

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, DECEMBER 16, 2019 TIME: 6:15PM

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- **6:15PM – PUBLIC DIALOGUE SESSION**

- I. **WORK SESSION**
- II. **CALL TO ORDER [7:00 p.m. or thereafter]**
- III. **ROLL CALL**
- IV. **INVOCATION**
- V. **PLEDGE OF ALLEGIANCE**

**PRESENTATIONS:**

- 1. Holiday Music Performed by the Portsmouth High School Band
- 2. \*Zolani Prince Shapiro Tyalimpi's Poem on African Burying Ground

- VI. **ACCEPTANCE OF MINUTES – NOVEMBER 7, 2019, NOVEMBER 12, 2019, AND DECEMBER 2, 2019**

- VII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**

- 1. Steering Committee Report for Portsmouth Community Coordinated Response to Substance Misuse – Cliff Lazenby, Chair and Dr. Larry McCullough, Facilitator

- VIII. **PUBLIC DIALOGUE SUMMARY**

- IX. **ORDINANCE AND/OR RESOLUTION**

- A. Third and Final Reading of Ordinance – Zoning Ordinance – Flood Plain Overlay District:

Third and Final Reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 6 – Overlay Districts and Article 15 – Definitions – Flood Plain District

- X. **MAYOR BLALOCK**

- 1. \*Appointment to be Voted:
  - Beth Moreau appointment to the Rockingham Planning Commission as the Planning Board Representative
- 2. \*Friendship City Agreement between Portsmouth, NH and Santarcangelo, Italy on December 18<sup>th</sup> in Conference Room A beginning at 10:00 a.m. with a Skype call at 10:30 a.m.

**XI. CITY COUNCIL MEMBERS**

**A. COUNCILOR ROBERTS**

1. Vaughan Mall Blue Ribbon Committee

**B. COUNCILOR DENTON**

1. Renewable Energy Policy Accomplishments

**XII. APPROVAL OF GRANTS/DONATIONS**

**A. Portsmouth Police Department Grant and Donation:**

- New Hampshire Department of Justice Grant Narcotics-related drug use and trafficking - \$30,000.00
- Donation to Portsmouth Police Honor Guard from Attorney Robert P. Sullivan in commemoration of the life and career of Detective Commander William D. Mortimer - \$500.00

***(Sample motion – move to approve and accept the grant and donation to the Portsmouth Police Department, as presented)***

**XIII. ACTING CITY MANAGER'S ITEMS WHICH REQUIRE ACTION**

**A. ACTING CITY MANAGER CONARD**

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

1. Lafayette Road Sewer Extension Into Rye
2. Holiday Parking
3. Request to Unmerge Lots on Thaxter Road *(See attached Memorandums from Attorney Woodman and Attorney Mulligan)*
4. Sale of Surplus Equipment
5. Polling Hours – February 11, 2020 Presidential Primary Election

**XIV. CONSENT AGENDA**

- A. Letter from Donald Allison, Eastern States 20 Mile, requesting permission to hold the Eastern State 20 Mile Road Race on Sunday, March 29, 2020 ***(Anticipated action – move to refer to the Acting City Manager with power)***
- B. Letter from Richard Clyborne, Gundalow Company, requesting permission to hold the 2<sup>nd</sup> Annual Piscataqua River Festival on Friday, June 5, 2020 and Saturday, June 6, 2020 ***(Anticipated action – move to refer to the Acting City Manager with power)***
- C. Letter from Jennie Halstead, My Breast Cancer Support, requesting permission to hold the 12<sup>th</sup> Annual race on Sunday, September 13, 2020 ***(Anticipated action – move to refer to the Acting City Manager with power)***

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

- A. Email Correspondence (*Sample motion – move to accept and place on file*)

**XVI. ACTING CITY MANAGER'S INFORMATIONAL ITEMS**

1. Annual Report on Chamber/City Partnership
2. Clarification of Executive Order 13888 on Refugee Resettlement
3. Town of New Castle – Water Update
4. Response to National Park Service Comments on City of Portsmouth Application for the McIntyre Federal Building

**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:** December 12, 2019

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

**From:** Karen Conard, Acting City Manager *KSC*

**Re:** Acting City Manager's Comments on December 16, 2019 City Council Agenda

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***6:15 p.m. – Public Dialogue Session***

***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. **Zolani Prince Shapiro Tyalimpi's Poem on African Burying Ground.** On Monday evening, Zolani Prince Shapiro Tyalimpi, a Poet from South Africa, will read and present his poem "Augmentation" to the Mayor and City Council.

