

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: TUESDAY, FEBRUARY 21, 2017 TIME: 6:00 PM

## AGENDA

6:00PM – NON-PUBLIC SESSION RE: BOYLE LITIGATION – Per RSA 91-A:3, II (e)

- 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 COMMENT SESSION
- VII. PUBLIC HEARINGS
  - A. SECOND READING OF PROPOSED ORDINANCE AMENDING CHAPTER 7, ARTICLE I, SECTION 7.115 – SIGN PERMIT REQUIRED FOR PRIVATE PARKING LOT
  - B. PROPOSED CAPITAL IMPROVEMENT PLAN (CIP) FY2018-2023 ***(Action to be taken at the March 6<sup>th</sup> City Council meeting)*** A copy of the Capital Improvement Plan is on our web page and you may view the YouTube Presentation of Work Session held on February 14, 2017 <http://planportsmouth.com/2018-2023CapitalImprovementPlan.pdf>
- VIII. APPROVAL OF GRANTS/DONATIONS
  - A. Acceptance of 2016 Homeland Security Grant Program Award - \$6,000.00 ***(Sample motion – move to accept and approve the 2016 Homeland Security Grant Program Award, as presented, and further, authorize the Acting City Manager to execute the Agreement)***
- IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES
  - A. Second reading of proposed Ordinance amending Chapter 7, Article I, Section 7.115 – Sign Permit Required for Private Parking Lot
  - B. Third reading of proposed Ordinance amending Chapter 7, Article I, Section 7.101 – Parking Meters - Definition
  - C. Third reading of proposed Ordinance amending Chapter 7, Article I, Section 7.102 – Parking Meter Zones – Downtown High Occupancy Zone
  - D. Third reading of proposed Ordinance amending Chapter 7, Article I, Section 7.105 – Parking to include mobile phone applications and Parking Meter Fees shall be enforceable Monday through Saturday, from 9:00 a.m. to 8:00 p.m.

- E. Third reading of proposed Ordinance amending Chapter 7, Article III, Section 7.324 – Limited Parking One Hour, Section 7.325 – Limited Parking Thirty Minutes, Section 7.326 – Limited Parking Fifteen Minutes, Section 7.327 – Limited Parking Two Hours, Section 7.328 – Limited Parking Three Hours, Section 7.328-1 – Utilization of Multiple Parking Spaces and Section 7.329 – Limited Parking Four Hours between the hours of 9:00 a.m. and 8:00 p.m. Monday – Saturday and between 12:00 p.m. and 8:00 p.m. Sunday, Holiday Excluded
- F. Third reading of proposed Ordinance amending Chapter 7, Article IV, Section 7.406 (A) & (B) Parking in Meter Space to be deleted in their entirety

**X. CONSENT AGENDA**

*(There are no Consent Agenda items on for consideration this evening)*

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

*(There are no Written Communications and Petitions on for consideration this evening)*

**XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

**A. ACTING CITY MANAGER**

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

- 1. City Council Policy Regarding use of City Property for Sidewalk Cafes Providing Alcohol Service

**Informational items**

- 1. Events Listing
- 2. Department of Revenue Administration Review 2015 Residential and Commercial Revaluation
- 3. Letter to North Hampton Select Board from Coakley Landfill Group
- 4. Information Re: Sanctuary Cities

**B. MAYOR BLALOCK**

- 1. \*Naming of Prescott Park Policy Advisory Committee

**C. ASSISTANT MAYOR SPLAINE**

- 1. \*Request for full report and any fine imposed for the accident that resulted in up to 50,000 gallons of raw sewage being released into the Piscataqua River during construction of the Peirce Island Waste Water Treatment Plant, and plans for prevention of future accidents

**D. COUNCILOR SPEAR**

- 1. Motion to Reconsider Veterans Tax Credit Vote *(We have provided information the City Council received on this topic for reference)*

**XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

**XIV. ADJOURNMENT**

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

*\*Indicates Verbal Report*

**INFORMATIONAL ITEMS**

1. 2016 Board and Commission Attendance Records

*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:** February 16, 2017  
**To:** Honorable Mayor Jack Blalock and City Council Members  
**From:** Nancy Colbert Puff, Acting City Manager *NCp*  
**Re:** Acting City Manager's Comments on February 21, 2017 City Council Agenda

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**6:00 p.m. Non-Public Session Re: Boyle Litigation – Per RSA 91-A:3, II (e)**

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***Acceptance of Grants and Donations:***

1. **Acceptance of 2016 Homeland Security Grant Program Award.** The City of Portsmouth Fire Department has been awarded a \$6,000 grant from the State of New Hampshire Department of Safety under the State Homeland Security Program portion of the 2016 Homeland Security Grant Program for the purchase of Warm Zone EMS Equipment ([see attached letter](#)).

