

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, DECEMBER 17, 2018 TIME: 6:15PM

- 6:15PM – NON-PUBLIC SESSION RE: RSA 91-A:3 II (e) – LITIGATION REGARDING JAMES G. BOYLE AS TRUSTEE, ET ALS

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

PRESENTATIONS

1. Holiday Music Performed by the Portsmouth High School Band
2. McIntyre Project Re: Financial Plan

- V. ACCEPTANCE OF MINUTES – OCTOBER 15, 2018; NOVEMBER 19, 2018 AND DECEMBER 3, 2018

- VI. PUBLIC COMMENT SESSION

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

- A. Public Hearing – Bond Premium Resolution – Municipal Complex Improvements

SUPPLEMENTAL APPROPRIATION FOR A RESOLUTION APPROPRIATING FROM BOND PREMIUM THE SUM OF ONE MILLION TWO HUNDRED EIGHT-SIX THOUSAND ONE HUNDRED FOURTEEN DOLLARS AND TWENTY-EIGHT CENTS (\$1,286,114.28) TO BE APPLIED TO MUNICIPAL COMPLEX IMPROVEMENTS

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

(Sample motion – move to adopt the Resolution, as presented)

- B. Public Hearing – Bond Premium Resolution – Sewer Line Replacement

SUPPLEMENTAL APPROPRIATION FOR A RESOLUTION APPROPRIATING FROM BOND PREMIUM THE SUM OF SEVEN HUNDRED FIVE THOUSAND TWO HUNDRED SEVENTY-SEVEN DOLLARS AND FORTY CENTS (\$705,277.40) TO BE APPLIED TO ANNUAL SEWER LINE REPLACEMENT

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

(Sample motion – move to adopt the Resolution, as presented)

C. Public Hearing – Bond Premium Resolution – Water Line Replacement

SUPPLEMENTAL APPROPRIATION FOR A RESOLUTION APPROPRIATING FROM BOND PREMIUM THE SUM OF THREE HUNDRED EIGHTY-TWO THOUSAND SIX HUNDRED EIGHTY-NINE DOLLARS AND FORTY THREE CENTS (\$382,689.43) TO BE APPLIED TO ANNUAL WATER LINE REPLACEMENT

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

(Sample motion – move to adopt the Resolution, as presented)

- D. Third and final reading amending Chapter 10 – 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 November 27, 2018 ***(Sample motion – move to table indefinitely)***

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant – Portsmouth Police Department:
- Violence Against Women Act Grant - \$30,000.00
- (Sample motion – move to accept and approve the grant to the Portsmouth Police Department, as presented)***

IX. CONSENT AGENDA

(ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)

- A. Letter from Jeanine Sylvester, Runner’s Alley requesting permission to hold the 22nd Annual Runner’s Alley/Cisco Brewers Memorial 5k on Sunday, May 26, 2019 at 11:00 a.m. ***(Anticipation action – move to refer to the City Manager with power)***
- B. Request for License to Install Projecting Sign for Regina Piantedosi owner of Regina Piantedosi for property located at 56 State Street ***(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)***

C. Request for License to Install Projecting Sign for Tom Holbrook owner of Riverrun Bookstore, Inc. for property located at 32 Daniel Street (***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)***

D. Letter from Kaity Stanton, Big Brothers Big Sisters of New Hampshire requesting permission to close Pleasant Street on Saturday, June 15, 2019 from 1:00 p.m. to 4:00 p.m. for the annual Stiletto Sprint (*Sunday, June 16, 2019 Rain Date*) (***Anticipated action – move to refer to the City Manager with power***)

E. Letter from Jennie Halstead, My Breast Cancer Support requesting permission to hold the 11th Annual Celebrate Pink 5k Walk & Run on Sunday, September 15, 2019 (***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 Coco Barton & Gabby Rothstein requesting that the City provide reusable bags to each household with funding from the Public Works Department (***Sample motion – move to refer to the City Manager for report back***)

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action:

1. Request to Establish Work Sessions Re: CIP & Budget

2. Comcast Agreement
3. Acceptance of Construction Project Re: Middle Street/Lafayette Road Bike Route Project

City Manager's Informational Items:

