

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: TUESDAY, SEPTEMBER 3, 2019 TIME: 6:30PM

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- 6:00PM – AN ANTICIPATED NON-PUBLIC SESSION RE: COLLECTIVE BARGAINING AGREEMENTS – PORTSMOUTH PROFESSIONAL FIRE OFFICERS ASSOCIATION, PROFESSIONAL FIRE FIGHTERS & EXTENSION OF DEPUTY FIRE CHIEF JAMES HEINZ CONTRACT – RSA 91-A:3, II (a)

 - 6:30PM – PUBLIC DIALOGUE SESSION
- I. WORK SESSION (*There is no Work Session this evening*)

 - II. CALL TO ORDER [7:15 p.m. or thereafter]
 - III. ROLL CALL
 - IV. INVOCATION
 - V. PLEDGE OF ALLEGIANCE

 - VI. ACCEPTANCE OF MINUTES – AUGUST 12, 2019

 - VII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

 - VIII. PUBLIC DIALOGUE SUMMARY

 - IX. PUBLIC HEARING AND VOTE ON ORDINANCE AND/OR RESOLUTION

Public Hearing

- XII. Public Hearing on Chapter 7, Article III, Section 7.326 – Limited Parking – Fifteen Minutes

ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.326 – LIMITED PARKING – FIFTEEN MINUTES BY THE ~~DELETION OF MAPLEWOOD AVENUE: EASTERLY SIDE, THE FIRST TWO SPACES COMMENCING 140 FEET NORTHERLY FROM VAUGHAN STREET~~

- 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 of the proposed Ordinance at the September 16, 2019 City Council meeting, as recommended by the Parking and Traffic Safety Committee)

B. Public Hearing on Chapter 7, Article III, Section 7.328 – Limited Parking – Three Hours

ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.328 – LIMITED PARKING – THREE HOURS – MAPLEWOOD AVENUE: BOTH SIDES, BETWEEN RAYNES AVENUE AND VAUGHAN STREET

- 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 of the proposed Ordinance at the September 16, 2019 City Council meeting, as recommended by the Parking and Traffic Safety Committee)

C. First Reading on Chapter 3, Article IX – Distribution of Single-Use Disposables *(Postponed first reading at the August 12, 2019 meeting until the September 3, 2019 meeting)*

Ordinance amending Chapter 3, Article IX – Distribution of Single-Use Disposables *(Sample motion if the Council wishes to proceed – move to pass first reading and schedule a public hearing and second reading at the September 16, 2019 City Council meeting)*

D. Third and Final Reading on Chapter 7, Article III, Section 7.328 – Limited Parking – Three Hours

Ordinance amending Chapter 7, Article III, Section 7.328 – Limited Parking – Three Hours – Raynes Avenue: entire street, both sides and Vaughan Street: entire street, both sides *(Sample motion – move to pass third and final reading of the proposed Ordinance, as recommended by the Parking and Traffic Safety Committee)*

X. **MAYOR BLALOCK**

1. Appointments to be Considered:
 - Maryellen Burke to be appointed to the Board of Library Trustees
 - Janaki Fonseka to be appointed to the Board of Library Trustees
 - Lori Soloway to be appointed to the Citywide Neighborhood Blue Ribbon Committee
2. *Appointment to be Voted:
 - Pat Bagley to be appointed to the Trees and Greenery Committee
3. Appointment of Jane Nisbet to the African Burying Ground Stewardship Committee

XI. **CITY COUNCIL MEMBERS**

A. COUNCILOR DENTON

1. *Request for the Conceptual Regional Digester Evaluation

XII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant for Household Hazardous Waste Collection (***Sample motion – move to accept and expend a \$4,513.00 DES grant for the purpose of household hazardous waste collection events and authorize the City Manager to execute any documents which may be necessary for this grant contract***)

XIII. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER

City Manager's Items Which Require Action:

1. Request for Approval of Agreement between the Portsmouth Police Commission and the Portsmouth Police Ranking Officers Association
2. Request for Approval of Agreement between the Portsmouth Police Commission and the Portsmouth Police Patrolman's Union
3. Request for Approval of Agreement between the Portsmouth Police Commission and the Portsmouth Police Civilian Employees Association
4. Approval Re: Step Increases for Police Chief Robert Merner
5. Report Back Re: Contact Information
6. Ceres Street Compactor/Dumpster Extension of Lease
7. 260 Myrtle Avenue Easement – Acceptance of Utility Easement
8. Market Street Property – Acceptance of Sewer Line Easement
9. 111 Maplewood Avenue Easement

