

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, JUNE 3, 2019 TIME: 6:00PM

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- 6:00PM – AN ANTICIPATED NON-PUBLIC SESSION IN ACCORDANCE WITH RSA 91-A:3 II (b) AND (c) REGARDING SEARCH FIRM RECOMMENDATION
- 6:15PM – PUBLIC DIALOGUE SESSION

I. CALL TO ORDER

II. ROLL CALL

III. INVOCATION

IV. PLEDGE OF ALLEGIANCE

V. ACCEPTANCE OF MINUTES *(There are no minutes on for acceptance this evening)*

VI. PUBLIC DIALOGUE SUMMARY

VII. VOTES ON ORDINANCES AND/OR RESOLUTIONS

## Adoption of Proposed Budget Resolutions:

A. Adoption of Budget Resolutions for Fiscal Year July 1, 2019 through June 30, 2020 (FY20)

- Resolution No. 8-2019 – Municipal Fees *(Sample motion – move to adopt Resolution #8-2019 – Municipal Fee)*
- Resolution No. 9-2019 – General Fund Expenditures *(Sample motion – move to adopt Resolution #9-2019 – General Fund Expenditures)*
- Resolution No. 10-2019 – Sewer Fund Expenditures *(Sample motion – move to adopt Resolution #10-2019 – Sewer Fund Expenditures)*
- Resolution No. 11-2019 – Water Fund Expenditures *(Sample motion – move to adopt Resolution #11-2019 – Water Fund Expenditures)*
- Resolution No. 12-2019 – Special Revenues, Debt Service, Fund and Committed Fund Balances for Necessary Expenditures *(Sample motion – move to adopt Resolution #12-2019 – Special Revenues, Debt Service, Fund and Committed Fund Balance for Necessary Expenditures)*
- Resolution No. 13-2019 – Investment Policy *(Sample motion – move to adopt Resolution #13-2019 – Investment Policy)*

B. Third and Final Reading – Billiards and Bowling Hours

Third and Final Reading of Ordinance amending Chapter 6, Article II, Section 6.202 – Billiards and Bowling Hours *(Sample motion – move to pass third and final reading of the Ordinance.)*

VIII. APPROVAL OF GRANTS/DONATIONS

*(There are no Grants or Donations on the Agenda this evening)*

## IX. CONSENT AGENDA

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

- A. Request for License to Install Projecting Sign for Bangor Savings Bank owner of Bangor Savings Bank for property located at 100 Market 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***

- B. Request for License to Install Projecting Sign for Kelly & Gary Cargin owner of Winter Worx LLC d/b/a The Zulu Hut for property located at 67 Bow Street, 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***

- C. Request for License to Install Projecting Sign for Sarah & Eric Amsden owner of Red Rover Creamery for property located at 142 State Street, Unit 150 ***(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. Request for License to Install Projecting Sign for Lindt & Sprungli owner of Lindt for property located at 1 Congress 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**

E. Letter from Jylle Nevejans, Bottomline Technologies requesting permission to hold their annual 5K Race on Saturday, September 28, 2019 at 10:00 a.m. (**Anticipated action – move to refer to the City Manager with power**)

F. Petition and Underground Utility License for #200 and #210 Swett Avenue to install one (1) new pole and conduit (**Anticipated action – move to refer to the City Manager with power**)

G. Letter from Nick Diana requesting permission to hold the 3<sup>rd</sup> annual Road Race on Saturday, April 11, 2020 (**Anticipated action – move to refer to the City Manager with power**)

H. Letter from JerriAnne Boggis, Black Heritage Trail of New Hampshire requesting permission to hold the annual Juneteenth Celebration at the African Burying Ground with a music celebration on Wednesday, June 19, 2019 from 2:30 p.m. to 4:00 p.m. (**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 St. John's Capital Campaign/Grant Funding Committee seeking City Council endorsement of St. John's rehabilitation and restoration project (**Sample motion – move to suspend the rules to allow for representatives from St. John's to address the letter**)

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

### **A. CITY MANAGER**

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

1. Purchase of Property Map 232, Lot 8 at the end of Lois Street
2. Greenleaf Recreation Center Concession Agreement
3. Request for First Reading for Annual Omnibus Ordinance Change, Parking and Traffic Safety

#### **City Manager's Informational Items:**

1. Public Tour of the Peirce Island Wastewater Treatment Facility on Thursday, June 13, 2019
2. Re: Keno Question on Ballot

### **B. MAYOR BLALOCK**

1. \*The City Manager Search Subcommittee:
  - Recommendation of a Search Firm
  - City Manager Residency – Charter Amendment Discussion
2. \*Appointments to be Voted:
  - Reappointment of Cyrus Beer to the Historic District Commission
  - Reappointment of Martin Ryan to the Historic District Commission
3. Resignation of Shari Donnermeyer from Parking, Traffic & Safety Committee effective July 15, 2019
4. \*Establishment of Vaughan Mall Blue Ribbon Committee

