

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, AUGUST 1, 2016 TIME: 6:00PM

AGENDA

- 6:00PM – ANTICIPATED NON-PUBLIC SESSION 91-A:3, II (a) PERSONNEL MATTER & “NON-MEETING WITH COUNSEL RE: LITIGATION - RSA 91-A:2,I (b)

I. CALL TO ORDER

II. ROLL CALL

III. INVOCATION

IV. PLEDGE OF ALLEGIANCE

V. ACCEPTANCE OF MINUTES – JULY 11, 2016

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARINGS

A. RESOLUTION AUTHORIZING A BOND ISSUE AND/OR NOTES OF THE CITY UNDER THE MUNICIPAL FINANCE ACT AND/OR PARTICIPATION IN THE STATE REVOLVING FUND (SRF) LOAN OF UP TO SEVEN MILLION DOLLARS (\$7,000,000.00) FOR COSTS RELATED FOR THE CONSTRUCTION OF THE PEIRCE ISLAND WASTEWATER TREATMENT FACILITY

B. ORDINANCE AMENDING CHAPTER 7, VEHICLES, TRAFFIC AND PARKING – ANNUAL OMNIBUS

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 Annual Omnibus Ordinance Change, Parking and Traffic

B. Adoption of Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of up to Seven Million Dollars (\$7,000,000.00) for Costs related for the Construction of the Peirce Island Wastewater Treatment Facility

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

A. Letter from Kenneth LaValley, American Foundation for Suicide Prevention, requesting an alternative venue and plan to use the Little Harbour School for the fundraising Walk on Saturday, September 17, 2016 (**Anticipated action – move to refer to the City Manager with power**)

B. Letter from Thomas D'Arcy, Danielle's Dash requesting permission to hold the Road Race on Sunday, August 28, 2016 rather than the previously approved date of April 30, 2016 (***Anticipated action – move to refer to the City Manager with power***)

C. Request for License to install Projecting Sign:

- Christer Ericsson owner of Greenman Pedesen, Inc., for property located at 21 Daniel 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 the 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:

- Niranjana Pandey owner of Durbar Square Restaurant for property located at 10 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 the 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***

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Zachary Taylor, Riverside&Pickering Marine Contractors, request by Stephen and Karin Barndollar for the construction of a tidal docking structure within the Ridges Court Right of Way and Right of Way setback (***Sample motion – moved to refer to the Conservation Commission for report back***)

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action:

- 1. Request for Approval of a Proposed Two-Year Agreement between the City of Portsmouth and the Professional Management Association
- 2. Request for Approval of a Proposed Two-Year Agreement for the Supervisory Management Association
- 3. Polling Hours for September 13, 2016 State Primary Election
- 4. Proposed Acquisition of Land Re: Foundation for Seacoast Health
- 5. Four Party Waterline Extension Agreement

Informational items

- 1. Events Listing
- 2. Report Back Re: Off-Leash Dogs
- 3. News Release Re: National Night Out
- 4. Report Back Re: Right-to-Know Law (RTK) Inquiry of Assistant Mayor Splaine

B. MAYOR BLALOCK

- 1. *Establish Work Session for September 12, 2016 at 6:30 p.m. Re: Transportation Services Ordinance

C. COUNCILOR PERKINS

- 1. *West End BBQ

D. COUNCILOR DWYER

- 1. *Prescott Park Master Plan Update

E. COUNCILORS LOWN & SPEAR

- 1. *Worth Lot (***Sample motion – move to request the City Manager to report back with options for the redevelopment of the Worth Lot***)

F. COUNCILORS LOWN & DENTON

1. Declaratory Judgment Action Re: Single Use Plastic Bags

G. COUNCILOR LOWN

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

Legislative Subcommittee Report

Mayor Blalock, Assistant Mayor Splaine, Councilors Dwyer and Spear (***Proposed motion – move to approve the floor policy on Type II noise barriers and submit same to become a NHMA Legislative Policy for the 2017-2018 Legislative Session by vote of its membership at the NHMA Legislative Policy Conference***)

(***Proposed motion – move to approve the floor policy on hotel occupancy surcharge and submit same to become a NHMA Legislative Policy for the 2017-2018 Legislative Session by vote of its membership at the NHMA Legislative Policy Conference***)

