

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: TUESDAY, FEBRUARY 19, 2019 TIME: 6:30PM

- 6:30PM – NON-PUBLIC SESSION REGARDING DEPUTY FIRE CHIEF PATRICK HOWE WORKING AGREEMENT IN ACCORDANCE WITH RSA 91-A:3, II (a)

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

## PRESENTATION

1. Micro-Transit – Juliet Walker, Planning Director

- V. ACCEPTANCE OF MINUTES – FEBRUARY 4, 2019
- VI. PUBLIC COMMENT SESSION
- VII. PUBLIC HEARINGS & VOTES ON ORDINANCES AND/OR RESOLUTIONS

### A. Public Hearing – Capital Improvement Plan (CIP)

CAPITAL IMPROVEMENT PLAN (CIP) FY 2020-2025

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

### B. Public Hearing – Zoning Ordinance - Accessory Dwelling Units and Garden Cottages

ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE BY DELETING EXISTING SECTIONS 10.814 – ACCESSORY DWELLING UNITS AND 10.815 – GARDEN COTTAGES AND INSERTING IN THEIR PLACE THE NEW SECTIONS 10.814 AND 10.815 PRESENTED IN THE DOCUMENT TITLED “PROPOSED AMENDMENTS TO THE PORTSMOUTH ZONING ORDINANCE: SECTIONS 10.814 – ACCESSORY DWELLING UNITS AND 10.815 – GARDEN COTTAGES” DATED JANUARY 16, 2019 AND AMENDING RELATED TERMS IN ARTICLE 15 – DEFINITIONS, SECTION 10.1530 – TERMS OF GENERAL APPLICABILITY

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

- C. Third and Final Reading of Ordinance amending Chapter 10, Article 4, Section 10.421.10 – DISTRICT LOCATION AND BOUNDARIES of the Zoning Ordinance of the City of Portsmouth and the City of Portsmouth Zoning Map be amended by rezoning the property located at 290 Gosling Road at Assessors Tax Map 213, Lot 1 from Waterfront Industrial (WI) to Office Research (OR) District

**VIII. APPROVAL OF GRANTS/DONATIONS**

*(There are no items on this section of the agenda)*

**IX. CONSENT AGENDA**

***(ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)***

*(There are no Consent Agenda items this evening)*

**X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. Email Correspondence ***(Sample motion – move to accept and place on file)***
- B. Letter from R. Timothy Phoenix, Hoefle, Phoenix, Gormley & Roberts, PA regarding 15 Middle Street, Tax Map 126, Lot 12 (Former Salvation Army Building) request of James McSharry, Owner for Zoning Change from CIVIC District to Character District 4 (CD4) ***(Sample motion – move to refer to the Planning Board for a report back)***

**XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

**A. CITY MANAGER**

**City Manager's Items Which Require Action:**

1. Islington Creek Neighborhood Parking Program Re: Pilot
2. Comcast Franchise Renewal Agreement
3. Renewal of Middle Street Baptist Church Parking Contract

**City Manager's Informational Items:**

1. Work Session Re: Parking Principles Review and Discussion
2. Great American Food Truck Race
3. McIntyre Project
4. Coalition Communities

**B. MAYOR BLALOCK**

1. Appointment to be Considered:
  - Jessica Blasko to the Conservation Commission as an Alternate

**C. COUNCILOR PEARSON AND COUNCILOR RAYNOLDS**

1. Four Weekends Experiment (July 2019) with Downtown Pedestrian Zone

**D. COUNCILOR DENTON**

1. Service-Connected Total Disability Tax Credit Resolution (***Sample motion – move to hold a public hearing regarding expanding the Tax Credit for Service-Connected Total Disability from \$2,000.00 up to \$4,000.00 under RSA 72:35 pursuant to RSA 72:27-a***)