1. Events Listing
2. Breakfast Hill Area Waterline Study
3. Lead Water Quality Sampling Update
4. Short-Term Rentals
5. City Hall Hours Re: Christmas and New Year's Holidays

B. MAYOR BLALOCK

1. Appointments to be Considered:
 - Cyrus Beer appointment to the Historic District Commission as Regular member
 - Margot Doering appointment to the Historic District Commission as an Alternate
 - Polly Henkel appointment to the Planning Board as an Alternate
 - Colby Gamester reappointment to the Planning Board
2. *Appointments to be Voted:
 - Corey Clark reappointment to the Planning Board as an Alternate
 - Dexter Legg reappointment to the Planning Board
 - Elizabeth Moreau reappointment to the Planning Board
 - Thomas Watson reappointment to the Trustees of Trust Funds
3. Resignation of Rick Shea from the Historic District Commission
4. *Ethic Committee Drawing by Lot
5. *Committee to Interview Police Commission Candidates
 - Mayor Jack Blalock, Chairman
 - Councilor Doug Roberts
 - Councilor Nancy Pearson
 - Tom Ferrini
 - John Lyons

C. COUNCILORS PEARSON & PERKINS

1. Worth Lot Demonstration Project (***Sample motion – move to request the City Manager pursue a partnership for a demonstration project with The Music Hall for an event activating the Worth Lot in 2019 in accordance with the vision in the Vaughan Worth-Bridge Strategic Revitalization Committee report***)

D. COUNCILOR DENTON

1. *Keno Petition

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: December 13, 2018
To: Honorable Mayor Jack Blalock and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on December 17, 2018 City Council Agenda

Non-Public Session:

6:15 p.m. *Non-Public Session Re: RSA 91-A:3 II (e) – Litigation Regarding James G. Boyle As Trustee, et als*

Presentations:

1. **Holiday Music Performed by the Portsmouth High School Band.** The Portsmouth High School Holiday Ensemble will perform at Monday's City Council meeting.
2. **McIntyre Project Re: Financial Plan.** Representatives from Redgate/Kane will give a presentation to the Council on the Financial Plan component of the Historic Monument Program application.

Public Hearings & Votes on Ordinances and/or Resolutions:

1. **Public Hearings Re: Use of Bond Premium – Municipal Complex Improvements; Sewer Line Replacement; and Water Line Replacement.** At the December 3, 2018 City Council meeting, the City Council voted to schedule a public hearing regarding the Use of Bond Premiums. The City of Portsmouth currently holds the highest bond rating available from Standard and Poor's rating agency (AAA).

The City issued bonds in June 2017 and June 2018; \$5,650,000 and \$19,650,000 respectively for a total of \$25.3 million. The proceeds of the bonds financed certain General Fund, Water and Sewer capital projects. As a result of the City's "AAA" bond rating and market conditions at the time of the bond issue, the City received \$2,374,081.11 in bond premiums in addition to the \$25.3 million in principal.

A premium is the amount by which the purchase price of a bond is greater than its par value. Under certain market conditions, in order to enhance the marketability of the bonds, bond underwriters will structure their bids with bond premiums. In this case, the City of Portsmouth received True Interest Cost (TIC) rates of 2.24% (2017) and 2.69% (2018) and total bond premiums of \$2,374,081.11. Under Federal Tax Law and State Statutes, the City is restricted on how to appropriate and use these funds.

RSA 33:3-states that any premium received shall not be used to increase the amount to be spent for the purpose for which the loan was originally incurred. Therefore, the City cannot use this money to increase the costs of the projects set forth for the \$31.773 Million bond issuance. However, the RSA states "*a city by a vote of 2/3 of the City Council may authorize the expenditure for the premiums received for any purpose or purposes for which bonds or serial notes may be issued for an equal or longer period of time.*"

The bond premium of \$2,374,081.11 has been allocated respectively as follows (see attached proposed Resolutions):

- General Fund - \$1,286,114.28;
- Water Fund - \$382,689.43;
- Sewer Fund - \$705,277.40

In accordance with State Statute, I recommend that the City Council authorize appropriations of \$2,374,081.11 from bond premiums for capital projects as follows:

General Fund Project:

- Municipal Complex Improvements - \$1,286,114.28
These improvements will include upgrades to the slate roof, drainage upgrades to address basement flooding in the records rooms of the 1895 building and electrical upgrades at the municipal complex.