#### **Membership:**

- Councilor Doug Roberts
- Councilor Nancy Pearson
- Councilor Ned Reynolds
- Peter Vandermark
- Sam Winebaum
- Ellen Fineberg
- Brian Murphy
- Ex-officio Appointment by City Manager of Staff Representative

## **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:** May 30, 2019

**To:** Honorable Mayor Jack Blalock and City Council Members

**From:** John P. Bohenko, City Manager 

**Re:** City Manager's Comments on June 3, 2019 City Council Agenda

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***Public Hearings & Votes on Ordinances &/or Resolutions***

**1. Adoption of Proposed Budget Resolutions:**

1.1 **Adoption of Budget Resolutions for Fiscal Year July 1, 2019 through June 30, 2020 (FY20)** On Monday evening, I am requesting that the City Council adopt the proposed FY20 Budget (July 1, 2019 through June 30, 2020). For your review and action, there are six proposed Resolutions relative to the annual budget adoption. (process attached under Section VII of the Agenda see below):

- **Resolution No. 8-2019 - Municipal Fees** adopts Municipal Fees that have been recommended by the Fee Committee. The total revenue generated from these fees is estimated at \$1,539,700 or 1% of the total FY20 General Fund Revenues.
- **Resolution No. 9-2019 – General Fund Expenditures** As you will recall, at the City Council Work Session on May 22, 2019, there were recommendations for the reduction in the General Fund Budget equaling \$1,401,320 from the original budget proposal of \$120,039,950, resulting in General Funds appropriation of \$118,638,630. With this reduction, and an additional Use of Fund Balance of \$650,000, FY20 will have an estimated tax increase of \$.37 or 2.3% over FY19.

Attached to the Resolution is a spreadsheet that outlines the reduction and summarizes the changes.

- **Resolution No. 10-2019 – Sewer Fund Expenditures** establishes the annual appropriation, cash requirements and user rates for the Sewer fund. Sewer charges are based on water consumption. The adoption of this resolution includes a two-step, inclining block rate structure.
- **Resolution No. 11-2019 – Water Fund Expenditures** establishes the annual appropriation, cash requirements and user rates for the Water fund. Similar to Sewer, the adoption of this resolution will include a two-step, inclining block rate structure for water usage. Also included is a three step, inclining block rate structure for metered irrigation water usage. The irrigation water usage is not subject to sewer charges.
- **Resolution No. 12-2019 – Special Revenues, Debt Service Fund and Committed Fund Balances for Necessary Expenditures** allows for the expenditure of Special Revenues, Debt Service Fund, and Committed Fund Balance. This allows the City to expend from donations, State and Federal Grants as they are accepted and received, pay principal and interest associated with Betterment Assessments, from a Debt Service Fund, and expend from committed fund balance.
- **Resolution No. 13-2019 – Investment Policy** deals with the adoption of an annual investment policy. State law requires the annual adoption of such a policy by every city and town.

*I am requesting that the City Council vote on each Resolution separately. The City Council will have adopted the FY20 Budget once the Council has voted on each Resolution separately.*

2. **Third and Final Reading of Ordinance Amending Chapter 6, Article II, Section 6.202 – Billiards and Bowling Hours** At the City Council meeting on May 20, 2019, the Council voted **unanimously with a 9-0 vote** to pass second reading and schedule a third and final reading to authorize the City Manager to bring back ordinance **Chapter 6, Article II Billiards and Bowling**, as amended. [Attached is the referenced ordinance.](#)

*I recommend the City Council move to pass third and final reading as amended.*

## ***Consent Agenda***

1. **Request for License to Install Projecting Sign** Attached is a request for permission to install a projecting sign that extends over the public right of way at 100 Market Street for Bangor Savings Bank, as follows:

Sign dimensions: 24” x 36”  
Sign area: 6 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed.

*I recommend the City Council move to approval of a revocable municipal license, subject to the following conditions:*

1. *The license shall be approved by the Legal Department as to content and form;*
2. *Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and*
3. *Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the 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.*

2. **Request for License to Install Projecting Sign** Attached is a request for permission to install a projecting sign that extends over the public right of way at 67 Bow Street, Unit 2 for Kelly and Gary Cargin, Owners of Winter Worx, LLC dba The Zulu Hut, as follows:

Sign dimensions: 34” x 34”  
Sign area: 8 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed.