***Ordinance and/or Resolution:***

1. **Third and Final Reading of Floodplain Overlay District Zoning Amendments.** As previously summarized, these proposed amendments to the Zoning Ordinance, Article 6 – Overlay Districts, Section 10.620 – Flood Plain District and Article 15 – Definitions include revisions for complying with National Flood Insurance Program regulations, addressing impacts of climate change and projected sea level rise, and strengthening thresholds for when properties are required to come into compliance with Flood Plain standards for development.

The City Council held a public hearing on the proposed amendments on November 12, 2019 and voted to continue the second reading and public hearing to the December 2<sup>nd</sup> City Council meeting. At that time, staff was asked to address a few of the questions raised by the public during the public hearing. The City Council continued the public hearing at the

meeting and voted to pass second reading including amendments proposed by City staff and schedule third reading for December 16<sup>th</sup>.

The proposed zoning ordinance as amended by City Council is enclosed with the Council's packet along with a redlined version of the revisions to the existing Zoning Ordinance. At Council's request, the redlined version has been color-coded to distinguish the changes required by the National Flood Insurance Program and the additional amendments proposed to address impacts of climate change.

*I recommend the City Council move to pass third and final reading on the proposed amendments to the Flood Plain District sections of the Zoning Ordinance.*

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

1. **Lafayette Road Sewer Extension Into Rye.** At its meeting on December 2, 2019, the City Council voted to bring forward for a vote a proposed Intermunicipal Agreement with the Town of Rye to extend the public sewer, at no cost to the City, along Lafayette Road into a portion of Rye. As was described at the last meeting, there is general Agreement that given the soils in that area and the Berry's Brook Watershed, a public sewer option along Lafayette would be preferable to additional septic systems. The City has since 1997 served the Adams Mobile Home Park on Lafayette Road in Rye following the failure of its septic system.

The proposed extension would be at no cost to the City of Portsmouth or the Town of Rye, funded entirely by the benefiting property owners. The extension would be built to City specifications and owned by the City once complete and operational.

[Attached is the proposed Intermunicipal Agreement.](#) The Agreement has been sent to the New Hampshire Attorney General's office for review. The City anticipates no or only minor changes to the draft Agreement as this document is substantially similar in form to one previously approved by that office.

For your convenience, the [memorandum from Attorney Tim Phoenix providing additional details on the proposed sewer line extension and supporting documentation, including a map of the area to be serviced is attached.](#)

Deputy City Attorney Suzanne M. Woodland, and City Engineer Terry Desmarais, will be available to answer questions, as well as Attorney Tim Phoenix, representing the property owners.

*I recommend the City Council move to authorize the City Manager to negotiate and enter into an Intermunicipal Agreement between the City of Portsmouth and Town of Rye to extend sewer service at no cost to the City along a portion of Lafayette Road / Route 1 in Rye.*

2. **Holiday Parking.** In keeping with past traditions, the Parking Division proposes that the Council considers offering on-street downtown parking free of charge from Tuesday, December 17<sup>th</sup> through Thursday, December 26<sup>th</sup>, 2019 in an effort to attract the shopping public. In November, 2019, Portsmouth on-street parking averaged \$9,977.00 daily, which would equate to \$99,773.00 for the 10-day period. When the City estimates parking revenues for the year, it accounts for seven days' Holiday Free Parking.

