

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, APRIL 18, 2016 TIME: 6:15PM

AGENDA

- **6:15PM – WORK SESSION RE: 165 DEER STREET**

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

PRESENTATION

- 1. Recognition of Portsmouth High School Boys 2016 New Hampshire Basketball Division 2 New Hampshire State Champions
- 2. Peter Michaud of the Division of Historical Resources Re: Update on Nomination of Downtown Properties to the National Register

- V. **ACCEPTANCE OF MINUTES – MARCH 21, 2016 AND APRIL 4, 2016**

- VI. **PUBLIC COMMENT SESSION**

- VII. **PUBLIC HEARINGS**

- A. ORDINANCE AMENDING CHAPTER 11, ARTICLE II, SECTION 11.216:B – SEWER USER CHARGES/RECORDS/HOOK-UP BY THE ELIMINATION OF IRRIGATION METERS
- B. ORDINANCE AMENDING CHAPTER 11, ARTICLE II, SECTION 11.216:B – SEWER USER CHARGES/RECORDS/HOOK-UP TO ALLOW AN APPROVED IRRIGATION SYSTEM AND A WATER METER AT A MONTHLY SERVICE FEE IN ADDITION TO THE CONSUMPTION CHARGE, SAID FEE TO BE DETERMINED BY THE CITY COUNCIL DURING ITS ANNUAL BUDGET PROCESS
- C. RESOLUTION AUTHORIZIING A BOND ISSUE AND/OR NOTES OF UP TO FIVE MILLION DOLLARS (\$5,000,000.00) FOR COSTS RELATED TO PHASE II OF ELEMENTARY SCHOOL FACILITY IMPROVEMENTS

- VIII. **APPROVAL OF GRANTS/DONATIONS**

(There are no items under this section of the agenda)

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second Reading of Ordinance amending Chapter 11, Article II, Section 11.216:B – Sewer User Charges/Records/Hook-Up by the Elimination of Irrigation Meters
- B. Second reading of Ordinance amending Chapter 11, Section II, Section 11.216:B – Sewer User Charges/Records/Hook-up to Allow an Approved Irrigation System and a Water Meter at a Monthly Service Fee in addition to the Consumption Charge, said Fee to be Determined by the City Council during its Annual Budget Process
- C. Adoption of Resolution Authorizing a Bond Issue and/or Notes of up to Five Million Dollars (\$5,000,000.00) for Costs Related to Phase II of Elementary School Facility Improvements

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Laurie Mantegari, Scarecrows of the Port Committee, requesting permission to place scarecrows in designated locations throughout the Portsmouth Downtown Area ***(Anticipated action – move to refer to the City Manager with power)***
- B. Letter from Jay Diener, Seacoast Half Marathon, requesting permission to hold the 11th Annual Seacoast Half Marathon on Sunday, November 13, 2016 ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Sister Mary Agnes, St. Charles Children’s Home, requesting permission to hold the 20th Annual St. Charles Children’s Home 5K on Monday, September 5, 2016 ***(Anticipated action – move to refer to the City Manager with power)***
- D. Letter from Allan Scholtz, Portsmouth Professional Firefighters Local 1313, requesting permission to hold 2 boot drives this year, the first on Saturday July 9th, and the second on Saturday, August 20th for the Muscular Dystrophy Association in Market Square ***(Anticipated action – move to refer to the City Manager with power)***

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

(There are no items under this section of the Agenda)

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager’s Items Which Require Action:

- 1. Deer Street Garage Property Acquisition, Purchase and Sale Agreement and Post Closing Obligations Agreement Options as result of Work Session

1. *The City Council could approve the Documents. In this situation, given that the documents are not complete due to the unavailability of numerous attachments, as appropriate motion might be:*

A. **MOVED:** *That the City Manager is hereby authorized to execute the Purchase and Sale Agreement and Post Closing Obligations Agreement with Deer Street Associates on behalf of the City regarding the City's acquisition of a potential site for a municipal parking garage on Deer Street (collectively, the "Documents") once the schedules of those Documents are in completed form and attached thereto. **BE IT FURTHER MOVED,** that the City Manager is authorized to negotiate and execute any amendments, exhibits or attachments to those Documents as are substantially consistent with the material terms of the Documents approved by the City Council and as he may deem appropriate.*