XIV. CONSENT AGENDA

(ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)

- A. Request for License to Install Projecting Sign for owner Jason J. Mills of BCM Advisory Group LLC for property located at 406 Deer Street (400 The Hill) (***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***

XV. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence (***Sample motion – move to accept and place on file***)
- B. Letter from Valerie Rochon, The Chamber Collaborative of Greater Portsmouth, supporting removing home addresses for Councilors and speakers at City meetings be removed from general publication
- C. Letter from Charles Griffin Re: Proposed Ordinance Regulating Single-Use Disposables requesting the City Council to pass a resolution encouraging voluntary reduction in the use of plastics
- D. Letter from Liz Good, Moderator, North Church of Portsmouth, UCC, requesting permission to hold its annual Gathering On The Bricks at the Market Square location on Sunday, September 15, 2019 from 11:00 a.m. to 12:00 p.m. (***Sample motion – move to refer to the City Manager with power***)

XVI. CITY MANAGER’S INFORMATIONAL ITEMS

- 1. Report Back Re: PFAS Drinking Water Standards
- 2. Market Square Upgrade
- 3. Rock Street Park Renovations Press Release

XVII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING


XVIII. ADJOURNMENT [at 10:00 p.m. or earlier]

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

** Indicates verbal report*

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: August 29, 2019
To: Honorable Mayor Jack Blalock and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on September 3, 2019 City Council Agenda

Non-Public Session:

6:00 p.m. An Anticipated Non-Public Session Re: Portsmouth Professional Fire Officers and Professional Firefighters of Portsmouth Collective Bargaining Agreements; Extension of Deputy Fire Chief James Heinz Contract in Accordance with RSA 91-A:3, II (a)

• ***6:30 p.m. – Public Dialogue Session***

Public Hearings & Votes on Ordinances and/or Resolutions:

1. **Public Hearing and Second Reading of Ordinance Amending Chapter 7, Article III, Section 7.326 – Limited Parking – Fifteen Minutes – by deletion of Maplewood Avenue: easterly side, the first two spaces commencing 140 feet northerly from Vaughan Street.** The City Council voted to pass first reading and schedule a public hearing and second reading on the aforementioned **attached proposed Ordinance**. At its June 6, 2019 meeting, the Parking and Traffic Safety Committee voted to recommend that the City Council vote to amend Chapter 7, Article III, Section 7.326 to remove the 15 minute parking time limit on the two parking spaces on Maplewood Avenue on the easterly side beginning 140 feet northerly from Vaughan Street.

I recommend the City Council move to pass second reading and schedule third and final reading of the proposed Ordinance at the September 16, 2019 City Council meeting, as recommended by the Parking and Traffic Safety Committee.

2. **Public Hearing and Second Reading of Ordinance Amending Chapter 7, Article III, Section 7.328 – Limited Parking – Three Hours Maplewood Avenue: both sides, between Raynes Avenue and Vaughan Street.** The City Council voted to pass first reading and schedule a public hearing and second reading on the aforementioned **attached proposed Ordinance**. At their June 6, 2019 meeting, the Parking and Traffic Safety Committee voted to recommend that the City Council adopt an ordinance to create a three (3) hour parking limit on both sides of Maplewood Avenue between Raynes Avenue and Vaughan Street.

The Parking and Traffic Safety Committee voted to recommend the removal of the existing 15 minute time limit on these two parking spaces in order to create the three (3) hour parking limit along Maplewood Avenue.

The **attached amendment** to Chapter 7, Article III, Section 7.328 reflects the vote of the Committee to recommend the creation of a three (3) hour parking limit on Maplewood Avenue and the erection of parking meters between Raynes Avenue and Vaughan Street.

I recommend the City Council move to pass second reading and schedule third and final reading of the proposed Ordinance at the September 16, 2019 City Council meeting, as recommended by the Parking and Traffic Safety Committee.

3. **First Reading of Ordinance Amending Chapter 3, Article IX – Distribution of Single-Use Disposables (Postponed first reading at the August 12, 2019 meeting until the September 3, 2019 meeting).** At the August 12, 2019 City Council meeting, the Council voted to postpone first reading until the September 3, 2019 City Council meeting.

In accordance with the Council vote to hold a first reading on Councilor Denton’s ordinance on Single-Use Disposables, **attached is the ordinance** submitted by Councilor Denton, which has been re-numbered to fit the City’s ordinance book.