*I recommend the City Council move to authorize the City Manager to implement a free holiday parking period from December 17 through December 26, 2019.*

3. **Request to Unmerge Lots on Thaxter Road.** On May 20, 2019, the City Council reviewed a request from Chad Callihan and a recommendation from the Planning Board and subsequently voted to unmerge two lots on Thaxter Road owned by Mr. Callihan which were believed to have been involuntarily merged. [See attached NH RSA 674:39-aa for reference.](#)

Abutters, Kenneth and Deborah Jennings of 63 Thaxter Road, then appealed that decision of the City Council to the Board of Adjustment as allowed by the statute. The Board of Adjustment heard the appeal on September 17, 2019 and then continued their deliberations to the October 15, 2019 meeting. At the initial hearing on the appeal, Attorney Ralph Woodman, on behalf of the appealing abutters, indicated to the Board of Adjustment that there was information which had not been available to the City Council at the time of its initial vote which should have been considered prior to granting the unmerger of the lots. The hearings and the deliberation of the Board of Adjustment on this matter may be reviewed on YouTube at <https://youtu.be/kXgZE42ztOk?t=1296> (September 17, 2019 hearing) and <https://youtu.be/MOfxZ5gIur4?t=1374> (October 15, 2019 meeting). Subsequent to the hearing and deliberation, the Board of Adjustment voted to remand the matter to the City Council for the Council to take whatever action it deemed to be appropriate under the circumstances.

The remand is now before the City Council scheduled for December 16, 2019. Attorneys for each side have been asked to present their arguments in writing, with a limit of seven (7) pages each (see attached). **Those writings are due to the City Clerk by noontime on December 11, 2019 and should be included in the agenda packet for that evening.** In addition to those documents, each side in the dispute has been asked to have a representative present at the City Council meeting who might answer any questions which might be propounded by members of the Council.

*After the Council has conducted whatever review it deems appropriate, considered the writings provided by the parties and asked any questions which it wishes to ask of the party representatives, it would seem appropriate for the Council to either:*

- (1) *Uphold its previous decision to unmerge the lots;*
- (2) *Reverse its previous decision to unmerge the lots; or*
- (3) *Take any other action deemed appropriate by the Council.*

4. **Sale of Surplus Equipment.** The Public Works, Police and Fire Departments have surplus property comprising of vehicles and equipment ready for disposal (see attached list).

As in the past, we have disposed of the surplus equipment through a sealed bid process or through GovDeals an online auction site in which the equipment is sold to the highest bidder.

Finance Director Judie Belanger would like to use GovDeals to dispose of these surplus items. The City has used GovDeals in the past and it has shown that the City receives more money for our surplus property than through a sealed bid process.

According to City Ordinance Section 1.505, property valued at \$500.00 or more must receive approval from the City Council prior to bidding.

*I recommend the City Council move to approve the sale of surplus equipment through GovDeals.*

5. **Polling Hours - February 11, 2020 Presidential Primary Election.** Attached is a memorandum from City Clerk Kelli L. Barnaby recommending that the polling hours for the Presidential Primary Election on February 11, 2020 be set from 8:00 a.m. to 7:00 p.m.

*In accordance with RSA 659:4, the City Council shall move the following motion:*

*Move to set the polling hours from 8:00 a.m. to 7:00 p.m. for the Presidential Primary Election on Tuesday, February 11, 2020.*

### ***Informational Items:***

1. **Annual Report on Chamber/City Partnership.** At the December 6, 2019 Economic Development Commission (EDC) meeting, the Chamber Collaborative of Greater Portsmouth staff reported on the new business development and member initiatives and destination marketing/tourism metrics for the period January through November 2019. You will recall that the report is part of the City of Portsmouth and Chamber Collaborative partnership for which the Council has requested copies of the annual reports presented to the EDC. The report is attached for your review.
2. **Executive Order on Refugee Resettlement.** For your information, attached is a memorandum from Assistant City Attorney Jane Ferrini regarding a clarification of Executive Order 13888 for refugee resettlement.
3. **Town of New Castle – Water Update.** Attached is a memorandum from Deputy City Attorney Suzanne Woodland and Deputy Director of Public Works Brian Goetz, regarding a Town of New Castle water update.

4. **Response to National Park Service Comments on the City of Portsmouth Application for the McIntyre Federal Building.** Attached are draft comments intended to respond to the Park Service questions of 2019.