In the event that the foregoing Motion should pass, in order to comply with the provisions of the Documents which were approved, it will be necessary for the City Council to also pass the following Motion:

B. **MOVED:** *That a public hearing be held before the City Council on May 16, 2016 pursuant to RSA 231:43 for the purpose of discontinuing any rights of the City or the public in the following two parcels of property:*

A certain triangular tract of land being located at the northwesterly corner of and within the intersection of the Deer Street and Bridge Street rights of way, and being approximately 1,717 square feet in size; and

A certain trapezoidal tract of land being located along the northerly boundary of said triangular tract of land, being approximately four (4) feet wide and being approximately 269 square feet in size,

And that at least fourteen (14) days prior to the public hearing written notice be given to all owners of property abutting the said areas.

2. *The City Council could vote not to approve the Documents. In such case an appropriate Motion might be:*

MOVED: *That the City Council **not** authorize the City Manager to execute the Purchase and Sale Agreement or the Post Closing Obligations Agreement with Deer Street Associates Documents as presented.*

2. Portsmouth Public Media, Inc. Proposed Lease Renewal
3. Ratify Appointment of Nancy Colbert Puff to replace David Allen, Deputy City Manager on the Planning Board effective May 16, 2016
4. Request for Approval Re: Transfer of 2006 Fire Boat – Gilford, NH
5. Request to Schedule a Public Hearing for Refinancing Callable Bonds

Informational items

1. Events Listing
2. Reminder Re: FY17 Budget Schedule
3. Report Back Re: Communications Plan for Wastewater Facility Upgrade
4. Islington Street Corridor – Basement Utility Surveys

B. MAYOR BLALOCK

1. *Appointments to be Voted:
 - Reappointment of Amy Burns to Cable Television and Communications Commission
 - Reappointment of Robert Capone to Cable Television and Communications Commission
 - Reappointment of Cliff Lazenby to Citywide Neighborhood Steering Committee
 - Reappointment of Samantha Wright as alternate to the Conservation Commission
 - Reappointment of Kory Sirmaian to the Recreation Board

C. COUNCILOR LOWN & DENTON

1. *Surfrider – Plastic Bag Ordinance (***Sample motion – move to have the City Attorney draft a letter from the City Council to the DES Commissioner and the DES Waste Division Director asking if DES believes 149-M gives municipalities the authority to: 1) ban single-use plastic shopping bags; and 2) establish the ten cents paper bag pass through that was part of the previous draft ordinance***)

D. COUNCILOR LOWN

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the April 7, 2016 meeting (***Sample motion – move to approve and accept the action sheet and minutes of the April 7, 2016 Parking and Traffic Safety Committee***)

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

XIV. ADJOURNMENT


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

**Indicates Verbal Report*

NOTICE TO THE PUBLIC WHO ARE HEARING IMPAIRED: Please contact Dianna Fogarty at 603-610-7270 one-week prior to the meeting for assistance.

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: April 14, 2016
To: Honorable Mayor Jack Blalock and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on April 18, 2016 City Council Agenda

Work Session:

6:15 p.m.

1. **Work Session Re: 165 Deer Street.** On Monday evening at 6:15 p.m., the City Council will hold a Work Session regarding the acquisition of the 165 Deer Street property. Please see the [attached memorandum from City Attorney Robert Sullivan and Deputy City Manager David Allen regarding this matter.](#)

Subsequent to the Work Session, under the City Manager's Action Items on the Agenda, I am requesting the City Council take action on one of the two options regarding the Deer Street Garage Property Acquisition.

Presentation:

1. **Recognition of Portsmouth High School 2016 Division 2 Boys Basketball New Hampshire State Champions.** On Monday evening, Mayor Jack Blalock will recognize the Portsmouth High School 2016 Division 2 Boys Basketball New Hampshire State Champions.
2. **Presentation from Peter Michaud of the Division of Historical Resources Re: Update on Nomination of Downtown Properties to the National Register.** On Monday evening, Peter Michaud of the New Hampshire Division of Historical Resources will give an update to the City Council on the Nomination of Downtown Properties to the National Register.