**XII. MISCELLANEOUS/UNFINISHED BUSINESS**

- A. Legislative Subcommittee Report  
Mayor Blalock, Assistant Mayor Lazenby, Councilor Dwyer and Councilor Denton  
Approval of Legislative Principle on Education Funding

**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:** February 14, 2019  
**To:** Honorable Mayor Jack Blalock and City Council Members  
**From:** Nancy Colbert Puff, Deputy City Manager *NCP*  
**Re:** City Manager's Comments on February 19, 2019 City Council Agenda

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**6:30 p.m. Non-Public Session:** On Tuesday, February 19, 2019 a non-public session will be held to discuss a tentative Agreement with Patrick Howe, Deputy Fire Chief. A representative from the Fire Commission, as well as Tom Closson, City Negotiator will be present.

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***Presentation:***

1. **Micro-Transit** Juliet Walker, Planning Director, will have a brief presentation of Micro-Transit. The City has recently released a Request for Qualifications (RFQ) for a short-distance public transportation service within a fixed geographic service area within and adjacent to the downtown core. The pilot project will be designed to reduce traffic congestion and decrease parking demand in the downtown area while providing residents and visitors a safe and convenient transportation alternative to single occupancy vehicles. The term Micro-Transit refers to services as broadly described above that provide shared rides for multiple passengers using a single vehicle.

## ***Public Hearings & Votes on Ordinances and/or Resolutions:***

1. **Public Hearing Re: Capital Improvement Plan (CIP) FY 2020-2025** In accordance with Section 7.7 of the City Charter, the City Council will conduct a public hearing at the City Council meeting on Tuesday, February 19, 2019, regarding the proposed Capital Improvement Plan for FY2020 – FY2025. In addition to the public hearing, the City Council held a work session on January 14, 2019. At the work session, a presentation of the proposed Capital Plan was made by City staff. Also, copies of the Plan were made available to the public as well as put on file with the City Clerk’s Office and the Public Library. Further, the CIP for FY2020 – FY2025 is available on the City’s website:

<http://www.cityofportsmouth.com/planportsmouth/capital-improvement-plan.pdf>

As you are aware, the City Council is required, in accordance with Section 7.8 of the City Charter, to adopt the Capital Plan subsequent to the public hearing and before the City Manager submits the budget to the City Council. It is anticipated the proposed FY2020 budget will be transmitted on or about April 24, 2019.

*I recommend the City Council adopt the proposed Capital Improvement Plan at the City Council meeting on Monday, March 4, 2019.*

2. **Second Reading and Public Hearing of Ordinance amending Chapter 10 – Zoning Ordinance – Accessory Dwelling Units and Garden Cottages**

At the February 4, 2019 City Council meeting, the Council voted to pass first reading and schedule public hearing and second reading for the February 19, 2019 City Council meeting regarding the proposed amendments.

The **attached proposed amendments** were initially presented at the November 15, 2018 Planning Board meeting and a public hearing was held. Based on discussion and comments from Planning Board members, feedback from the public, and additional review by the City’s Legal Department, the Planning Department staff made additional revisions and the Planning Board voted to recommend the updated amendments at the December 20, 2018 meeting. The version in front of City Council reflects additional changes that the Planning Board discussed at the December 20, 2018 meeting.

Since the Planning Board review in December, the Planning Department has some additional revisions to recommend for inclusion in the amendments being considered by City Council. These are summarized below:

- 1) Staff recommends adding a sentence to Section 10.814.51, *“In a Single Residence or Rural District, a lot with a DADU shall comply with the minimum lot area for the district, but need not comply with the minimum lot area per dwelling unit.”* This will help to clarify that there are different requirements for the General Residence and Single Residence Districts.

