

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, AUGUST 7, 2017 TIME: 7:00PM

AGENDA

- 6:30PM – NON PUBLIC SESSION IN ACCORDANCE WITH RSA 91-A:3, II (a) REGARDING NEGOTIATIONS – SCHOOL CUSTODIAL AFSCME

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

PRESENTATIONS

1. Prescott Park Sound Management Plan Update – Eric Reuter
2. Combined Sewer Overflows – Terry Desmarais, City Engineer; and Suzanne Woodland, Deputy City Attorney

- V. ACCEPTANCE OF MINUTES – JUNE 19, 2017 AND JULY 10, 2017

- VI. PUBLIC COMMENT SESSION

- VII. PUBLIC HEARING

- A. RESOLUTION AUTHORIZING THE BORROWING OF UP TO THREE MILLION DOLLARS (\$3,000,000.00) THROUGH THE ISSUE OF BONDS AND/OR NOTES FOR ADDITIONAL COSTS FOR THE CONSTRUCTION OF A NEW PARKING FACILITY

- VIII. APPROVAL OF GRANTS/DONATIONS

- A. *Acceptance of Donation to the Coalition Legal Fund
 - Town of Carroll - \$2,000.00*(Anticipated action – move to approve and accept the donation, as listed to be placed in the Coalition Legal Fund)*
- B. Acceptance of Donation to the Police Department from the Estate of Geraldine Webber
 - \$188,129.88*(Anticipated action – move to approve and accept the donation, as listed)*
- C. Acceptance of Donation to the Fire Department from the Estate of Geraldine Webber
 - \$188,129.88*(Anticipated action – move to approve and accept the donation, as listed)*

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Adoption of Resolution Authorizing the Borrowing of up to Three Million Dollars (\$3,000,000.00) through the Issue of Bonds and/or Notes for Additional Costs for the Construction of a New Parking Facility

- B. Third and Final Reading of Proposed Ordinance Amendments to the Annual Omnibus Ordinances:
 - Amending Chapter 7, Article III, Section 7.326 – Limited Parking – Fifteen Minutes
 - Amending Chapter 7, Article III, Section 7.330 – No Parking
 - Amending Chapter 7, Article III, Section 7.336 – One Way Streets
 - Amending Chapter 7, Article VII, Section 7.702 – Truck Traffic Prohibited

X. CONSENT AGENDA

(ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)

- A. Request for License to Install Projecting Sign from Mark Sullivan owner of Paul Mitchell the School for property located at 140 Congress 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 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***

- B. Request for License to Install Projecting Sign from Peter Mocklis owner of Look Fine Eyewear/Sol Sunwear for property located at 68 State 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 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

(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. Request to Establish First Reading on Proposed Ordinance Amendments to Chapter 4 Pertaining to the City's Food Licensing and Regulations
2. Report Back Re: Oak Street Paper Street Request
3. Acceptance of Traffic Signal and Sidewalk Easement Re: 1574 Woodbury Avenue
4. Request for Public Hearing Re: Acceptance of SB38 Funding (Highway Aid)
5. Acceptance of Easements Required for Andrew Jarvis Drive Intersection Improvement Project
6. McIntyre Property Retreat – September 9th

City Manager's Informational Items:

1. Events Listing
2. Municipal Election Filing Period
3. Zagster Bike Share May/June 2017 Snapshot
4. Memorandum Re: Keno

B. MAYOR BLALOCK

1. *Appointments to be Considered:
 - Reappointment of Marylou McElwain to the Parking & Traffic Safety Committee
2. Appointments to the Rockingham Planning Commission:
 - Jody Record, Planning Board member
 - Peter Britz, Environmental Planner / Sustainability Coordinator as an Alternate member

(Sample motion – move to appoint Jody Record and Peter Britz to the Rockingham Planning Commission)
3. City Manager's Evaluation *(Informational Only)*

C. ASSISTANT MAYOR SPLAINE

1. Thoughts on Reuse Of The McIntyre Federal Building

D. COUNCILOR LOWN

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the July 6, 2017 meeting (***Sample motion – move to approve and accept the action sheet and minutes of the July 6, 2017 Parking and Traffic Safety Committee meeting***)

