

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, OCTOBER 15, 2018 TIME: 6:15PM

- 6:15PM – PUBLIC DIALOGUE SESSION

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

PRESENTATIONS

1. Pease Development Authority – Executive Director David Mullen of the PDA
2. Sister City and Citizen Diplomacy Blue Ribbon Committee – Karina Quintans, Chair

V. ACCEPTANCE OF MINUTES *(There are not minutes on for acceptance this evening)*

VI. PUBLIC DIALOGUE SESSION SUMMARY

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

A. Public Hearing – Ordinance amending Chapter 7 – Shared Active Transportation

ORDINANCE AMENDING CHAPTER 7, ARTICLE XIX, SECTION 7.1901 – 7.1905 – SHARED ACTIVE TRANSPORTATION

- 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 November 19, 2018 City Council meeting, as presented)

B. Public Hearing – Ordinance Amending Chapter 14 – Demolition Ordinance

ORDINANCE AMENDING CHAPTER 14, ARTICLE II, SECTION 14.2 – DEMOLITION ORDINANCE

- 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 November 19, 2018 City Council meeting, as presented)

- C. First reading of Ordinance amending Chapter 10 – Zoning Ordinance by deleting the existing Article 12 – Signs, and inserting in its place in a new Article 12 ***(Sample motion – moved to pass first reading and schedule a second reading and public hearing of the proposed Ordinance at the November 19, 2018 City Council meeting)***
- D. Third and final reading of Ordinance amending Chapter 10 – Zoning Ordinance – Creation of a Highway Noise Overlay District ***(Sample motion – moved to pass third and final reading, as presented)***

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Department of Homeland Security Prospective Grant Award to the Portsmouth Police Department - \$69,638.00 *(Tabled from the October 1, 2018 City Council meeting)* ***(Sample motions – 1) remove the item from the table and 2) move to accept and approve the prospective grant award to the Portsmouth Police Department, as presented)***

IX. CONSENT AGENDA

(ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)

- A. Request for License to Install Projecting Sign for Sherif Farag owner of Elephantine Bakery for property located at 10 Commercial Alley Unit 2 ***(Anticipated action - move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement for this request)***

Planning Director's Stipulations

- ***The license shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of projecting sign, for any reason, shall be done at no cost to the City; and***
- ***Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works)***

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence ***(Sample motion – move to accept and place on file)***
- B. Letter from Caroline McCarley, Mayor of Rochester regarding Judge Delker's Right to Know Order on the Coakley Landfill Group
- C. Letter from Patricia Hersey regarding proposed relocation of the Portsmouth Post Office

- D. Letter from Jim Splaine regarding Coakley Landfill & Coakley Landfill Group
- E. Letter from Valerie Rochon, President of The Chamber Collaborative of Greater Portsmouth regarding Neighborhood Parking Plan

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action:

- 1. Connect Community Church Six Month Lease Renewal
- 2. Extension of Comcast Franchise Agreement
- 3. City Council Letter to the Postal Service Re: Potential Relocation

City Manager's Informational Items:

- 1. Events Listing
- 2. Next Steps on Prescott Park Master Plan Implementation
- 3. Letter Request from Prescott Park Arts Festival
- 4. News Release Re: New Historic Markers Installed in City

B. MAYOR BLALOCK

- 1. Appointment to be Voted:
 - Katelyn Kwoka reappointment to the Economic Development Commission

C. COUNCILOR ROBERTS

- 1. Parking and Traffic Safety Committee Action Sheet and Minutes of the October 4, 2018 meeting (***Sample motion – move to accept and approve the action sheet and minutes of the October 4, 2018 Parking and Traffic Safety Committee meeting***)

D. COUNCILOR DENTON

- 1. Final Report on Sagamore Creek

XII. MISCELLANEOUS/UNFINISHED BUSINESS

LEGISLATIVE SUBCOMMITTEE

- A. NHMA Policy Conference and Final Legislative Policy Recommendations
- B. NHMA 2019-2020 Legislative Policy Positions – Action Policies

XIII. ADJOURNMENT

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

* Indicates verbal report

INFORMATIONAL ITEM


1. Notification that the minutes of the Planning Board meetings of August 16th and August 23rd are available of the City's website

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: October 11, 2018

To: Honorable Mayor Jack Blalock and City Council Members

From: John P. Bohenko, City Manager 

Re: City Manager's Comments on October 15, 2018 City Council Agenda

6:15 p.m. - Public Dialogue Session

Presentations:

1. **Pease Development Authority.** As requested by the City Council, on Monday evening, Executive Director David Mullen of the Pease Development Authority (PDA) will make a presentation regarding the PDA.
2. **Sister City and Citizen Diplomacy Blue Ribbon Committee.** Karina Quintans, Chair of the Sister City and Citizen Diplomacy Blue Ribbon Committee, will provide a presentation on the work of the Committee and recommendations going forward per the original charge given to the Committee.