2) 10.814.70 allows the Planning Board to modify a specific standard set forth in Sections 10.814.40 or 10.814.50. The intention was not to include modification to minimum lot area or lot area per dwelling unit requirements. Therefore, staff recommends excluding 10.814.51 from this provision, by re-wording Section 10.814.70 as follows (new proposed text is **bolded**, deleted text is ~~stricken~~):

10.814.70 In granting a conditional use permit for an accessory dwelling unit, the Planning Board may modify a specific standard set forth in Sections 10.814.40 ~~or 10.814.50~~ **10.814.52 through 10.814.56**, including requiring additional or reconfigured off-street parking spaces, provided that the Board finds such modification will be consistent with the required findings in Section 10.814.60.

*I recommend the City Council move to pass second reading and schedule third and final reading for the March 4, 2019 City Council meeting to amend the Zoning Ordinance by deleting existing Sections 10.814 – Accessory Dwelling Units and 10.815 – Garden Cottages and inserting in their place the new Sections 10.814 and 10.815 as presented on the document titled “Proposed Amendments to the Portsmouth Zoning Ordinance: Sections 10.814 – Accessory Dwelling Units and 10.815 – Garden Cottages” dated January 29, 2019 and amending related terms in Article 15 – Definitions, Section 10.1530 – Terms of General Applicability.*

3. **Third and Final Reading – Ordinance amending Chapter 10, Article 4, Section 10.421.10 – District Location and Boundaries of the Zoning Ordinance and Portsmouth Zoning Map be amended by rezoning the property located at 290 Gosling Road at Assessor’s Tax Map 213, Lot 1 from Waterfront Industrial (WI) to Office Research (OR) District**

At the February 4, 2019 City Council meeting, the Council voted to pass second reading and schedule a third and final reading for the February 19, 2019 City Council meeting regarding the **attached proposed amendments** to Chapter 10, Article 4, Section 10.421.10 – District Location and Boundaries of the Zoning Ordinance and Portsmouth Zoning Map be amended by rezoning the property located at 290 Gosling Road at Assessor’s Tax Map 213, Lot 1 from Waterfront Industrial (WI) to Office Research (OR) District.

*I recommend the City Council move to pass third and final reading on the request of 290 Gosling Road, LLC, the property with the address of 290 Gosling Road (Map 213, Lot 1) be re-zoned from Waterfront Industrial (WI) to Office Research (OR).*

## ***City Manager's Items Which Require Action:***

1. **Islington Creek Neighborhood Parking Program Re: Pilot** The City Council, at its January 22, 2019 meeting voted to table the proposed Neighborhood Parking Program (NPP) Pilot to allow additional review by residents and the City Council Members prior to voting on the action. Parking Division Staff has prepared a list of potential modifications to the proposed pilot.

Included as attachments are the: NPP General Parameters (amended to apply to Islington Creek only); Proposed NPP modifications; NPP Questions and Answers; Project Expense Breakdown; and On-Street Occupancy Counts.

If the City wishes to proceed with the amended Neighborhood Parking Program (NPP) Pilot, a motion should be made and seconded to forward the amended plan to the Parking and Traffic Safety (PTS) Committee for consideration and a vote. If Council wants to consider any of the proposed modifications (1-5), or any other modifications, a motion on each modification, or on all, could be made. Once any/all modifications have been made, the revised plan will be forwarded to PTS. Once the PTS minutes have been approved by the City Council, the pilot program will go into effect.

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

*Move to forward the amended Neighborhood Parking Program (NPP) plan to the Parking and Traffic Safety Committee for consideration and a vote.*

2. **Comcast Franchise Renewal Agreement** As follow-up to the public hearing held on January 22, 2019, attached is the draft Cable Television Franchise Renewal Agreement with Comcast covering the five (5) year term of March 1, 2019 through February 29, 2024. The Cable Commission met on February 6, 2019 and February 12, 2019 and prepared the attached report. In summary, the Commission is presenting this draft Agreement for final action by the City Council without endorsement due to Comcast's continuing refusal to add certain provisions requested by the Commission. The Commission acknowledges that further negotiations are unlikely to be fruitful and thus this Agreement is being brought forward for action. Members of the Cable Television and Communications Commission are interested over the next year in evaluating whether there is any meaningful way to spark competition or otherwise increase the options available to residents and to improve customer service. This proposed Agreement does not give Comcast any exclusive rights to serve Portsmouth.