E. COUNCILOR PEARSON & PERKINS

1. *Rule 43 – Public Comment (***Proposed motion – move to remove Rule 43 – Public Comment Session and replace with Council-Public Dialogue at 45 minutes before City Council business (Non Public Session and Work Sessions) on the night of a regularly scheduled Council meeting the Council, Manager, and any appropriate staff shall welcome all interested individuals for an informal dialogue session. The purpose of the session is to provide an opportunity for members of the public to directly interact with members of the Council, the City Manager and department heads (with the discretion of the City Manager). From time to time, such session may be held in various locations in the City and need not only occur in City Hall.***

(Proposed motion – move to make procedural change to Public Hearings. Reorganize the order of procedure for all public hearings to “bundle” all the pieces of each topic which requires a public hearing. The public hearing process would go as follows: first, any presentation by the city; second, council questions and deliberation; third, public hearing; and fourth, additional council questions and deliberations, then council vote. The purpose of this restructuring is to streamline the process and allow the public to benefit from any presentation and council deliberation before making their comment, in addition to making the process easier to understand and more transparent to residents. In addition, each topic would be presented from start to finish at once instead of spread out over several hours.

(Proposed motion – move to enter emails sent to City Council into public record. Residents and community members will have the option when emailing the city council to have their email entered into the city council packet and public comment record for the meeting. The purpose of this is to provide additional opportunities for the public to contribute input into the public record. Residents would need to follow the same rules for public comment and include name and address along with their comment. Such comments would be updated by any comments received after the packet is released and prior to Monday at noon)

F. COUNCILOR DENTON

1. *Carbon Free and Dividend Resolution

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 7, 2017 and June 14, 2017 meetings of the Historic District Commission are now available on the City's website
2. Notification that the minutes of the June 15, 2017 and June 22, 2017 meetings of the Planning Board 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: August 3, 2017
To: Honorable Mayor Jack Blalock and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on August 7, 2017 City Council Agenda

6:30 p.m. – Non-Public Session in accordance with RSA 91-A:3, II (a) regarding negotiations – American Federation of State, County and Municipal Employees, (AFSCME) Council 93, AFL-CIO School Custodial

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

Presentations:

1. **Prescott Park Sound Management Plan Update.** On Monday evening, Assistant City Manager David Moore and the City's Acoustical Consultant Eric Reuter, INCE Bd. Cert., will provide an update on the Prescott Park Sound Management Plan. The update will include information about the data collected and reported to date along with next steps in the professional engagement with Reuter Associates, which began in June. The first reports on the sound level monitoring and logging generated from Arts Festival events from the start of the Festival's season (June 18, 2017) through July 30, 2017 can be found at <http://cityofportsmouth.com/prescottpark/pppac.html>, which is the Prescott Park Policy Advisory Committee website.

2. **Combined Sewer Overflows.** City Engineer Terry Desmarais and Deputy City Attorney Suzanne Woodland will present an update regarding Combined Sewer Overflows (CSOs) and the City's compliance with the Second Amended Consent Decree. CSOs have been the subject of several letters to the editor and other public comment and on Monday evening, staff will have an opportunity to clarify important aspects of the City's over twenty-year effort to reduce CSOs and next steps. [A copy of the draft PowerPoint presentation is attached.](#)

I have also [attached a letter dated July 10, 2017](#) from the Environmental Protection Agency (EPA) regarding the City's proposed Supplemental Compliance Plan (SCP), submitted June 16, 2017, for EPA review. The June submission and the July 10th communication can be found on the City's wastewater website. The EPA's July 10, 2017 communication is the result of several conversations with the City and representatives of EPA and New Hampshire Department of Environmental Services (DES) in follow-up to that June submission. We are pleased with the outcome.

