association, requesting permission to hold a walk starting at Little Harbour School on Sunday, June 9, 2019 ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Brittany Adelhardt requesting permission to hold the Walk for Freedom on Saturday, October 20th ***(Anticipated action – move to refer to the City Manager with power)***

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence ***(Sample motion – move to accept and place on file)***
- B. Letter from Eleanor Bird regarding the Post Office remaining in its current location ***(Sample motion – move to accept and place on file)***
- C. Letter from Shane Morin requesting to host the Annual Music and Poetry After Hours at Vaughan Mall on Friday, October 12th from 7:00 p.m. to 9:30 p.m. as well as the use of electrical outlets and a small PA/Sound system
- D. Letter from Susan Denenberg regarding polling hours
- E. Letter from Brian Wazlaw regarding polling hours

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action:

- 1. License Request Re: 77 Daniel Street
- 2. Request for First Reading of Amendments to Sign Ordinance
- 3. Sidewalk Easement Re: 439 Hanover Street
- 4. Water Services Access Easement Re: 50 Lovell Street
- 5. Temporary Construction License Re: 46-64 Maplewood Avenue
- 6. Report Back Re: Polling Hours and Request to Establish Polling Hours for the November 6, 2018 State General Election

City Manager's Informational Items:

1. Events Listing
2. Report Back Re: Accessory Dwelling Units and Garden Cottage Approvals
3. Letter Re: Relocation of the U.S. Post Office in Downtown Portsmouth.

B. MAYOR BLALOCK

1. Appointment to be Considered:
 - Katelyn Kwoka reappointment to the Economic Development Commission
2. Appointment to be Voted:
 - Everett Eaton reappointment to the Economic Development Commission

C. ASSISTANT MAYOR LAZENBY

1. *Pease CAP Update

D. COUNCILOR ROBERTS

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the September 6, 2018 meeting (***Sample motion – move to accept and approve the action sheet and minutes of the September 6, 2018 Parking and Traffic Safety Committee meeting***)

E. COUNCILOR DENTON

1. International Energy Conservation Code (***Sample motion – move for a report back on the City's preferred method of adopting a more recent International Energy Conservation Code and declaring a more restrictive Climate Zone***)

XII. MISCELLANEOUS/UNFINISHED BUSINESS

XIII. ADJOURNMENT

**KELLI L. BARNABY, MMC, CMC, CNHMC
CITY CLERK**


** Indicates verbal report*

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: September 27, 2018

To: Honorable Mayor Jack Blalock and City Council Members

From: John P. Bohenko, City Manager 

Re: City Manager's Comments on October 1, 2018 City Council Agenda

Presentations:

1. **Testing for Pease Proposal to Study “Non Target” PFAS Compounds.** Andrea Amico, with Testing for Pease, will provide an overview of their proposed “PFAS Non Target Analysis Project,” that they are interested in doing at Pease with scientists from Colorado School of Mines, Northeastern University, and Silent Spring Institute using funds obtained through a local grant awarded to them by the Seacoast Women's Giving Circle.

2. **Pease Water Treatment System Update.** As you are aware, the City of Portsmouth and the United States Air Force have executed their latest agreement to treat perfluorochemical compounds (PFAS) from water supplied by the Smith, Harrison and Haven Wells serving the Pease Tradeport drinking water system. The agreement will provide the City with up to \$14.3 million to reimburse the cost of construction of the final treatment system for all three wells, which will include a dual filtration system consisting of resin and activated carbon filters. Under the agreement, the City will be responsible, with the assistance of its engineering consultant, for the bidding, contracting, and oversight of the construction just as in an typical municipal construction project. The City will submit pay requests monthly to the Air Force for reimbursement and a motion to facilitate that process is recommended. Deputy Public Works Director Brian Goetz will give an update to the City Council regarding this latest agreement with the Air Force and the new drinking water system to be constructed.

I recommend the City Council move to accept the reimbursement to the City for up to \$14.3 million for the construction of the Resin-Activated Carbon Water Treatment System for the Pease Tradeport Water System, and further, authorize the City Manager to expend these funds.

Acceptance of Grants and Donations:

1. **Acceptance of Moose License Plate Conservation Grant.** The City of Portsmouth has been awarded one of the FY2018/2019 Moose License Plate Conservation Grants in the amount of \$9,535 for the conservation project Preservation, Microfilming and Digitation of Five Portsmouth Historic Overseer of the Poor Documents Dated 1812 to 1868. These monies will help preserve legally required and historically significant documents held by the Finance Department that initially were intended to be financed through the City's Capital Improvement Program.