(***Proposed motion – move to approve the floor policy on prohibiting Accessory Dwelling Units (ADUs) or their principal dwellings from being used as short term rentals and submit same to become a NHMA Legislative Policy for the 2017-2018 Legislative Session by vote of its membership at the NHMA Legislative Policy Conference***)

(***Proposed motion – move to approve the floor policy on defining short term rentals as home businesses and submit same to become a NHMA Legislative Policy for the 2017-2018 Legislative Session by vote of its membership at the NHMA Legislative Policy Conference***)

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

XIV. ADJOURNMENT

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

**Indicates Verbal Report*


INFORMATIONAL ITEMS

1. Notification that the minutes of the June 1, 2016 and June 8, 2016 meetings of the Historic District Commission are now available on the City's website
2. Notification that the minutes of the May 3, 2016 meeting of the Site Review Technical Advisory Committee are now available on the City's website
3. Notification that the minutes of the April 19, 2016; April 26, 2016; May 17, 2016 and May 24, 2016 are now available on the City's website

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: July 28, 2016
To: Honorable Mayor Jack Blalock and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on August 1, 2016 City Council Agenda

6:00 p.m. – Non-public session in accordance with RSA 91-A:3, II (a) regarding a personnel matter.

Non-meeting with counsel in accordance with RSA 91-A:2, I (b) regarding litigation.

For details on this matter, please refer to the confidential envelope inserted in the inside pocket of your binder.

Items Which Require Action Under Other Sections of the Agenda:

1. Public Hearing and Adoption of Resolution:

- 1.1 **Public Hearing and Adoption of a Bond Issue and/or Notes of the City Under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of up to Seven Million (\$7,000,000) Dollars for Costs Related for the Construction of the Peirce Island Wastewater Treatment Facility.** As a result of the July 11th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and a Resolution authorizing a bond issue or participation in the State Revolving Loan Fund to borrow up to Seven Million (\$7,000,000) Dollars for barging Option 1 for the Wastewater Treatment Facility Improvements at Peirce Island.

Director of Public Works Peter Rice and Jon Pearson of AECOM will present to the City Council a summary of barging costs, barging details and logistics, examples, permitting and traffic impacts for the Peirce Island Wastewater Treatment Facility Upgrade. For your information, [attached is a copy of the PowerPoint Presentation.](#)

The low bidder for the project is Methuen Construction at \$72.79 million. Adding barging to reduce construction traffic by approximately 50% will increase the construction contract by approximately \$4 million. The City will incur additional costs for permitting, engineering oversight, natural resource mitigation, and other unknown costs associated with barging. As a result, if the City Council decides to include barging, it will need to authorize borrowing an additional \$7.0 million.

City staff recommends that the City proceed with an award to Methuen Construction for \$72.79 million without a barging alternative. Construction vehicles will not significantly impact the level of service of the roadways and, therefore, the staff does not consider barging to be cost effective.

I recommend the City Council move to authorize the City Manager to proceed with the bid award to Methuen Construction for the Wastewater Treatment Facility upgrade on Peirce Island without any barging alternative;

And further, I do not recommend the adoption of a Bond Resolution, as presented. Action on this matter should take place under Section IX of the Agenda.

2. **Public Hearing/Second Reading of Proposed Ordinance Amendments.**

2.1 **Public Hearing/Second Reading Annual Omnibus Ordinance Change, Parking and Traffic.** As a result of the July 11th City Council meeting, under Section VII of the Agenda, I am bringing back for a public hearing and second reading the [annual omnibus set of ordinances](#) by the Parking and Traffic Safety Committee. This year's omnibus changes are detailed on the [attached sheets](#), and address changes to on-street parking spaces and update wording to reflect current conditions.

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 two-hour time restriction to a 15-minute one. This process would often take four to six months to complete.

The current ordinance authorizes the Parking Traffic and 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 between June 12, 2015 and June 2, 2016, as well as updates to reflect current conditions.

I recommend the City Council move to pass second reading and schedule third and final reading on the proposed Ordinance at the August 15, 2016 City Council meeting, as presented. Action on this matter should take place under Section IX of the Agenda.