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

Move to pass first reading and schedule a public hearing and second reading at the September 16, 2019 City Council meeting.

4. **Third and Final Reading of Ordinance Amending Chapter 7, Article III, Section 7.328 – Limited Parking – Three Hours sub-section A – Raynes Avenue: entire street, both sides and Vaughan Street: entire street, both sides.** At the August 12, 2019 City Council meeting, the Council voted to pass second reading and schedule third and final reading of the **attached proposed Ordinance** amending Chapter 7, Article III, Section 7.328, sub-section A which permits erection of parking meters with three (3) hour limits on Raynes Avenue and Vaughan Street. The Parking and Traffic Safety Committee voted to erect parking

meters with a three (3) hour limit on Raynes Avenue and Vaughan Street at their June 6, 2019 meeting.

I recommend the City Council move to pass third and final reading of the proposed Ordinance, as recommended by the Parking and Traffic Safety Committee.

Approval of Grants and Donations:

1. **Acceptance of Grant for Household Hazardous Waste Collection.** As you are aware, \$15,000 has been committed from the Water & Sewer Enterprise Fund for two household hazardous waste collection events in the FY '20 budget.

Household hazardous waste collection events help protect our water supply and reduce the potential of hazardous waste being dumped or inappropriately disposed of. In the interest of protecting public health and ensuring household hazardous waste and unwanted household hazardous products are disposed of in an environmentally sound manner, the City has been hosting the collection event for more than twenty years. Over 200,000 gallons of hazardous waste have been properly disposed of during this time. An average of 600 families take advantage of the collection events every year.

In the spirit of being a good neighbor, the City also offers the services to residents of Newington and Greenland. The expenses are shared between the communities on a prorated basis - per vehicle per community.

A grant in the amount of \$4,513 from the Department of Environmental Services (DES) has been applied for and is available to the City to assist in managing the cost of these events. This grant would supplement the City funds proposed in the FY '20 budget. [See attached Grant Agreement.](#)

I recommend the City Council move to accept and expend a \$4,513 DES grant for the purpose of household hazardous waste collection events and authorize the City Manager to execute any documents which may be necessary for this grant contract.

Consent Agenda:

1. **Request for License to Install Projecting Sign.** [Attached is a request](#) for a projecting sign license ([see attached memorandum from Planning Director Juliet Walker](#)):
 - Jason J. Mills, owner of BCM Advisory Group LLC for property located at 406 Deer Street (400 The Hill)

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

City Manager's Items Which Require Action:

1. **Request for Approval of Agreement between the Portsmouth Police Commission and The Portsmouth Police Ranking Officers Association.** The Portsmouth Police Commission and The Portsmouth Police Ranking Officers Association have reached a four (4) year collective bargaining Agreement.

For your information and to facilitate discussion regarding this matter, [attached please find the following documents:](#)

- A letter from City Negotiator Thomas Closson, outlining the terms of the Tentative Agreement.
- The Portsmouth Police Ranking Officers Association Contract showing the insertions and deletions to implement the Agreement if approved.
- Cost Analysis.

Also, this proposed Agreement is posted on the City's Website at:

<http://files.cityofportsmouth.com/files/benefits/PortsmouthPoliceRankingOfficersredlinedCBA.pdf>

I recommend the City Council move to approve the proposed Four (4) Year Agreement between the Portsmouth Police Commission and The Portsmouth Police Ranking Officers Association from July 1, 2019 to expire on June 30, 2023.

2. **Request for Approval of Agreement between the Portsmouth Police Commission and the Portsmouth Police Patrolman's Union.** The Portsmouth Police Commission and the Portsmouth Police Patrolman's Union have reached a four (4) year collective bargaining Agreement.

For your information and to facilitate discussion regarding this matter, [attached please find the following documents:](#)

- A letter from City Negotiator Thomas Closson, outlining the terms of the Tentative Agreement.
- The Portsmouth Police Patrolman's Union Contract showing the insertions and deletions to implement the Agreement if approved.
- Cost Analysis.

Also, this proposed Agreement is posted on the City's Website at:

<http://files.cityofportsmouth.com/files/benefits/PortsmouthPolicePatrolredlineddraftCBA.pdf>

I recommend the City Council move to approve the proposed Four (4) Year Agreement between the Portsmouth Police Commission and the Portsmouth Police Patrolman's Union from July 1, 2019 to expire on June 30, 2023.