In summary, after review of the City's submission, EPA and DES representatives suggested that they would be willing to allow the City to prioritize ongoing projects that include sewer separation components before the City proceeds with water quality monitoring and further engineering analysis to update the Long-Term Control Plan. The ongoing and planned projects, all of which are funded, are: Fleet Street, Pleasant Street at Court Street, McDonough Street Phase 3B, Islington Street Phase 1 (Columbia to the Rte. 1 Bypass), Maplewood Avenue at Fairview Drive and Union Street. As City Engineer Terry Desmarais and Deputy City Attorney Suzanne Woodland will explain, this is really the best case scenario for the City. By doing the identified and funded projects first, we will be able to measure the CSO reduction benefit. The City will be required to complete construction of the projects along with a sewer rehabilitation project by October 2023. Thereafter, the water quality monitoring program and the Long-Term Control Plan update will be undertaken.

Acceptance of Grants and Donations:

1. **Acceptance of Donation to the Coalition Legal Fund.** The City of Portsmouth has received a donation from the Town of Carroll in the amount of \$2,000.00 to the Coalition Legal Fund, which will be utilized to continue our fight to eliminate the statewide property tax.

I would recommend the City Council move to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund. Action on this matter should take place under Section VIII of the Agenda.

2. **Acceptance of Police Department Donation.** Attached under Section VIII of the Agenda is a memorandum, dated July 31, 2017 from Brenna Cavanaugh, Chair, Portsmouth Police Commission and Robert M. Merner, Chief of Police requesting the City Council's acceptance and approval of a donation to the Police Department. Also, attached is a memorandum from City Attorney Robert Sullivan, dated July 19, 2017 regarding the acceptance of the following donation:

- a. Donation of a disbursement check in the amount of \$188,129.88 from the Estate of Geraldine W. Webber.

I recommend the City Council move to accept and approve the donation to the Portsmouth Police Department, as presented. Action on this matter should take place under Section VIII of the Agenda.

3. **Acceptance of Fire Department Donation.** Attached under Section VIII of the Agenda is a memorandum, dated July 19, 2017 from City Attorney Robert Sullivan, regarding the acceptance of a donation to the Fire Department.

- b. Donation of a disbursement check in the amount of \$188,129.88 from the Estate of Geraldine W. Webber.

I recommend the City Council move to accept and approve the donation to the Portsmouth Fire Department, as presented. 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 of Borrowing Resolution.**

- 1.1 **Public Hearing of Resolution Authorizing the Borrowing of up to Three Million Dollars (\$3,000,000.00) through the issue of Bonds and/or Notes for Additional Costs for the Construction of a New Parking Facility.** As a result of the July 10th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing the attached proposed Resolution Authorizing the Borrowing of up to Three Million Dollars (\$3,000,000.00) through the issue of Bonds and/or Notes for Additional Costs for the Construction of a New Parking Facility.

As you are aware, over the past several weeks, the City's Construction Manager, Consigli Construction, Inc. has been soliciting bids and negotiating pricing for the construction of the new Parking Garage, as well as the new road, Foundry Place and the associated utilities. As you will recall, in May of 2015, the City Council voted to authorize bonding of \$23,200,000 for the purchase of the land and construction of the garage. In the time since the garage bonding was approved, there have been several factors that have increased the overall project's costs.

Construction costs have escalated since the original budget amount was established and the bidding is taking place during a hot construction market. Additionally, the scope of the project has expanded through the design process. The City has expanded the scope of utility work, most significantly water and electrical systems to provide improved water and electrical service into both the McDonough Street neighborhood and the North End. The water system upgrades will improve fire flows as well as provide looping of the water system improving both water quality and reliability. The electrical upgrades will not only underground the electrical service in the area but also provide improved reliability of the electrical system in the area. Additionally, the extent and scope of civil work required to address geotechnical and environmental conditions have been studied and identified and will be addressed under the proposed budget.

Based on the pricing that has come in thus far for the civil and site enabling work as well as the preliminary numbers for the pre-cast structure, I am requesting the City Council authorize a request for the bonding of an additional \$3,000,000 to complete all aspects of the project. [See attached Resolution](#). On a twenty-year bond, this will add an average of \$193,000 per year. The total average cost of the \$26,200,000 bond will be \$1,600,000 per year, which will be paid by parking revenues.