Water Fund Project:

- Annual Water Line Replacement - \$382,689.43

Sewer Fund Project:

- Annual Sewer Line Replacement - \$705,277.40

As these projects have a useful life that exceeds the original bond issue from which the premiums were received, and would be eligible for bonding under the Municipal Finance

Act, it is in the best interest of the City to utilize the premium of \$2,374,081.11 to fund costs associated with General Fund, Water Fund and Sewer Fund projects.

I recommend the City Council adopt the following Resolutions:

- A. *Resolution appropriating the sum of One Million Two Hundred Eight-Six Thousand One Hundred Fourteen Dollars and Twenty-Eight Cents (\$1,286,114.28) for the Municipal Complex Improvements.*
 - B. *Resolution appropriating the sum of Seven Hundred Five Thousand Two Hundred Seventy-Seven Dollars and Forty Cents (\$705,277.40) for the Annual Sewer Line Replacement.*
 - C. *Resolution appropriating the sum of Three Hundred Eighty-Two Thousand Six Hundred Eighty-Nine Dollars and Forty-Three Cents (\$382,689.43) for the Annual Water Line Replacement.*
2. **Third and Final 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 November 27, 2018.** At the December 3, 2018 City Council meeting, the Council voted to pass second reading and schedule third and final reading of the [attached proposed amendments to Chapter 10 – Zoning Ordinance, Article 12 Signs](#).

[Attached is a memorandum from City Attorney Robert Sullivan](#) notifying the City Council that the City has received correspondence from Attorney Gilles Bissonnette of the New Hampshire Civil Liberties Union (NHCLU) concerning the proposed amendments. NHCLU has raised a number of potential issues regarding the constitutionality of the ordinance. These concerns arise under the First Amendment, primarily due to the suggestion that the amendments as drafted may impermissibly regulate the content of signs. This would particularly be true in the case of political signs where First Amendment analysis is conducted with heightened intensity. The City Attorney’s memorandum highlights a brief listing of the NHCLU concerns regarding this matter.

In light of the NHCLU concerns, City Attorney Sullivan and Planning Director Juliet Walker recommend that third reading should be postponed indefinitely.

I recommend the City Council move to table this item indefinitely.

Acceptance of Grants and Donations:

1. **Acceptance of Grant - Portsmouth Police Department.** [Attached is a memorandum, dated December 7, 2018 from Chief Police Robert M. Merner. In the absence of a sitting Police Commission, Chief Merner forwarded the attached Violence Against Women Act Grant to the City Council for action at the Monday, December 17, 2018 meeting.](#)

The grant award in the amount of \$30,000 from the New Hampshire Department of Justice will enable the Police Department to retain the advocate position which would otherwise be lost due to lack of funding.

The Office of the Police Chief 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 grant to the Portsmouth Police Department, as presented.

Consent Agenda:

1. **Request for License to Install Projecting Signs.** Attached is a request for a projecting sign licenses (see attached memorandums from Juliet Walker, Planning Director):
 - Regina Piantedosi, owner of Regina Piantedosi for property located at 56 State Street.
 - Tom Holbrook, owner of Riverrun Bookstore, Inc. for property located at 32 Daniel Street.

I recommend the City Council move to approve the aforementioned Projecting Sign Licenses as recommended by the Planning Director and, further, authorize the City Manager to execute the License Agreements for these requests.

City Manager's Items Which Require Action:

1. **Request to Establish Work Sessions Re: CIP and Budget.** As you are aware, at the November 28th Budget Work Session, there was a request to move up the Capital Improvement Plan (CIP) Work Session with the Council before the final budget guidance numbers are established by the City Council. In order to do this, we have moved up the action required by the Planning Board to be completed at their December 20th meeting. In discussing this matter with the Mayor, we have picked Monday, January 14, 2019 as a Work Session with the City Council on the FY20-25 Capital Improvement Plan. In addition, the Mayor would like to have a Budget Work Session on developing guidelines on Wednesday, January 16, 2019 at 6:30 p.m. City Council action is required to establish the aforementioned Work Sessions.