Consent Agenda:

1. **Request for Licenses to Install Projecting Signs.** Attached under Section X of the Agenda are requests for projecting sign licenses (see attached memorandums from Rick Taintor, Planning Director):
 - Niranjan Pandey, owner of Durbar Square Restaurant for property located at 10 Market Street
 - Christer Ericsson, owner of Greenman Pedesen Inc. (GPI) for property located at 21 Daniel Street

I recommend the City Council move to approve the aforementioned Projecting Sign Licenses as recommended by the Planning Director and, further, authorize the City Manager to execute these License Agreements for these requests. Action on this item should take place under Section X of the Agenda.

City Manager's Items Which Require Action:

1. **Request for Approval of a Proposed Two-Year Agreement between the City of Portsmouth and the Professional Management Association.** The City has reached a Tentative Agreement with the Professional Management Association (PMA) for a two-year agreement from July 1, 2016 to expire on June 30, 2018.

For your information and to facilitate discussion regarding this matter, attached please find the following documents:

- A letter from Tom Closson, City Negotiator outlining the major changes to the Professional Management Association Agreement.
- The PMA Contract showing the insertions and deletions to implement the Tentative Agreement if approved.
- Cost Analysis of the two (2) year agreement.

This Agreement will also cover non-union employees as well.

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

<http://www.cityofportsmouth.com/hr/contracts/Municipal/RedlinedPMAAgreementfor2016through2018.pdf>

I would recommend the City Council move to accept the proposed contract with the Professional Management Association to expire on June 30, 2018.

2. **Request for Approval of a Proposed Two-Year Agreement for the Supervisory Management Association.** The City has reached a Tentative Agreement with the Supervisory Management Association (SMA) for a two-year agreement from July 1, 2016 to expire on June 30, 2018.

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

- A letter from Tom Closson, City Negotiator outlining the major changes to the Supervisory Management Association Agreement.
- The SMA Contract showing the insertions and deletions to implement the Tentative Agreement if approved.
- Cost Analysis of the two (2) year agreement.

This Agreement will also cover non-union employees as well.

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

<http://www.cityofportsmouth.com/hr/contracts/Municipal/DraftSupervisoryManagementAlliance-exp%206-30-18.pdf>

I would recommend the City Council move to accept the proposed contract with the Supervisory Management Association to expire on June 30, 2018.

3. **Polling Hours for September 13, 2016 State Primary Election.** [Attached is a memorandum from Kelli Barnaby, City Clerk,](#) recommending the polling hours be set from 8:00 a.m. to 7:00 p.m. for the State Primary Election on September 13, 2016.

I recommend the City Council move to set the polling hours from 8:00 a.m. to 7:00 p.m. for the State Primary Election on September 13, 2016.

4. **Proposed Acquisition of Land Re: Foundation for Seacoast Health.** As you will recall, in non-meeting with counsel on June 1, 2016, I brought forward the potential acquisition of land owned by the Foundation for Seacoast Health ([see attached map](#)). At this time, I am seeking the City Council's authority for the following:

- 1) Execute a Purchase and Sale Agreement;
- 2) Establish a public hearing for August 15, 2016 to fund the purchase of land through a bond premium; and,
- 3) Refer this matter to the Planning Board for a report back.

At this time the purchase price to be included in the Agreement is \$1,850,000 for the approximately 50 acres of land. I propose 100% of the cost of this land purchase be covered by bond premium from the most recent debt issue. By using the bond premium, there will be no impact on the City's tax rate. The acquisition of the property is the first step in realizing the City's long held goals of expanding the Recycling Center (site 3); creating a multi-field complex for outdoor recreation (sites 1 and 2); and ensuring protection of valuable wetland and open space (site 4). [See attached map.](#)

The Purchase and Sale Agreement (Agreement) will establish a purchase price and other terms. The Foundation was obligated by the Attorney General's Office Division of Charitable Trust to receive two appraisals on this property to insure a fair market value. The purchase price of \$1,850,000 is approximately the average of the two appraisals. For example, included in the terms will be all environmental and geotechnical assessments and other due diligence work customarily performed for a large land purchase. In addition, the parcel needs to be subdivided either by the City or Foundation, which will be addressed in the Agreement.

The next step in this process will be the negotiation of the Agreement and it will then be put before the City Council for a vote. A separate two-thirds vote of the City Council following a public hearing will be needed in order to utilize bond premium for this purchase. Upon acceptance of the Agreement work will begin on the subdivision of land as well as other due diligence items.