The New Hampshire State Library's (NHSL) FY2018/2019 Conservation License Plate Grant Program is designed to help municipalities as well as other public organizations preserve their historic documents. The NHSL Grant awards up to \$10,000 to applicants to conserve publicly owned documents. The program aims to aid in the preservation of New Hampshire's historic manuscripts as well as increase their availability to the public. The Grant requires that these documents not only be professionally preserved but also scanned to preservation microfilm as well as digitized. This is the second Moose License Plate Conservation Grant the City has been awarded. The City received a grant in the amount of \$9,966 last year and utilized it to restore seven historic documents dating 1800-1888.

I recommend the City Council move accept and approve the Moose License Plate Conservation Grant, as presented.

2. **Acceptance of Department of Homeland Security Prospective Grant Award to the Portsmouth Police Department.** Attached is a memorandum, dated September 26, 2018, from Joseph Onosko, Portsmouth Police Commission and Robert Merner, Chief of Police. At the September 25, 2018 Police Commission meeting, the Board of Police Commissioners approved and accepted the following grant award:

- a) Department of Homeland Security Prospective Grant Award – **The terms of this grant require approval pending funding.** The Portsmouth Police Department has been **prospectively** awarded \$69,638 for a UAS – an unmanned aerial surveillance vehicle. No actual work or preparatory work may begin for this project until the official award notice is received by the Department and all the pre-award criteria are met. Prospective approval of the award is part of the pre-award criteria.

The Police Commission submits the information to the City Council pursuant to City Policy Memorandum #94-36, for the City Council's consideration and approval at this evening's City Council meeting.

I recommend the City Council move to accept and approve the prospective grant award to the Portsmouth Police Department, as presented.

Public Hearings & Votes on Ordinances and/or Resolutions:

1. **Public Hearing/Second Reading Re: Chapter 7, Section 7.102 Parking Meter Zones, Subsection A, Downtown High Occupancy Zone.** At the September 17, 2018 City Council meeting, the Council voted to schedule pass first reading and schedule second reading and public hearing of the [attached proposed Ordinance amending Chapter 7, Section 7.102 Parking Meter Zones, Subsection A, Downtown High Occupancy Zone.](#) Also, [attached are the current and proposed maps](#) of the City's High Occupancy Parking Zones. The average occupancy on the streets recommended for inclusion under the definition of High Occupancy presently sit at well over 100% collectively, where 80-85% is the industry standard recognized as 'optimal'. Additionally, expanding the High Occupancy coincides with the 2012 Parking Principles objective to 'Price and manage more desirable on-street parking spaces to favor users who are highly motivated to use them...' City staff have revised Chapter 7, Section 7.102 PARKING METER ZONES, Subsection A, DOWNTOWN HIGH OCCUPANCY ZONE to include the proposed streets – [see attached proposed Ordinance.](#)

If the City Council wishes to proceed, the following motion would be required:

Move to pass second reading and schedule a third and final reading of the proposed Ordinance at the October 15, 2018 City Council meeting.

2. **Public Hearing/Second Reading of Ordinance amending Chapter 10 – Zoning Ordinance – Creation of a Highway Noise Overlay District.** At the September 17, 2018 City Council meeting, the Council voted to pass first reading and schedule second reading and a public hearing of the proposed Ordinance for the creation of a Highway Noise Overlay Zoning District. [Attached is a memorandum](#) from Planning Director Juliet Walker regarding this matter. The memorandum details the background regarding the City's efforts to seek a mechanism for mitigating highway noise impacts for residential neighborhoods that abut the major highways in the City. Also, [attached is a proposed Ordinance, zoning map, and a response letter to NHDOT regarding the Type II Noise Abatement Program.](#) The Planning Board conducted a public hearing on this proposed zoning amendment at its August 16, 2018 meeting and voted to recommend approval to the City Council.

The primary objective of the proposed Highway Noise Overlay District zoning amendments are to help the City to be eligible for participation in NHDOT's Type II noise abatement program. The proposed amendments apply to all land within 500 feet of the centerline of 1-95 or NH 16, except land subject to the Pease Development Authority's land use regulations. A requirement for acceptance into the Type II program is that the City has to have enacted highway noise compatible planning and development regulations which require avoidance, minimization or mitigation of exterior highway traffic noise impacts associated with new noise sensitive development adjacent to state highways. The amendments as proposed are designed to meet the minimum requirements for meeting the Type II program guidelines without unduly restricting property owners.