3. **Request for Approval of Agreement between the Portsmouth Police Commission and the Portsmouth Police Civilian Employees Association.** The Portsmouth Police Commission and the Portsmouth Police Civilian Employees Association have reached a four (4) year collective bargaining Agreement from July 1, 2019 to expire on June 30, 2023.

For your information and to facilitate discussion regarding this matter, [attached please find the following documents:](#)

- A letter from City Negotiator Thomas Closson, outlining the terms of the Tentative Agreement.
- The Portsmouth Police Civilian Employees Association Contract showing the insertions and deletions to implement the Agreement if approved.
- Cost Analysis.

Also, this proposed Agreement is posted on the City's Website at:

<http://files.cityofportsmouth.com/files/benefits/PortsmouthPoliceCiviliansDraftRedlinedCBA.pdf>

I recommend the City Council move to approve the proposed Four (4) Year Agreement between the Portsmouth Police Commission and the Portsmouth Police Civilian Employees Association from July 1, 2019 to expire on June 30, 2023.

4. **Approval Re: Step Increases for Police Chief Robert Merner.** The Portsmouth Police Commission has requested that the City Council act on approving step increases for Police Chief Robert Merner from Step F (\$143,139.71) to Step G (\$145,644.66) for 2019 and Step G (\$145,644.66) to Step H (\$148,557.55) for 2020, in accordance with the Non-Union Salary Schedule effective July 1, 2019 to June 30, 2020. [See attached letter from the Portsmouth Police Commission dated August 14, 2019 and Chief Merner's Employment Agreement.](#)

Therefore, I recommend that the City Council approve the Police Commission's recommendation for step increases as indicated in the Police Commission's letter dated August 24, 2019.

5. **Report Back Re: Contact Information.** At the City Council meeting of August 12, 2019, Councilor Pearson requested home addresses for Councilors be removed from publication on our website and various informational correspondence.

A search was conducted by City Clerk Barnaby of the 13 cities and the majority limits contact information to the following:

- Name
- Address of City Hall
- Physical Phone Number

- Email address
- Term of Councilor

Based on the foregoing, it is my recommendation that we restrict contact information for the Mayor and City Councilors as well as Board and Commission members as outlined above.

Action is required on this matter.

6. **Ceres Street Compactor/Dumpster Extension of Lease.** In response to the [letter dated August 16, 2019, which has been received from Attorney Daniel Hoefle](#) for the September 3, 2019 Council agenda on behalf of the licensees of the Ceres Street compactor license, I provide the following information:

- 1) Portsmouth's Riverhouse Restaurant Group, LLC, Peco Diablo, Inc., and Old Ferry Landing, Inc., have been parties along with the City of Portsmouth since 2009, to a license agreement which allows those restaurant entities to use City property on Ceres Street for the construction and operation of a trash compactor. In addition, the area is used for grease collection and composting. [See attachments.](#)
- 2) The original consideration for the agreement was the cost of construction of the brick enclosure facility and the equipment located within it. That cost has been paid by the licensees. There is no current consideration paid to the City by the licensees, although all costs, risks, and obligations relating to the facility are borne by the licensees.
- 3) The license agreement terminates under its own its own terms on October 31, 2019. The license did contain an option which would have allowed for an automatic renewal for an additional five (5) year period, if the licensees had "made a written request to the City Manager ... no later than May 15, 2019." No such request was made.
- 4) The request now made by Attorney Hoefle seeks to have the City Council authorize the additional five (5) year renewal of the license, notwithstanding that the licensees failed to make the request prior to May 15, 2019.

A factor which may affect the Council's determination is that the City has been advised by the licensee's contractor Waste Management that the compactor is operating at capacity and there would be no room for any additional licensees.

It is within the authority of the City Council to grant the request of the licensees if it so chooses. An appropriate motion for that purpose would be:

Move that the request of the licensees to extend the term of the Ceres Street compactor license for an additional five (5) years pursuant to item 13 of that license be granted.

7. **260 Myrtle Avenue Easement – Acceptance of Utility Easement.** The Department of Public Works has installed new public sewer and drain lines across a residential property at 260 Myrtle Avenue. [See the attached plan and deed](#) showing the location of the relocated lines. The property owners of 260 Myrtle Avenue, Robert A. and Meghan M. Defosses, are prepared to execute a permanent easement deed for the newly located lines. The property owners agreed to this installation on the condition that it would not interfere with their plans to construct a new garage on their property. As a result, the width of the easement is atypically narrow in areas. Although this is not an ordinary installation and easement, this compromise resolves the City’s need to place new infrastructure in the neighborhood while accommodating the needs of the cooperating property owners. At the August 15, 2019 Planning Board meeting, the Planning Board moved to recommend the City Council accept a utility easement from Robert A. and Meghan M. Defosses.