*I recommend the City Council move to accept and approve the 2016 Homeland Security Grant Program Award, as presented, and further, authorize the Acting City Manager to execute the Agreement. Action on this matter should take place under Section VIII of the Agenda.*

***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 7, Article I, Section 7.115 – Sign Permit Required for Private Parking Lot.**  
As a result of the February 6<sup>th</sup> 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 7, Article I, Section 7.115 – Sign Permit Required for Private Parking Lot](#) that addresses private companies that provide

public parking on private lots requested by the City Council at its January 23, 2017 meeting.

The main purpose of the ordinance is to require proper signage which will advise the public that the management, fee structure and parking enforcement for these private lots are the sole responsibility of the owner/operator, not the City. The permit application requires that the Department of Public Works receive the following information: 24 hour emergency contact, the fees charged, and private enforcement mechanisms used by these owner/operators. The City Council has authority to regulate parking within the City limits and the signage required by this ordinance falls within that authority.

We are aware that there are other aspects of this land use that may require further ordinance changes to ensure the public's interests are properly addressed.

Public Works Director Peter Rice will be available to answer questions.

*I recommend that the City Council move to pass second reading and schedule third and final reading of the proposed ordinance at the March 6, 2017 City Council meeting. Action on this item should take place under Section IX of the Agenda.*

## 2. **Public Hearing.**

- 2.1 **Public Hearing Re: Proposed Capital Improvement Plan (CIP) FY2018-2023.** In accordance with Section 7.7 of the City Charter, a Public Hearing on the proposed Capital Improvement Plan for FY2018-23 will take place on Tuesday evening at 7:00 p.m. At that time, I will be giving a brief overview of the Plan and have requested that staff be available to answer questions if necessary. In addition, I will have copies available of the summary pages for the public, as well as the capital expenditures that will be proposed in the FY2018 budget. Also, a copy of the Capital Plan is on our web page <http://planportsmouth.com/2018-2023CapitalImprovementPlan.pdf> and the February 14, 2017 City Council Work Session full presentation will be available on YouTube <https://www.youtube.com/watch?v=hRtdiOJS670>. The City Council is required, in accordance with Section 7.8 of the City Charter, to adopt the Capital Plan subsequent to the Public Hearing and before the City Manager submits the budget to the City Council. I anticipate that the City Manager will be transmitting his proposed FY2018 budget to you on or about April 28, 2017. Given that projected date, I am suggesting the City Council adopt the proposed Capital Improvement Plan at your March 6, 2017 City Council meeting.

*I suggest that action on this matter be taken at the March 6<sup>th</sup> City Council meeting, at which time the City Manager will recommend adoption of the CIP with any appropriate amendments.*

3. **Third and Final Reading of Proposed Ordinance Amendments.**

- 3.1 **Third and Final Reading of Proposed Ordinances to Amend Chapter 7, Article I, Sections 7.101 Parking Meters and 7.102 Parking Meter Zones, 7.105 Parking; Article III, Sections – Limited Parking One Hour, Section 7.325 – Limited Parking Thirty Minutes, Section 7.326 – Limited Parking Fifteen Minutes, Section 7.327 – Limited Parking Two Hours, Section 7.328 – Limited Parking Three Hours; Section 7.328-1 – Utilization of Multiple Parking Spaces and Section 7.329 – Limited Parking Four Hours; Article IV, Section 7.406 Parking and Meter Spaces.** As a result of the February 6<sup>th</sup> City Council meeting, under Section IX of the Agenda, I am bringing back for third and final reading the [attached proposed five ordinances](#) intended to implement the amendments to the Parking Ordinance regarding parking rates and hours of operation requested by the City Council at its January 9, 2017 meeting. In addition to these proposed ordinance changes, Parking and Transportation Division Staff is working with our parking consultant to develop alternative variable rate structures based on real-time parking utilization.

Currently parking utilization data is collected three times per year during the spring and fall seasons and once during peak summer use and extrapolated to reflect annual utilization. The alternative approach being reviewed will be based on data collected from on-street meters, pay and display meters as well as by the Garage pay kiosks. Staff will present the findings of this alternative rate approach upon completion which is anticipated late spring of 2017.

The proposed ordinance changes presented here are consistent with the City Council's Adopted 2012 Parking Guiding Principles to improve parking utilization and will raise necessary revenues to support operation of the City's Parking and Transportation Division.

In response to City Council input, the Ordinance has been amended from first reading to extend enforcement from 7:00 p.m. to 8:00 p.m. This will ensure some turnover through peak demand for restaurants.

Also, some general housekeeping measures have been addressed in the amended ordinances.