Items Which Require Action Under Other Sections of the Agenda:

1. Public Hearing/Second Reading of Proposed Ordinance Amendments:

- 1.1 **Public Hearing/Second Reading of Proposed Ordinance amending Chapter 11, Article II. Section 11.216 – Sewer User Charges/Records/Hook-up – Elimination of Meters.** As a result of the April 4th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the [attached proposed Ordinance](#) amending Chapter 11, Article II, Section 11.216 – Sewer User Charges/Records/Hook-up for the elimination of meters.

[Attached is a memorandum from Brian Goetz, Deputy Director of Public Works,](#) that provides more detail regarding this matter.

Brian Goetz will be making a short presentation regarding this matter.

The City Council may move one of the following motions:

1) Move to pass second reading and schedule a third and final reading on the proposed Ordinance, as presented, at the May 2, 2016 City Council meeting. Action on this item should take place under Section IX of the Agenda

or

2) Move not to approve the proposed Ordinance, as presented.

Action on this matter should take place under Section IX of the Agenda.

- 1.2 **Public Hearing/Second Reading of Proposed Ordinance amending Chapter 11, Article II. Section 11.216 – Sewer User Charges/Records/Hook-up – Addition of All Customers.** As a result of the April 4th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the [attached proposed Ordinance](#) amending Chapter 11, Article II, Section 11.216 – Sewer User Charges/Records/Hook-up, which expands the allowance of irrigation meters to all customer classes.

[Attached is a copy of a memorandum from Brian Goetz, Deputy Director of Public Works,](#) regarding this matter.

Through research with our Water/Sewer rate consultant, we have determined that the current practice in New England and throughout the rest of the country is to allow for irrigation meters for all customers.

Brian Goetz will be making a short presentation regarding this matter.

The City Council may move one of the following motions:

1) Move to pass second reading and schedule a third and final reading on the proposed Ordinance, as presented, at the May 2, 2016 City Council meeting. Action on this item should take place under Section IX of the Agenda

or

2) Move not to approve the proposed Ordinance, as presented.

Action on this matter should take place under Section IX of the Agenda.

2. Public Hearing and Adoption of Proposed Bonding Resolution:

2.1 Public Hearing and Adoption of Proposed Bonding Resolution of up to Five Million (\$5,000,000) Dollars for Phase II Little Harbour School Improvements.

As a result of the April 4th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing the [attached proposed Bonding Resolution](#) of up to Five Million (\$5,000,000) Dollars for Phase II of the Little Harbour School Improvements.

[Attached is a letter from Superintendent Steve Zdravec regarding this matter.](#) This item has been identified in the FY2017 Capital Improvement Plan. Superintendent Zdravec would like to receive authorization on this expenditure by the beginning of May in order to assure that materials can be ordered prior to the closure of school. This would allow for the construction improvements to be done during the summer months while the students are on break. This is similar to the way Phase I of the Little Harbour Project took place and has seemed to work out very well.

A representative of the School Department will be present on Monday evening to answer any questions that you may have regarding this matter.

I recommend the City Council move to adopt the Bonding Resolution of up to Five Million (\$5,000,000) Dollars for Phase II of the Little Harbour School Improvements. Action on this matter should take place under Section IX of the Agenda.

City Manager's Items Which Require Action:

- 1. Deer Street Garage Property Acquisition, Purchase and Sale Agreement and Post Closing Obligations Agreement Options as a result of Work Session.** As a result of the April 4th City Council meeting, I am bringing back for City Council action the following two options regarding the Deer Street Garage Property Acquisition.