If the City Council wishes to proceed, the following motion would be required:

Move to pass second reading and schedule a third and final reading for the October 15, 2018 City Council meeting on the following zoning amendments related to the creation of a Highway Noise Overlay District:

- *Amendment to Zoning Map to add Highway Noise Overlay District as shown on the map titled “Proposed Highway Noise Overlay District”, dated July 17, 2018;*
- *Insert new Section 10.613.60 identifying the Highway Noise Overlay District on the Zoning Map;*
- *Insert new Section 10.670 Highway Noise Overlay District;*
- *Amend Article 15 – Definitions, Section 10.1530 – Terms of General Applicability.*

3. **First Reading of Ordinance amending Chapter 7, Article XIX, Section 7.1901 and 7.1905 - Shared Active Transportation.** At the City Council September 17, 2018 meeting, the Council voted to schedule a first reading regarding a proposed Ordinance for shared active transportation (electric scooters, bicycles and the like). The attached proposed Ordinance is a new provision entitled Chapter 7, Vehicles, Traffic and Parking, Article XIX Shared Active Transportation to be added to the Ordinances.

If the City Council wishes to proceed, the following motion would be required:

Move to pass first reading and schedule a second reading and public hearing of the proposed Ordinance at the October 15, 2018 City Council meeting.

4. **First Reading of Ordinance amending Chapter 14, Article II, Section 14.2 - Demolition Ordinance.** At the September 17, 2018 City Council meeting, the Council voted to schedule a first reading regarding several amendments to the Demolition Ordinance. Attached is a proposed Ordinance that amends Chapter 14, Article II, Section 14.2 - Demolition Ordinance.

The proposed Ordinance reflects changes to the definition, applicability, application and notice, as well as procedure regarding the demolition of a building and process.

If the City Council wishes to proceed, the following motion would be required:

Move to pass first reading and schedule a second reading and public hearing of the proposed Ordinance at the October 15, 2018 City Council meeting.

City Manager's Items Which Require Action:

1. **License Request Re: 77 Daniel Street.** Tom Hammer Construction LLC, has erected scaffolding and is currently working pursuant to a City issued encumbrance permit to facilitate storefront restoration and window installation at 77 Daniel Street. [See attached picture.](#) That work may extend beyond the maximum time permitted under the encumbrance permit (October 1, 2018).

Tom Hammer Construction LLC requests a license to cover such additional construction time to complete the work. Staff recommends the contractor be granted a license to October 19, 2018 which should provide sufficient time for the work to be completed. The license would include the applicable terms and conditions already in place pursuant to the encumbrance permit relating to safe pedestrian passage. The license will also provide the City Manager with the authority to extend the time if needed for good cause.

I recommend the City Council move to authorize the City Manager to negotiate and enter into a license with Tom Hammer Construction LLC.

2. **Request for First Reading of Amendments to Sign Ordinance.** The Planning Board conducted a public hearing on this proposed zoning amendment at its August 16, 2018 meeting and voted to recommend approval to the City Council with amendments at the September 17, 2018 meeting. [See attached proposed Ordinance.](#)

The amendments are being proposed primarily to bring the City's sign regulations into compliance with legal requirements for content neutrality. In the case *Reed et al. v. Town of Gilbert, Arizona, et al. (2015)*, the U.S. Supreme Court ruled that regulations that categorize signs based on the type of information they convey and then apply different standards to each category are content-based regulations of speech and are not allowed under the First Amendment protections of the United States Constitution. Additional changes include updating the regulations regarding prohibited signs and temporary signs, clarifying sign area, and other housekeeping amendments.

The request for this evening's meeting is to bring the proposed Ordinance back for first reading at the October 15, 2018 City Council meeting.

Therefore, I recommend the City Council move to schedule a first reading for the October 15, 2018 City Council meeting to amend the Zoning Ordinance by deleting the existing Article 12 – Signs and inserting in its place a new Article 12 – Signs as presented in the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Article 12 – Signs”, dated September 25, 2018.

3. **Sidewalk Easement Re: 439 Hanover Street.** A. Matthew Wirth and Michelle Wirth own property at 439 Hanover Street. The property abuts Hanover Street, Brewster Street, and Sudbury Street. During the course of a recent public works project, the owner discovered that a portion of the public sidewalk along the above listed streets was outside the public right-of-way and encroaching upon the Wirth's property.

The Wirths have agreed to convey a sidewalk easement to encompass existing sidewalk and cure the title defect. The easement is to be conveyed as shown on the [attached plan](#).