I recommend the City Council take the following actions:

- 1) *To Authorize the City Manager to negotiate a Purchase & Sale Agreement for the four sites described above and take any and all action necessary to execute this Agreement;*
- 2) *To establish a public hearing for August 15, 2016 to utilize \$1,850,000 from bond premium; and,*
- 3) *To refer this matter to the Planning Board.*

5. **Four Party Waterline Extension Agreement.** [Attached is a draft Four Party Waterline Extension Agreement](#) between Chinburg Development, Breakfast Hill Trust I, II and III, the Elmer M. Sewall Revocable Trust of 1996 (collectively the "Sewalls"), the Coakley Landfill Group and the City of Portsmouth.

This Agreement is intended to facilitate the development of a ten (10) lot subdivision currently owned by the Sewall entities which will be purchased prior to development by Chinburg Development. The subdivision is located to the west of the Coakley Landfill site in the Town of Greenland.

One motivating factor in the negotiation and execution of the Agreement is concern on the part of the Environmental Protection Agency (EPA) that drawing groundwater from private wells at the ten (10) lot subdivision might affect the remediation of the nearby Coakley Landfill site. Therefore, in order to allow Chinburg Development to purchase and

develop the Sewall property without concern related to the Coakley Landfill the Agreement has been negotiated to accomplish the following goals:

1. Chinburg Development will build the infrastructure to allow a public water supply to serve the subdivision.
2. The City will provide water which it will acquire from the adjacent Rye Water District to that infrastructure pursuant to a separate agreement which was negotiated and approved by the City Council on April 6, 2015 for that purpose.
3. Once the infrastructure has been constructed, the City will accept it as an element of the Portsmouth municipal water system, utilizing longstanding statutory authority for the City to provide water in the Town of Greenland.
4. Certain deed restrictions to prevent the use of groundwater under the subdivision will be recorded by Chinburg Development and certain access to monitoring wells also required by EPA will be provided to the Coakley Landfill Group by Sewall.
5. Construction costs for all of the foregoing will be paid by Chinburg Development. One-half (½) of those costs as well as certain additional construction costs required by the City will be reimbursed to Chinburg Development by the Coakley Landfill Group (item 8).
6. Sewall and Chinburg will release the Coakley Landfill Group and the City of Portsmouth from any claims, demands, causes of actions or suits related in any way to the subdivision.

The terms of this Agreement have been approved by Chinburg Development, the Sewall entities and the Coakley Landfill Group. Upon its approval by the Portsmouth City Council and execution by the City Manager, its implementation will begin immediately.

I recommend the City Council move to approve the Four Party Waterline Extension Agreement, as presented, and further, authorize the City Manager to execute the Agreement.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on July 11, 2016. In addition, this can be found on the City's website.

2. **Report Back Re: Off-Leash Dogs.** In anticipation of closing the off-leash dog park on Peirce Island during the Wastewater Treatment Facility construction, we have been investigating alternative locations that dog owners can use during this time.

An area of land next to the Park & Ride on Greenland Road has been identified as a viable space to be developed into an off-leash dog park for residents. Given its easy access and available parking, there is suitable groundwork to explore the potential to develop the adjacent land into usable space. The land's proximity to the Hampton Rail Trail and the Great Bog area is also appealing, as this space may have further potential to serve as a walkable and bikeable connector between these public spaces.

[Attached is a map outlining the area.](#) Currently, we are preparing to do an in-depth assessment and site visit to determine if this plan is feasible. We will evaluate the following:

- Existing conditions of the land and predicted work for the Public Works staff.
- Establishing perimeters and installing fencing to prevent any disruptions to the Collins Well and nearby neighborhoods.
- Needed signage throughout the area.
- Easement restrictions surrounding existing power lines.
- Water availability for drinking fountain installations if necessary.

A report on these circumstances and plan of action will follow after this analysis is complete.

3. **News Release Re: National Night Out.** For your information, attached is a [news release regarding National Night Out](#) which will be celebrated on Tuesday, August 2, 2016 from 5:00 to 8:00 p.m.
4. **Report Back Re: Right-to-Know Law (RTK) Inquiry of Assistant Mayor Splaine.** As requested by Assistant Mayor Splaine, [attached is a memorandum from City Attorney Robert Sullivan](#) regarding the Right-to-Know Law.