1. *The City Council could approve the Documents. In this situation, given that the Documents are not complete due to the unavailability of numerous attachments, an appropriate motion might be:*

A. **MOVED:** *That the City Manager is hereby authorized to execute the Purchase and Sale Agreement and Post Closing Obligations Agreement with Deer Street Associates on behalf of the City regarding the City's acquisition of a potential site for a municipal parking garage on Deer Street (collectively, the "Documents") once the schedules of those Documents are in completed form and attached thereto. **BE IT FURTHER MOVED,** that the City Manager is authorized to negotiate and execute any amendments, exhibits or attachments to those Documents as are substantially consistent with the material terms of the Documents approved by the City Council and as he may deem appropriate.*

In the event that the foregoing Motion should pass, in order to comply with the provisions of the Documents which were approved, it will be necessary for the City Council to also pass the following Motion:

B. **MOVED:** *That a public hearing be held before the City Council on May 16, 2016 pursuant to RSA 231:43 for the purpose of discontinuing any rights of the City or the public in the following two parcels of property:*

A certain triangular tract of land being located at the northwesterly corner of and within the intersection of the Deer Street and Bridge Street rights of way, and being approximately 1,717 square feet in size; and

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and that at least fourteen (14) days prior to the public hearing written notice be given to all owners of property abutting the said areas.

2. *The City Council could vote not to approve the Documents. In such case an appropriate Motion might be:*

MOVED: *That the City Council **not** authorize the City Manager to execute the Purchase and Sale Agreement or the Post Closing Obligations Agreement with Deer Street Associates Documents as presented.*

2. **Portsmouth Public Media, Inc. Proposed Lease Renewal.** The City of Portsmouth leases the South Meeting House at 280 Marcy Street to Portsmouth Public Media, Inc. (PPM). The current lease, which was for a five-year period and began on May 5, 2011 expires on May 4, 2016. Recently, I met with PPM representatives who requested an extension for another five-year period.

Portsmouth Public Media, Inc. is a non-profit organization whose organizational mission is “To make the sharing of local news, views, information, arts and entertainment readily accessible to residents, and nonprofit and business organizations of the greater Portsmouth area.” The primary source of funding for the organization is an allocation from the City’s Cable Television Public Access Charitable Trust, which is funded through the Franchise Fee paid to the City of Portsmouth per the Cable Franchise Agreement. Because the existing Franchise Agreement expires in 2018, PPM has requested the new lease include a clause which releases it from its obligations under the lease if their primary funding source is not continued as a result of new Cable agreement. In requesting an extension, no other changes to the lease terms are proposed or requested.

There are several public benefits associated with the organization’s use of this building. In the existing lease, the organization committed to the expenditure of funds for capital improvements in an amount not less than would otherwise be due to the City in real estate taxes on the premises. As a result of this lease provision, many significant capital improvements in the building have been made since 2011 and the investments have totaled over \$112,000. These improvements including extensive life safety upgrades such as a new fire panel, fire pull stations, security lighting, and a second floor sprinkler system; HVAC and plumbing upgrades; electrical repairs and upgrades; and various cosmetic improvements as well as fit-up improvements to the space including an editing area and studio spaces that are critical to the agency’s public mission.

In addition, the building has been made available to the neighborhood organization Friends of the South End and other community entities have also benefited from the space. PPM also winds and maintains the clock in the clock tower.

If the lease extension for the building is acceptable to the City Council, I will work with the City Attorney’s Office to renew the lease for the five-year term with the change described above. In addition, I will work with PPM on the identification of capital improvements to the building moving forward.

I recommend the City Council move to authorize the City Manager to enter into a Lease Agreement with Portsmouth Public Media, Inc. for the South Meeting House at 280 Marcy Street from May 5, 2016 to May 4, 2021.

3. **Ratify Appointment of Nancy Colbert Puff to replace David Allen, Deputy City Manager on the Planning Board.** In accordance with City of Portsmouth Ordinance Chapter 1, Section 1.303: Planning Board, I am requesting that the City Council ratify my appointment of Nancy Colbert Puff to replace David Allen, Deputy City Manager on the Planning Board effective May 16, 2016.

I recommend the City Council move to ratify the appointment of Nancy Colbert Puff to replace David Allen, Deputy City Manager on the Planning Board effective May 16, 2016.