I recommend the City Council move to establish the City Council Work Sessions, as presented.

2. **Comcast Agreement.** The Cable Commission is requesting that the City Council take two actions at this meeting. The first action is to authorize an additional two-month extension of the existing Cable Television Franchise Agreement with Comcast to February 28, 2019. The second action is to set up a presentation and public hearing for a City Council meeting in January on a proposed Renewal of the Franchise Agreement.

The current 10 year Cable Television Franchise Agreement with Comcast was set to expire October 31, 2018. By mutual agreement, it was extended to December 31, 2018 to allow the Cable Commission additional time to continue its negotiations with Comcast. In order to allow Comcast to continue to serve its customers until a renewal Cable Television Franchise Agreement is in place, an additional two-month extension of the contract until February 28, 2019 is requested.

Motion: Authorize the City Manager to enter into an extension of the current franchise agreement with Comcast for cable television services to February 28, 2019.

The Cable Commission has been negotiating for over six months with Comcast. The Commission is not entirely satisfied with the current draft renewal contract. That stated, the Cable Commission may not be able to achieve a more satisfactory result and believes it would be in the interest of the City Council and the public to have a presentation and a public hearing on the current proposal. **Attached is a copy of the draft renewal.** Also, **attached is a summary** of some of the key terms and background information on regulatory authority.

Neither the existing franchise agreement with Comcast nor the proposed future agreement provide Comcast with any exclusive rights to serve Portsmouth. Other cable companies are permitted to enter the market subject to the negotiation of a franchise agreement.

Motion: Schedule a presentation and public hearing on the draft Cable Television Renewal Franchise agreement on January 7, 2019.

3. **Acceptance of Construction Project Re: Middle Street/Lafayette Road Bike Route Project.** The Middle Street / Lafayette Road Bike Route project was completed on October 26, 2018. A total of \$180,407 of federal funds have been awarded for the construction phase of this project. In order for the final reimbursement to be issued to the City, the federal Safe Routes to School Program requires that the City Council vote to accept the constructed project. The project has been inspected and approved by Eric Eby, Parking & Transportation Engineer, as well as the City's construction manager for this project, Greenman-Pedersen, Inc.

I recommend the City Council move to accept the final constructed project of the Middle Street / Lafayette Road Bike Route.

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. **Greenland Breakfast Hill Area Waterline Study.** [Attached is a memorandum](#) from Deputy Public Works Director Brian Goetz regarding the Greenland Breakfast Hill Area Waterline Study. In addition, [attached is a Technical Memorandum](#) from Keith A. Pratt, P.E. and Timothy K. Noble, E.I.T. from Underwood Engineers.
3. **Lead Water Quality Sampling Update.** [Attached is a memorandum](#) from Deputy Director of Public Works Brian Goetz and Water Supply Operations Manager Al Pratt, regarding the City's water quality sampling program for lead.
4. **Short-Term Rentals.** At the December 3, 2018 City Council meeting, the Council requested a report back from City staff about the regulation of short-term rentals in the City of Portsmouth and for clarification on related state laws. City staff will plan to prepare a report back for January 2019. The Planning Board will also be taking up this topic after the New Year, to discuss potential zoning amendments regarding short-term rentals in the City.
5. **City Hall Hours Re: Christmas and New Year's Holidays.** For your information, below are the City Hall Hours due to the Christmas and New Year's Holidays:

Monday, December 24th - Closed
Tuesday, December 25th - Closed
Wednesday, December 26th - 8:00 a.m. to 6:00 p.m.
Thursday, December 27th - 8:00 a.m. to 4:30 p.m.
Friday, December 28th - 8:00 a.m. to 4:30 p.m.

Monday, December 31st - Closed
Tuesday, January 1st - Closed
Wednesday, January 2nd - 8:00 a.m. to 6:00 p.m.
Thursday, January 3rd - 8:00 a.m. to 4:30 p.m.
Friday, January 4th - 8:00 a.m. to 1:00 p.m.