*I recommend the City Council move to approval of a revocable municipal license, subject to the following conditions:*

1. *The license shall be approved by the Legal Department as to content and form;*
2. *Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and*
3. *Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the 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.*

3. **Request for License to Install Projecting Sign** Attached is a request for permission to install a projecting sign that extends over the public right of way at 142 State Street, Unit 150 for Sarah and Eric Amsden, Owners of Red Rover, LLC dba Red Rover Creamery, as follows:

Sign dimensions: 30” x 42”

Sign area: 9 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed.

*I recommend the City Council move to approval of a revocable municipal license, subject to the following conditions:*

1. *The license shall be approved by the Legal Department as to content and form;*
2. *Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and*
3. *Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the 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.*

4. **Request for License to Install Projecting Sign** Attached is a request for permission to install a projecting sign that extends over the public right of way at 1 Congress Street for Lindt & Sprungli dba Lindt as follows:

Sign dimensions: 33” x 22”

Sign area: 5 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed.

*I recommend the City Council move to approval of a revocable municipal license, subject to the following conditions:*

1. *The license shall be approved by the Legal Department as to content and form;*
2. *Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and*
3. *Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the 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.*



**4. Petition and Underground Utility License for 200 and 210 Swett Avenue** [Attached is a petition and request for an underground utility license for 200 and 210 Swett Avenue.](#) The request includes the following:

1. Installation of one (1) new utility pole on the west side of Swett Avenue within the City right-of-way adjacent to the boundary line between #125 and #175 Swett Avenue; and,
2. Installation of conduit from the new utility pole approximately one hundred and eighty five (185) feet down the west side of Swett Avenue to the end of the City right-of-way, where the conduit will turn right and proceed onto private property to service two (2) new houses.

After examining the proposed locations of these installations, it has been determined that they pose no unacceptable impacts to existing City infrastructure. A public works representative will be present for this installation to ensure that crossings of existing City utilities are executed properly, and that the area is restored appropriately. [Attached is a plan and photograph showing the locations of the proposed installations.](#)

*I recommend City Council move to approve the petition and request for an underground utility license for 200 and 210 Swett Avenue as presented.*

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

- 1. Purchase of Property Identified as Map 232, Lot 8 at the end of Lois Street** The City has entered into a purchase and sale agreement to acquire a 2.8 acre parcel located at the end of Lois Street subject to certain conditions including approval of the City Council. [See attached overview of the parcel to be acquired.](#)

At its meeting on April 16, 2019, the City Council referred this matter to the Conservation Commission, requesting authorization for the expenditure of \$30,000 from Conservation Funds to assist with the acquisition of this parcel. The remaining \$30,000 would come from funds set aside for open space. At the same Council meeting, the City Council referred this potential acquisition to the Planning Board for its recommendation. This matter is now back before the City Council for final action.

On May 8, 2019, the Conservation Commission voted to authorize the expenditure of \$30,000 from the Conservation Fund to support the acquisition. The Conservation Commission recognized the value of the wetlands and the habitat opportunities on this and adjacent parcels. There is a functional, if small, wildlife corridor and acquisition of this parcel would be a step to ensure that continued function.

In addition to authorizing the expenditure of funds, the Conservation Commission requested that the City place the property within the Conservation Ordinance, City of Portsmouth Ordinance Article V, Section 8.503, along with finding a means to recognize

and balance the municipal needs and potential uses for a small portion of this parcel at the end of Lois Street as a potential vehicle turnaround. Staff will be reporting back to the Conservation Commission at its next meeting and the City Council should expect to see additional steps on this aspect.

On May 16, 2019, the Planning Board recommended the acquisition of this parcel. There are storm water management opportunities, both through the preservation of existing wetlands and the potential to construct storm water infrastructure at the end of Lois Street. (The storm water catchment area for this property is ~110 acres.) Storm water flows from this watershed area travelling to Sagamore Creek, which is an impaired waterbody under New Hampshire law.

The property also has value to the City due to the potential to create a vehicle turnaround at the end of Lois Street for municipal vehicles. (Currently, municipal snow plows and trash hauling vehicles have to back up the road and onto Middle Street.) In addition, the City's public sewer line runs in and along the boundary of the property in the "paper street" portion of Lois Street.

*I recommend the City Council authorize the City Manager to finalize and execute all necessary documents to acquire property at the end of Lois Street identified as parcel 232-0008-001 from Alden-Watson Properties, LLC for \$60,000, and to recognize differential between that amount and the market value of the property as part of the transaction.*

- 2. Greenleaf Recreation Center Concession Agreement** *The attached captioned document is an 18-page agreement* that follows a Federally mandated form which authorizes the use of a City facility located on Greenleaf Avenue by Operation Blessing for use as a recreation facility. The facility is open to the general public, but specifically geared to at-risk teens and their families. Operation Blessing has been operating the facility under that agreement since April 4, 2016. The agreement is expired, and thus, Operation Blessing is utilizing the facility at sufferance.