4. **Request for Approval Re: Transfer of 2006 Fire Boat – Gilford, New Hampshire.** Attached is a memorandum from Fire Chief Steven Achilles requesting approval to dispose of the Fire Department's 2006 Fire Boat that was secured through a 2005 New Hampshire Security Grant. As the memorandum indicates, the Fire Department is working with the Gilford, New Hampshire Fire Department on Lake Winnepesaukee as the agency that will receive the fire boat. Please note that because the fire boat was purchased in its entirety with federal funds the City cannot sell this boat, but must offer it to another local agency.

I recommend the City Council move to approve the disposal of the Fire Department's 2006 Fire Boat, as presented.

5. **Request to Establish a Public Hearing for Refinancing Callable Bonds.** In reviewing the City's debt schedule, there are existing bond issues eligible for Advanced Refunding (refinancing) which will result in total future interest savings. The original bond terms included a call provision which allows the issuer the option to pay off bonds prior to the maturity date by issuing another bond at a lower interest rate.

The original bonds issued that are eligible for advanced refunding are:

1. Bond issue on 6/15/2008 for:
 - Fire Station 2 Land Acquisition
 - Fire Station 2 Construction
2. Bond issue on 6/15/2009 for:
 - Fire Station 2 construction phase II
 - Madbury Treatment Plant upgrades

The average coupon rate (interest) for the remaining life of these bonds is 4.2%. Keeping in mind that interest rates are subject to change, the City, by opting to refinance these bonds in the current market, could experience savings in excess of \$970,000 net of all issuance costs, over the remaining life of the bonds.

I am requesting the City Council move to establish a public hearing at the May 2, 2016 City Council meeting for an Advanced Refunding Bond Resolution of up to Thirteen Million (\$13,000,000) to refinance the remaining portion of the aforementioned callable bonds and all related costs. The refunding resolution requires a public hearing with two-thirds vote of the City Council.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on April 4, 2016. In addition, this can be found on the City's website.
2. **Reminder Re: FY17 Budget Schedule.** Just a reminder of the following key budget dates for the FY17 Budget:
 - a) On Friday, April 29th, I will have the FY17 Budget delivered to you.
 - b) Saturday, May 7th from 8:00 a.m. to 2:30 p.m., in the Levenson Room, at the Library – An “All Day” Work Session with Departments (e.g., Police, Fire, Schools and General Government). Agenda to follow.
 - c) Wednesday, May 11th at 7:00 p.m., FY17 Budget Public Hearing.
 - d) Wednesday, May 18th at 6:30 p.m., City Council Work Session - Water and Sewer Proposed FY17 Budget.
 - e) Monday, May 23rd at 6:30 p.m., City Council Budget Work Session - Budget Review FY17.
 - f) Wednesday, June 1st at 6:30 p.m., City Council Budget Review (if necessary).
 - g) Monday, June 6th at 7:00 p.m. – The goal is to have the FY17 Budget adopted at this meeting.

All meetings are held in the Eileen Dondero Foley Council Chambers unless otherwise noted.

Just a reminder that the City Council has until the end of June in accordance with the Charter to adopt the budget. If the City Council needs more time, other meetings can be scheduled, if deemed appropriate by the Mayor, keeping in mind that the budget needs to be adopted by June 30th.

3. **Report Back Re: Communications Plan for Wastewater Facility Upgrade.** In anticipation to the construction at the Peirce Island Wastewater Treatment Facility, [attached is a communication outline](#) that the City will be following to inform residents of ongoing activities.

4. **Islington Street Corridor – Basement Utility Surveys.** The City has hired a consultant team to develop the preliminary redesign of the Islington Street corridor between Maplewood Avenue and the Route 1 Bypass Bridge. The design work includes improvements to the sewer, water and drain lines under the street. To identify all existing connections to sewer and water lines along the corridor, workers will be going door to door to conduct a survey of each building basement to determine the location, number and characteristics of each utility connection. The [attached letter](#) will be hand delivered to each property owner along Islington Street to inform them of the upcoming work, tentatively scheduled to begin the week of April 25, 2016 and to ask them for their cooperation and support. The survey personnel will be from the firm of Crew Two, Inc., out of Taunton, Massachusetts. They will all be wearing ID badges issued by the City.