Acceptance of Grants and Donations:

1. **Acceptance of Department of Homeland Security Prospective Grant Award to the Portsmouth Police Department (Tabled from the October 1, 2018 City Council Meeting.** At the October 1, 2018 City Council meeting, the Council voted to table this item to the October 15, 2018 meeting. **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 of Ordinance amending Chapter 7, Article XIX, Section 7.1901 and 7.1905 - Shared Active Transportation.** At the October 1, 2018 City Council meeting, the Council voted to pass first reading and schedule second reading and a public hearing 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 second reading and schedule a third and final reading of the proposed Ordinance at the November 19, 2018 City Council meeting.

2. **Public Hearing/Second Reading of Ordinance amending Chapter 14, Article II, Section 14.2 - Demolition Ordinance.** At the October 1, 2018 City Council meeting, the Council voted to pass first reading and schedule second reading and a public hearing on the proposed ordinance amending Chapter 14, Article II, Section 14.2 – Demolition Ordinance. Further, the Council considered minor modifications to the Demolition Delay Ordinance proposed by City staff. In the course of the Council’s discussion, questions were raised about potential additional changes to the Ordinance to address perceived ambiguities regarding the purpose of the Ordinance and the criteria for determining a building’s significance and applicability of this Ordinance to outbuildings. The Council referred these additional questions to City staff for a report back.

At this time, the City staff is not prepared to recommend amendments to the Ordinance in response to the questions raised, however, is prepared to come back to the Council at a future time with additional amendments. Staff recommends moving forward with the proposed attached Ordinance amendments, which reflects changes to the definition, applicability, application, notice, and procedure with the expectation that additional amendments could be brought forward at a future date.

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 second reading and schedule third and reading of the proposed Ordinance at the November 19, 2018 City Council meeting.

3. **First Reading of Amendments to Chapter 10 — Zoning Ordinance, be amended 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.** At the October 1, 2018 City Council meeting, the Council voted to schedule first reading on the [attached proposed Amendments](#) to Chapter 10 — Zoning Ordinance, be amended 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.

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 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.

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

Move to pass first reading and schedule second reading and a public hearing of the proposed Ordinance at the November 19, 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.

4. **Third and Final Reading of Ordinance amending Chapter 10 – Zoning Ordinance – Creation of a Highway Noise Overlay District.** At the October 1, 2018 City Council meeting, the Council voted to pass second reading and schedule a third and final reading of the [attached zoning amendments related to the creation of a Highway Noise Overlay District as well as maps](#):

- *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.*

The Planning Board conducted a public hearing 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 I-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.

I recommend the City Council move to pass third and final reading on the following zoning amendments related to the creation of a Highway Noise Overlay District.

Consent Agenda:

1. **Request for Licenses to Install Projecting Sign.** Attached is a request for a projecting sign license (see attached memorandum from Juliet Walker, Planning Director):

- Sherif Farag, owner of Elephantine Bakery, for property located at 10 Commercial Alley Unit 2.

I recommend the City Council move to approve the aforementioned Projecting Sign License as recommended by the Planning Director and, further, authorize the City Manager to execute the License Agreement for this request.

City Manager’s Items Which Require Action:

1. **Connect Community Church Six Month Lease Renewal.** The attached original 3-year agreement between the City and the Connect Community Church, 200 Chase Drive, Portsmouth NH, governing the City’s lease of 124 spaces in the parking lot located at that location is set to expire May 1, 2018. In March of 2018, an extension was authored to extend this agreement for a period of 6 months, from May 1, 2018 through October 31, 2018 (see attached).

The City is preparing to enter into a second 6-month extension, from November 1, 2018 through April 30, 2019.

The church cites as reasoning for the 6-month renewal term the fact that zoning changes have allowed the church to explore development opportunities at that location. With the church in discussions to develop a portion of the Lot, the church seeks to keep its options open with respect to the City's use of the lot.