[Attached is a PowerPoint for Monday evening.](#)

I recommend the City Council move to adopt the proposed Resolution Authorizing the Borrowing of Up to Three Million Dollars (\$3,000,000.00) Through the Issue of Bonds and/or Notes for Additional Costs for the Construction of a New Parking Facility, as presented. (Roll call vote and two-thirds vote required.) Action on this matter should take place under Section IX of the Agenda.

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

- 2.1 **Third and Final Reading of Proposed Ordinance Amendments to the Annual Omnibus Ordinances.** As a result of the July 10, 2017 City Council meeting, [under Section IX of the Agenda](#), I am bringing back for third and final reading the attached proposed annual omnibus set of ordinances recommended 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, one-way streets, truck traffic prohibitions, and updates 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 and Traffic 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 last year.

I recommend the City Council move to pass third and final reading of the proposed Ordinances, as presented. Action on this matter should take place under Section IX of the Agenda.

Consent Agenda:

1. **Request for License to Install Projecting Signs.** [Attached under Section VIII of the Agenda](#) is a request for projecting sign licenses ([see attached memorandums from Juliet Walker, Planning Director](#)):
 - Mark Sullivan, owner of Paul Mitchell the School, for property located at 140 Congress Street
 - Peter Mocklis, owner of Look Fine Eyewear/Sol Sunwear for property located at 68 State 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 VIII of the Agenda.

City Manager's Items Which Require Action:

1. **Request for First Reading of Proposed Ordinance Amendments to Chapter 4 Pertaining to the City's Food Licensing and Regulations.** At the July 2017 City Council Retreat, presentations were made by City staff regarding the need to update our local Fire, Building and Health Codes in order to reference current state statutes and to ensure that our local ordinances reflect best practices to guide public safety and public health. Chapter 4, Food Licensing and Regulations, needs to be completely revised in order to remove obsolete sections (e.g. Articles I- Milk; Articles II-Meat Inspections; Article III-Slaughter Houses; Article IV- Butchers) that are now regulated by state or federal regulations. The revised ordinance deletes and replaces Article V, Common Victuallers, by adopting the

U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Food Code, 2009 edition (“2009 FDA Food Code”) (which is also adopted in state regulation) and parts of NH Code of Administrative Rules, Part He-P 2300, Sanitary Production and Distribution of Foods (“He-P 2300”). Local Amendments to these rules will be proposed for the following sections: Outdoor Bars; Animals Prohibited; Mobile Food Units; Special Process Review; Food Processing Plants; Special Requirements for Bed and Breakfast Facilities and Soup Kitchens and Churches.

The revised ordinance will also set forth our current rules and procedures regarding Temporary Events, Licensing, Applications and Enforcement. It is important to note these changes will have little substantive effect on our long standing practices and procedures and the [attached ordinance is a rough draft](#) that outlines sections of the ordinance that will be revised.

I am requesting authorization to bring the first of three Code updates, Food Licensing and Regulations, to the City Council for first reading at the August 21, 2017 City Council meeting.

2. **Report Back Re: Oak Street Paper Street Request.** As you will recall at the May 1, 2017 City Council meeting, the Council voted to refer the [attached letter from Catherine McCauley on behalf of Debra Regan, owner of 43 Mangrove Street](#), requesting the City to transfer title to the “paper street” known as Oak Street, to the Planning Board for report back to the City Council.

[Attached is a memorandum from Planning Director Juliet Walker](#), providing detail regarding paper streets and the research relative to this request.

On July 20, 2017, the Planning Board considered this request and voted to recommend that the City Council release any interest it may have in the paper street known as Oak Street.

I recommend the City Council move to accept the Planning Board’s recommendation and vote that the City release any interest it may have in the paper street known as Oak Street.

3. **Acceptance of Traffic Signal and Sidewalk Easement Re: 1574 Woodbury Avenue.** [Attached is a memorandum from Planning Director Juliet Walker](#) regarding the acceptance of an easement for a traffic signal and sidewalk on property located at 1574 Woodbury Avenue (owned by Richard Fusegni). This easement documents the existing conditions and proposes no new improvements at this location ([see attached plan](#)).

The City is in the process of upgrading seven signals along Woodbury Avenue between Gosling Road and Granite Street. The memorandum highlights more details regarding this project.