We have labeled the ordinances A-E for organizational purposes. A synopsis of what each of the ordinances seeks to accomplish is as follows:

- A. Article I, Section 7.101 – PARKING METERS - DEFINITIONS  
If adopted this ordinance would include mobile phone applications in the definition of “meter.”

- B. Article I, Section 7.102 PARKING METER ZONES  
If adopted, this ordinance would increase the parking rate for all Downtown High Occupancy Zones to \$2.00 per hour, increase the parking rate for all other Occupancy Zones to \$1.50 per hour and create an EasyPark residency discount.
- C. Article I, Section 7.105 PARKING  
If adopted, this ordinance would extend parking meter fees until 8:00 p.m.
- D. Article III, Section 7.324 – Limited Parking One Hour, Section 7.325 – Limited Parking Thirty Minutes, Section 7.326 – Limited Parking Fifteen Minutes, Section 7.327 – Limited Parking Two Hours, Section 7.328 – Limited Parking Three Hours, Section 7.328-1 – Utilization of Multiple Parking Spaces; and Section 7.329 – Limited Parking Four Hours.  
If adopted, this ordinance would extend parking meter fees until 8:00 p.m.
- E. Article IV, Section 7.406 PARKING IN METER SPACES  
If adopted, this section would be deleted in its entirety as duplicative.

*I recommend the City Council move the following motions:*

- A. *Move to pass third and final reading of the proposed Ordinance amendment to Chapter 7, Article I, Section 7.101- PARKING METERS - DEFINITIONS.*
- B. *Move to pass third and final reading of the proposed Ordinance amendment to Chapter 7, Article I, Section 7.102 PARKING METER ZONES.*
- C. *Move to pass third and final reading of the proposed Ordinance amendment to Chapter 7, Article I Section 7.105 PARKING.*
- D. *Move to pass third and final reading of the proposed Ordinance amendment to Chapter 7, Article III, Section 7.324 – Limited Parking One Hour, Section 7.325 – Limited Parking Thirty Minutes, Section 7.326 – Limited Parking Fifteen Minutes, Section 7.327 – Limited Parking Two Hours, Section 7.328 – Limited Parking Three Hours, Section 7.328-1 – Utilization of Multiple Parking Spaces; and Section 7.329 – Limited Parking Four Hours.*
- E. *Move to pass third and final reading of the proposed Ordinance amendment to Chapter 7, Article IV, Section 7.406 PARKING IN METER SPACES.*

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

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

1. **City Council Policy Regarding Use of City Property for Sidewalk Cafes Providing Alcohol Service.** Following pilot use of City sidewalks by two sidewalk cafes in the 2011 summer season, the City Council adopted Policy No. 2012-02 on March 19, 2012, and succeeding Councils re-adopted this policy in January 2014 and January 2016. The policy allows a restaurant to apply on an annual basis for seasonal use of the adjacent City sidewalk for a café providing alcohol service, establishes standards for the design and operation, and establishes an annual Area Service Agreement to be approved by the City Council and signed by the City Manager. It is generally agreed that the policy has worked well in bringing vitality to the downtown as well as supporting local restaurants.

The existing policy sets a maximum of 6 sidewalk cafes with alcohol service in any season. Six Area Service Agreements were executed for both the 2014 and 2015 seasons, and 4 for the 2016 season. Although there were fewer than 6 Agreements last year, staff believe that the procedures and standards set forth in the policy provide adequate guidance such that there is no longer a need to maintain the 6-café cap. Therefore, it is recommended to amend the policy by deleting this provision ([see attached Policy](#)).

*I recommend that the City Council move to amend City Council Policy 2012-02, Policy Regarding Use of City Property for Sidewalk Cafes Providing Alcohol Service, by deleting the last sentence of numbered paragraph 1, relating to the maximum allowed number of sidewalk cafes.*

## ***Informational Items:***

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on February 6, 2017. In addition, this can be found on the City's website.
2. **Department of Revenue Administration Review 2015 Residential and Commercial Revaluation.** For your information, on January 22, 2017, the City received two letters dated January 20, 2017, concerning the 2015 residential and commercial revaluation. The commercial letter indicated that Property Valuation Advisors completed the residential assessments which was in error. A request was sent to the DRA to correct the letter so that it is indicated Property Valuation Advisors completed the commercial assessments; the correction was received on February 2, 2017 ([see attached letters](#)).
3. **Letter to North Hampton Select Board from Coakley Landfill Group.** [Attached for your information is a letter](#) to the North Hampton Select Board from the Coakley Landfill Group.
4. **Information Re: Sanctuary Cities.** I have [attached for your information a memorandum from City Attorney Robert Sullivan](#), regarding sanctuary cities.