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

*Authorize the City Manager to execute the Cable Television Franchise Renewal Agreement with Comcast covering the five (5) year term of March 1, 2019 through February 29, 2024, as presented with the Report of the Cable Television and Communications Commission.*

3. **Renewal of Middle Street Baptist Church Parking Contract** Middle Street Baptist Church leases seventeen (17) spaces to the City for the purposes of allowing certain Library staff the use of said space during business hours. The annual fee is \$1,000 and the term for this agreement is April 1, 2019 – March 31, 2020. (See attached agreement)

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

*Move to approve the aforementioned Parking Lot Usage/Maintenance Agreement and further authorize the City Manager to execute the Usage/Maintenance Agreement for this request.*

### **Informational Items:**

1. **Work Session Re: Parking Principles Review and Discussion** The work session will be held on Monday, March 25, 2019 at 6:30 p.m. in the Levenson Room.
2. **Great American Food Truck Race** A television show produced by the Food Network, and hosted by Tyler Florence, plans to be filming in the City the afternoon of February 25 and 26, 2019. We are working with them to coordinate their activities and will inform you of additional details as they emerge.
3. **McIntyre Project** Reminder of a public meeting with the Redgate/Kane team on Tuesday, March 5, 2019, starting at 6:30 p.m. in the City Council Chambers.
4. **Coalition Communities** The Coalition Communities, of which Portsmouth is a member, formed approximately 20 years ago to fight unfair aspects of the Statewide Education Property Tax and education funding formulas that required those communities with higher real estate values (property rich communities a/k/a “donor towns”) to send part of the locally collected Statewide Education Property Tax (SWEPT) to towns with lower real estate values (property poor communities a/k/a “receiver towns”). From 2000 to 2005, the City of Portsmouth sent \$11,750,318 to the State as a donor town. Under the current funding formula there are no “donor” or “receiver” towns and any town that collects excess SWEPT may retain it. Excess SWEPT is the difference between the state’s calculation of the cost to fund an adequate education for Portsmouth’s students and the amount of SWEPT collected by the City.

The education funding formula has been revised over the last 20 years and there have been 20 years of litigation over what the State’s obligation is to fund an adequate education. The Coalition Communities were very active during these early years litigating and lobbying against the return of “donor” towns. These activities were funded by contributions to the Coalition Fund, an agency fund held by the City



containing Coalition Community funds. For the last several years the Coalition Communities have been less active as there was little support in the legislature to change the education funding formula to support the return of “donor” and “receiver” towns. That is not the case this Legislative Session.

The Coalition Communities have regrouped this legislative session to oppose HB 709, an education funding bill that would require excess SWEPT to be returned to the State. [The City’s testimony in opposition to HB 709 and the amended bill is attached](#) (included in the Agenda packet). The funding analysis on the amendment to HB 709 indicates that the City’s portion of excess SWEPT which would be turned over to the State is approximately \$1,687,530. This loss to the City would translate to an increase of approximately 30 cents on the tax rate.

The Coalition Communities have become aware of the negative fiscal impact to their budgets if HB 709 passes. The towns of Newington, Bridgewater, Lincoln, Newbury, Sunapee, Moultonborough, Waterville Valley, Holderness, Rye, Sugar Hill and the City participated in a conference call on February 5, 2019. Those Coalition Communities that participated in the call decided that there was a need for the Coalition Communities to hire a lobbyist to oppose HB 709. The Coalition Communities will be reaching out to the other members of the Coalition Communities who did not participate in the call. The cost of hiring a lobbyist will be shared by the Coalition Communities who will be sending contributions to the Coalition Fund. Those that cannot contribute due to missing town meeting deadlines will be asked to send confirmation that they will contribute next year.