On September 20, 2018, the Planning Board voted to recommend that the City Council accept a sidewalk easement from the Wirths across property located at 439 Hanover Street.

The Planning, Legal, and Public Works Departments recommend acceptance of this easement.

I recommend the City Council move to accept a sidewalk easement from the Wirths across property located at 439 Hanover Street.

4. **Water Services Access Easement Re: 50 Lovell Street.** On August 16, 2018, the Planning Board approved an application from the Theresa Sessions requesting Site Plan Review Approval for a property located 50 Lovell Street. The application proposed to construct two new multi-family buildings on a lot with an existing single family residence. [See attached map](#).

As approved, the Site Plan includes a water service access easement ([see attached](#)) to provide municipal access to the City for the purpose of accessing water infrastructure for routine service.

All of the foregoing has been approved by the Planning Board and is recommended by the Planning and Legal Departments.

If the City Council is in agreement with the recommendation, an appropriate motion would be:

Move that the City Manager be authorized to negotiate, execute, deliver and record the deeds regarding 50 Lovell Street.

5. **Temporary Construction License Re: 46-64 Maplewood Avenue.** On May 17, 2018, the Planning Board granted site plan review approval to Steve Kelm for property located at 46-64 Maplewood Avenue to construct a five-story, mixed use building.

The Construction Mitigation and Management Plan (CMMP), signed in August 2018, identified temporary encumbrances of the public right-of-way for project-related work along Bridge Street, Deer Street, and Maplewood Avenue for different periods of time during of the project's construction. Encumbrances for a duration longer than 30 consecutive working days require a license approved by the City Council. In addition, the

licenses are subject to the “License Fee for Encumbrance of City Property” policy, which was adopted by the City Council on April 16, 2018.

The License Areas are shown on the attached plan labeled “License Plan” prepared for 30 Maplewood Ave LLC. License Area 1 is 630 square feet of the sidewalk area along the south side of Deer Street. License Area 2 is 322 square feet of the sidewalk area located at the corner of the intersection of Deer Street and Maplewood Avenue. License Area 3 is 1,140 square feet square feet of the sidewalk area on the west side of Maplewood Avenue.

The duration of the license is proposed to be 120 days, commencing 10 calendar days after the licensee provides written notice to City, which shall not be any later than 30 days after the City Council’s approval of the license agreement.

The total fee for the temporary license was calculated based on the \$0.15 per square foot per day as defined in the City Council policy for a total of \$37,656. The proposed [attached license agreement](#) also provides that, if any of the license areas returned to the City prior to the end of the License Term, the City will refund the applicant the portion of the license fee already paid to the City.

All of the foregoing has been reviewed by the Planning and Legal Departments and is recommended for approval.

If the City Council is in agreement with the recommendation, an appropriate motion would be:

Move that the City Manager be authorized to execute and accept the temporary construction license regarding 46-64 Maplewood Avenue.

6. **Report Back Re: Polling Hours and Request to Establish Polling Hours for the November 6, 2018 State General Election.** At the July 9, 2018 City Council meeting, the Council requested a report back regarding polling hours and a request to establish polling hours for the November 6, 2018 State General Election. [Attached is a memorandum](#) from City Clerk Kelli Barnaby regarding this matter.

The City Council discussed expanding the hours by adding an hour in the morning which would establish polling hours from 7:00 a.m. to 7:00 p.m. The City Clerk suggests that the hours for the November General Election remain from 8:00 a.m. to 7:00 p.m.

The City Council may choose one of the following motions:

- 1) Move to establish the polling hours for the November 6, 2018 State General Election from 8:00 a.m. to 7:00 p.m., or,*
- 2) Move to establish the polling hours for the November 6, 2018 State General Election from 7:00 a.m. to 7:00 p.m.*

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the updated Events Listing showing events from this date forward through 2018.](#) In addition, this can be found on the City's website.
2. **Report Back Re: Accessory Dwelling Units and Garden Cottage Approvals.** At the September 4, 2018 City Council meeting, the Council requested a report back regarding accessory dwelling units and garden cottage approvals. [Attached is a memorandum from Planning Director Juliet Walker,](#) regarding this matter.
3. **Letter Re: Relocation of the U.S. Post Office in Downtown Portsmouth.** For your information, [attached is a letter](#) from Mayor Blalock to Senators Jeanne Shaheen and Maggie Hassan regarding the relocation of the U.S. Post Office in Downtown Portsmouth.