By City Ordinance, the Planning Board provides an advisory opinion to the City Council regarding the acquisition and granting of easements. At the July 20, 2017 meeting, the Planning Board voted to recommend to the City Council that it vote to accept a traffic signal and sidewalk easement from Richard Fusegni relative to property at 1574 Woodbury Avenue.

I recommend the City Council move to accept the Planning Board's recommendation for the acceptance of a traffic signal and sidewalk easement from Richard Fusegni relative to property at 1574 Woodbury Avenue.

4. **Request for Public Hearing Re: Acceptance of Senate Bill 38 Funding (Highway Aid).**

As you may be aware, the Legislature passed Senate Bill (SB38) which provides an additional Thirty Million Dollars (\$30,000,000) in highway aid to cities and towns. The additional amount for Portsmouth is \$369,065.05. SB38 requires that before the expenditure of these funds the City Council needs to hold a public hearing. In addition to the public hearing, the City Council would have to vote to accept the funds. I am recommending that this public hearing be established for Monday, August 21, 2017 and action for acceptance of these funds be taken place that same night. Please note that these funds cannot supplant our FY18 Budget, but these funds should go in our capital fund. City staff recommends that these funds be used to add to our paving program. This would be in addition to the \$3,000,000 that the City Council has authorized for bonding, Therefore if you approve this, the City would have \$3,369,065.05 for road repaving.

I recommend the City Council move to establish a public hearing on Monday, August 21, 2017 regarding the acceptance of SB38 funding (highway aid).

5. **Acceptance of Easements Required for Andrew Jarvis Drive Intersection Improvement Project.**

The City is planning to construct improvements to the Lafayette Road and Andrew Jarvis Drive intersection. The project will include installation of a traffic signal, widening of Lafayette Road to provide a right-turn lane into Andrew Jarvis Drive, and widening of Andrew Jarvis Drive to provide separate left and right-turn lanes onto Lafayette Road. The widening of Lafayette Road will require the relocation of the existing sidewalks. To accommodate the relocated sidewalks, easements are required from the two land owners (Willis and Chase) abutting Lafayette Road south of Andrew Jarvis Drive. In consideration for giving the City the easements, the City will connect the Willis water service to the City's water main in Andrew Jarvis Drive and restore their site by repaving the driveway, and construct a fence along the portion of the Chase property that borders Lafayette Road. [Attached are the Easement Deeds](#) from both property owners to the City with [attached Plans](#) showing the easement areas. Both owners and the City's Legal Department have reviewed and approved the form of the Easement Deeds.

I recommend the City Council move to authorize the City Manager to accept the sidewalk easements in a form substantially similar to the attached for the purpose of constructing improvements to the Lafayette Road and Andrew Jarvis Drive intersection.

6. **McIntyre Property Retreat – September 9, 2017.** As discussed in our Work Session on Monday, July 31, 2017, it was recommended that the Saturday, September 9, 2017 Retreat be used as a public work session for the McIntyre property reuse. [See attached draft RFP that was discussed at the Work Session.](#) The Mayor is in support of setting aside this date for this work session. The purpose of this session is to a) introduce interested teams to the community and invite them to present their team’s qualifications as evidenced in their respective qualifications submittals, b) solicit additional public inquiry and comment on the project, and c) if necessary, use the work session as an opportunity to clarify questions pertaining to the RFP for use in a subsequent addendum.

I recommend the City Council move to establish a Work Session for Saturday, September 9, 2017, regarding the McIntyre property reuse.

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 10, 2017. In addition, this can be found on the City’s website.
2. **Municipal Election Filing Period.** [Attached is a memorandum from City Clerk Kelli Barnaby](#) regarding the Municipal Election Filing Period.
3. **Zagster Bike Share May/June 2017 Snapshot.** For your information, [attached is a memorandum from Planning Director Juliet Walker](#) regarding Zagster Bike Share May/June 2017 Snapshot.
4. **Memorandum Re: Keno.** [Attached is a memorandum from City Attorney Robert Sullivan](#) which will respond to the request of City Councilor Chris Dwyer for, “the options that we have re: allowing/not allowing KENO in Portsmouth establishments”.