I recommend that the City Council move to authorize the City Manager to negotiate, execute and accept a utility easement from Robert A. and Meghan M. Defosses.

8. **Market Street Property – Acceptance of Sewer Line Easement.** The Department of Public Works has installed a sewer line across a commercial lot located on to the west of the intersection of Market Street and Russell Street. [See the attached plan and map](#) showing the location of the line, as well as the [deed](#). The property owner is North End Master Development LP, and the legal representatives of this limited partnership are prepared to execute a permanent easement deed for the sewer line.

Harborcorp, LLC previously proposed to use this parcel for open space as a part of a large development which was not completed. As a part of that development, the City laid a sewer line and integrated it into the public sewer line system. Public Works plans to work on the line within the next month, and now proposes to memorialize the agreement with the property owner via easement deed.

At the August 15, 2019 Planning Board meeting, the Planning Board moved to recommend the City Council accept a sewer line easement from North End Master Development LP.

I recommend the City Council move to authorize the City Manager to negotiate, execute and accept a sewer easement from North End Master Development LP.

9. **111 Maplewood Avenue Easement.** The property is located at 111 Maplewood Avenue within the North End Incentive Overlay District, which allows for a wide range of mixed uses, however there are height restrictions. The proposed building in the North End may not exceed three stories or 45 feet. On May 16, 2019, the Planning Board voted to approve a site plan application and grant a density bonus in exchange for the owner conveying to the City publically accessible community space. The owner was required to provide publically accessible open space areas, such as wide pedestrian sidewalks, a pedestrian alley and pocket park by Easement Deed. (Chapter 10, Article 5A, Section 10.5A46.10-23.) Under the ordinance, 20% of the lot area is required to be conveyed as community space. In this case, the owner provided 27.5% of the lot area as publically accessible open

space. Therefore, the Planning Board approved a conditional use permit for the excess community space to be credited towards future project pursuant to Section 10.5A46.23.

As part of the approval process, the owner is required to submit an Easement Deed to the City for these public access areas. The Legal Department recommends that a Certificate of Title to assure proper recording of the easement and subordination of any prior encumbrances should be a condition of accepting the Easement. Thus, the Legal Department requests authority for the City Manager to accept the following Easement Deed in a form similar as presented and described below:

Easement from 111 Maplewood Avenue, LLC for property at 111 Maplewood Avenue:

1. Easement Deed.

Exhibit 1 – Easement Deed for public access of community space for pedestrian use as described in the attached Plan. The easement areas consists of 11,803 square feet, including a widened sidewalk, a pedestrian alley and pocket park as depicted on the attached Plan. The Easement Deed ensures permanent public access, use and enjoyment of these easement areas.

I recommend the City Council move to authorize the City Manager to negotiate, execute, accept and record the Easement for Public Access to Community Space from 111 Maplewood Avenue, LLC in a form substantially as presented. This authorization is conditioned upon the receipt of a Certificate of Title from the owner.

Informational Items:

1. **Report Back Re: PFAS Drinking Water Standards.** As requested by Assistant Mayor Lazenby, attached is a report back from Deputy Director of Public Works Brian Goetz regarding PFAS Drinking Water Standards.
2. **Market Square Upgrade.** In the coming weeks, the City will release a Request for Qualifications for professional services to develop a conceptual master plan for improvements to Market Square and the public streets and sidewalks in the immediate vicinity. Much of the public infrastructure above and below Market Square and intersecting streets (including utilities, sidewalks, roadways, street trees and street furniture) is due for an upgrade, and this project is identified in the City's Capital Improvement Plan. Prior to proceeding with the infrastructure improvements, the City would like to consider how other aspects of this vital public space might be improved or altered consistent with historic preservation objectives, urban design principles, and the City's Complete Street, Walk-Friendly, and Bike-Friendly policies. The first phase in this process will be the development of a conceptual master plan and preliminary cost projections. Future phases will include preliminary design plans and opinion of project costs and final design and preparation of construction documents.
3. **Rock Street Park Renovation Press Release.** For your information, attached is a press release regarding the Rock Street Neighborhood Park Renovation and Re-opening.