Operation Blessing is requesting, and City staff recommends, that the term of the agreement be extended to April 15, 2020 under the same terms and conditions which have been in place since April 2016.

*I recommend City Council move to authorize the City Manager any and all necessary action to extend the term of the concession agreement with Operation Blessing covering the Greenleaf Recreation Center to April 15, 2020.*

- 3. Request for First Reading for Annual Omnibus Ordinance Change, Parking and Traffic Safety** *Attached are the annual omnibus ordinances recommended by the Parking and Traffic Safety Committee.* This year's omnibus addresses changes to parking in loading zones, prohibitions against mopeds and bicycles parking against monuments, no parking spaces, speed limits and one-way streets.

By way of background, on March 29, 2000, the City Council adopted Ordinance #4-2000 under Chapter 7, Article 1, Section 7.103 of the Vehicles, Traffic and Parking Ordinance. This ordinance was adopted in order to be more responsive to the changing parking needs of the downtown. Before its adoption, it often took three readings of the City Council to simply change a parking space from a 2-hour time restriction to a 15-minute restriction. This process would often take 4 – 6 months to complete.

The current ordinance authorizes the Parking and Traffic Safety Committee to recommend temporary parking and traffic regulations to the City Council for its approval in the form of its monthly meeting minutes. Once the Council approves these minutes, the temporary regulations are in effect for a period not to exceed one year. During that year, the Council and the public have the benefit of seeing how a temporary regulation works before adopting it as a permanent change to the parking ordinance. These temporary regulations are presented at one time to the Council for its consideration.

The attached amendments to Chapter 7, Vehicles, Traffic and Parking for the Council's consideration summarize the temporary parking regulations implemented by the Parking and Traffic Safety Committee last year.

*I recommend the City Council schedule first reading for the June 17, 2019 City Council meeting regarding the annual omnibus set of ordinances recommended by the Parking and Traffic Safety Committee.*

## ***City Manager's Informational Items***

- 1. Public Tour of the Peirce Island Wastewater Treatment Facility on Thursday, June 13, 2019** Guided public tours of the Peirce Island Wastewater Treatment Facility (WWTF) construction site will be conducted on Thursday, June 13, 2019 from 5:00 p.m. to 7:00 p.m.. City staff, along with others involved in the construction of the Peirce Island WWTF upgrade project will guide interested parties through the construction site to provide an opportunity to observe the status of ongoing construction. [See attached press release for further tour information and details.](#)
- 2. Re: Keno Question on Ballot** At the City Council meeting of May 20, 2019, Assistant Mayor Cliff Lazenby asked to be advised regarding the options available to the City Council if it wished to place a question of whether Keno should be allowed in the City on the ballot for the upcoming November 5<sup>th</sup> election. On September 5, 2017, the previous City Council had voted not to place the Keno question on the ballot. That vote is without consequence at the present time.

The law which addressed Assistant Mayor Lazenby's question is [RSA 284:51 entitled Local Option \(attached\)](#). That statute reads in pertinent part, "In a city, the legislative body may vote to place the question [of whether or not Keno should be allowed in the City] on the official ballot for any regular municipal election, or, in the alternative, shall place the question on the official ballot for any regular municipal election upon

submission to the legislative body of a petition signed by 5 percent of the registered voters.” A public hearing is required by the statute before “the question,” not clearly distinguishing between the Council vote to place the referendum on the ballot and the referendum vote itself. However, it appears that state legislature would require the City Council to hold a public hearing at least 15 days but not more than 30 days before the referendum vote on November 5<sup>th</sup>. A notice of that hearing “shall be posted in at least 2 public places in the municipality and published in a newspaper of general circulation at least 7 days before the hearing.”

The City Clerk advises that the last possible day for her to request the printing of a ballot containing the Keno question is September 9, 2019. The last regular City Council meeting before that date is September 3, 2019. Therefore, September 3, 2019 appears to be the last possible day for the City Council to vote on whether to place the Keno question on the ballot<sup>1</sup>.

I recommend if the Council votes to place the question of Keno on the November 5, 2019 ballot, a public hearing should be held no later than Monday, October 21, 2019 (15 days before the election) but no earlier than Sunday, October 6, 2019 (30 days before the election).

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<sup>1</sup> Under the voter petition option for placing the Keno question on the ballot, the City Clerk advises that a minimum of 927 signatures of registered voters (as of today) would be required. She would have to verify these signatures prior to the Council vote on the referendum question. Therefore, the City Clerk advises that any citizen petition would have to be received in the office of the City Clerk no later than August 12, 2019 in order for the petition to be timely for the upcoming November 5, 2019 election.