Attached please see the applicable addendum drawn by City of Portsmouth Legal Department Attorney Jane Ferrini.

I recommend the City Council move to approve the renewal of the Connect Community Church Agreement, as presented, and further, authorize the City Manager to execute the Agreement.

2. **Extension of Comcast Franchise Agreement.** The City's current Franchise Agreement with Comcast to provide cable television services in the City of Portsmouth is due to expire at the end of October 2018. The Cable Commission recommends a two-month extension of the current agreement to December 31, 2018.

The Cable Commission has been meeting regularly and is in negotiations with Comcast for a renewal of the franchise agreement. The Cable Commission conducted a survey last year and held a public hearing this year. Comcast conducted its customer survey this year. These and other efforts have been done in anticipation of these negotiations for a new franchise agreement.

The Cable Commission recommends additional time to continue its negotiations with Comcast and to bring forward to the City Council a proposed renewal of the franchise agreement. The City Council will be fully briefed when a proposed franchise renewal contract is ready to be presented.

I recommend the City Council move to authorize the City Manager to enter into an extension of the current franchise agreement with Comcast for cable television services to December 31, 2018.

3. **City Council Letter to the Postal Service Re: Potential Relocation.** At its last meeting, Council discussed the Post Office's potential relocation, and considered submitting written testimony to indicate the Council's strong desire for the Post Office to remain at the McIntyre site. Councilor Dwyer presented a draft letter from the McIntyre Public Process Steering Committee, and Council reviewed the letter Mayor Blalock sent to Senators Shaheen and Hassan. *Attached is a draft letter* for Council to consider submitting to the Postal Service.

City Council may move to submit the attached written testimony in support of keeping the Post Office at the McIntyre site, and to work with the City to implement appropriate interim measures as the site is redeveloped.

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. **Next Steps on Prescott Park Master Plan Implementation.** This week the City staff will release a Request for Qualifications for engineering and design firms to begin preliminary design of the Prescott Park Master Plan. [See attachment which has been advertised.](#) The 2017 Master Plan adopted by the City Council calls for a series of improvements for the entire park.

Preliminary design will translate the improvements called for in the 2017 Master Plan into detailed construction drawings and a detailed phasing plan. While the entire Park transformation has been envisioned to take place in a series of phased construction projects, preliminary design work will need to take place for the entire Park (to at least 30%) in order to permit orderly and efficient phasing as well as to enable relevant permitting of a first project.

During preliminary design, a park-wide infrastructure plan will be developed which establishes the layout and capacity for water, sewer, drainage, and irrigation systems as well as electrical and natural gas systems. To inform these designs, key "program" determinations and other strategies will need to be determined. Examples of these include the elevations needed to harden the waterfront or plan for water inundation (or a combination of both) and the extent of reconfiguration and/or addition to building foot prints to address Master Plan goals.

We plan to have a qualified firm under contract and working around the first of the year. Preliminary design, selection of a first scope of improvements, and relevant permitting will take place in 2019. The first major construction project could take place as early as 2020.

I will keep the City Council apprised of the firm selection and schedule for the preliminary design work and permitting.

3. **Letter Request from Prescott Park Arts Festival.** [Attached is a request I received from the Prescott Park Arts Festival](#) to waive the annual payment due the City under the Five-Year License Agreement entered into earlier this year. The amount is \$20,000 for FY19 (July 1, 2018 through June 30, 2019).

The license agreement addresses *Public Benefit & Consideration* in sections 1 and 5 of the agreement (page 2) and establishes the annual payment amount in Section D (page 27). *Section D.* reads in pertinent part:

The City recognizes that exigent circumstances (such as extraordinary wet weather conditions or other emergency causing prolonged disruption to operations) may occur,

which significantly impact the Licensee's ability to pay the amount listed above. Accordingly, the City Manager is authorized to negotiate a lower figure for the affected year.

The agreement can be found at: <http://www.cityofportsmouth.com/prescottpark/licenses>.

In its letter, the Festival cited wet weather conditions this season as affecting their ability to make the annual payment for FY19 and requested it be waived. In recognition of the number of event cancellations this year, I plan to defer this payment to the end of 2019 season.

4. **News Release Re: New Historic Markers Installed in City.** For your information, [attached is a news](#) release regarding the installation of new historic markers in the city.