

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, AUGUST 20, 2018 TIME: 6:15PM

- 6:00PM – NON-PUBLIC SESSION RE: SUPERINTENDENT OF SCHOOLS STEPHEN ZADRAVEC CONTRACT & POLICE CHIEF ROBERT MERNER’S CONTRACT IN ACCORDANCE WITH RSA 91-A:2, I (a)
- 6:15PM – PUBLIC DIALOGUE SESSION

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

PRESENTATIONS

1. Letter of Recognition by Mayor Blalock

V. ACCEPTANCE OF MINUTES *(There are no minutes on for acceptance this evening)*

VI. PUBLIC DIALOGUE SUMMARY

VII. PUBLIC HEARINGS & VOTES ON ORDINANCES AND/OR RESOLUTIONS

A. First Reading of Ordinance

First Reading of Ordinance amending Chapter 9, Article VIII – Boarding or Rooming Houses, Sections 9.801 – Section 9.805

B. Proposed Public Hearing of Resolution

Establish a Public Hearing Re: Exemption for Solar Energy Systems

C. Public Hearing – Foundry Place Garage Designation

ORDINANCE AMENDING CHAPTER 7, ARTICLE IV, SECTION 7.402 REGARDING THE FOUNDRY PLACE GARAGE DESIGNATION

- PRESENTATION
- CITY COUNCIL QUESTIONS
- PUBLIC HEARING SPEAKERS
- ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS

D. Third and Final Reading of Ordinance amending Chapter 10 – Zoning Ordinance – Petition for Rezoning, 105 Bartlett Street

Part 1.A. – Ordinance amending Chapter 10 – Zoning Ordinance – Petition for Re-Zoning of 105 Bartlett Street: (Proposed Character District 4-W)

- Amendments to Article 4, Section 10.440 Table of Uses;

- Amendment to the Character-Based Zoning Building Placement Section 10.5A42;
- Amendments to the Character-Based Zoning Incentive Overlay District Section 10.5A46;
- Amendments to the Character-Based Zoning Regulation Plan Maps (Maps 10.5A21A) to change Tax Map 157 Lots 1 and 2 from Office Research (OR) to Character District 4 West End (CD4-W) and a Portion of Tax Map 164 Lot 4 from OR and Transportation Corridor (TC) TO CD4-W
- Amendments to the Character-Based Zoning Regulation Plan Maps (Maps 10.5A21B) to extend the West End Overlay District and Add New Building Height Standards for Tax Map 157 Lots 1 and 2 and a Portion of Tax Map 164 Lot 4;
- Amendment to Article 15 Definitions Section 10.1530

E. **Third and Final Reading of Ordinance amending Chapter 10 – Zoning Ordinance – Petition for Rezoning, 105 Bartlett Street**

Part 1.B. – Ordinance amending Chapter 10 – Zoning Ordinance – Petition for Re-Zoning of 105 Bartlett Street (Proposed Character District 4-L1)

- Amendments to the Character-Based Zoning Building Placement Section 10.5A42;
- Amendments to the Character-Based Zoning Incentive Overlay District Section 10.5A46;
- Amendments to the Character-Based Zoning Regulation Plan Maps (Maps 10.5A21A) to change a Portion of Tax Map 164 Lot 4 OR and Transportation Corridor (TC) to CD4-L1; and
- Amendments to the Character-Based Zoning Regulation Plan Maps (Maps 10.5A21B) to Extend the West End Overlay District and Add New Building Height Standards for a Portion of Tax Map 164 Lot 4

F. **Third and Final Reading of Ordinance amending Chapter 10 – Zoning Ordinance – Petition for Rezoning, 105 Bartlett Street**

Part II. – Ordinance amending Chapter 10 – Zoning Ordinance – Petition for Re-Zoning of 105 Bartlett Street (Housekeeping)

- Amendments to Character-Based Zoning Development Standards Section 10.5A41;
- Amendments to Character-Based Zoning Building Form and Facades Section 10.5A43;
- Amendments to Character-Based Zoning Community Spaces Section 10.5A45

G. **Third and Final Reading of Ordinance amending Chapter 7 - Parking Omnibus**

Ordinance amending Chapter 7 – Parking Omnibus

VIII. APPROVAL OF GRANTS/DONATIONS

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

IX. CONSENT AGENDA

(ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)

- A. Letter from Melissa Walden, American Lung Association, requesting permission to hold the 10th annual American Lung Association Cycle the Seacoast Ride on Sunday, May 5, 2019 ***(Anticipated action – move to refer to the City Manager with power)***

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence ***(Proposed motion – move to accept and place on file)***
- B. Letter from Attorney Justin Richardson regarding Planning Board Membership

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action:

1. Portsmouth Historical Society Portsmouth400 Grant Request (Presentation)
2. Report Back Re: Osprey Landing Water Tank Release of Land
3. Rockingham Avenue Subdivision Easements
4. Islington Common LLC Water Access Easement
5. 15 Thornton Street Subdivision Easements
6. 299 Vaughan Street Temporary Construction Licenses
7. Proposed Tax Exemptions for Wind-Power and Woodheating

City Manager's Informational Items:

1. Events Listing
2. McIntyre Update
3. Berry's Brook Update Re: PFAS

B. MAYOR BLALOCK

1. Adoption of Policy Re: Planning Board Residency Requirement
2. Appointments to be Considered:
 - Shari Donnermeyer reappointment to the Parking, Traffic & Safety Committee
3. Appointments to be Voted:
 - Ralph DiBernardo appointment as a Regular member to the Parking, Traffic & Safety Committee
 - Stephen T. Pesci appointment as Alternate member to the Parking, Traffic & Safety Committee
 - Mary Lou McElwain reappointment to the Parking, Traffic & Safety Committee

- Harold Whitehouse reappointment to the Parking, Traffic & Safety Committee
- J. Stephen McCarthy reappointment to the Building Code Board of Appeals

C. COUNCILOR ROBERTS

1. Parking, Traffic & Safety Action Sheet and Minutes of the August 2, 2018 meeting
(Sample motion – move to accept and approve the action sheet and minutes of the August 2, 2018 Parking, Traffic & Safety meeting)

D. COUNCILOR DWYER

1. *Request to have Planning Director Juliet Walker make a presentation at the September 4th City Council meeting regarding a transitional zoning option in the Bartlett Street area

E. COUNCILOR DENTON

1. Piscataqua Region Estuaries Partnership: Discussion: Would it be beneficial for the City Council to have a Work Session where the Piscataqua Region Estuaries Partnership (PREP) presents findings from, and answers questions regarding, their 2018 State of Our Estuaries Report?

XII. MISCELLANEOUS/UNFINISHED BUSINESS


XIII. ADJOURNMENT

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

** Indicates verbal report*

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: August 16, 2018
To: Honorable Mayor Jack Blalock and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on August 20, 2018 City Council Agenda

6:00 p.m. - *Non-Public Session Re: School Superintendent Stephen Zadavec Contract and Police Chief Robert Merner's Contract in accordance with RSA 91-A:2,I (a)*

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

Presentation:

1. **Letter of Recognition.** Mayor Blalock will present a letter of recognition.

Public Hearings & Votes on Ordinances and/or Resolutions:

1. **First Reading of Boarding House Ordinance.** Attached is a proposed Ordinance amending Chapter 9, Article VIII: Boarding or Rooming Houses. The amendment adds the terminology "and Rooming House" and adds the following Term and Condition:
 - D. The permit shall not allow any more rooms to be rented, leased or made available, persons to occupy the Rooming or Boarding House than are authorized by the Portsmouth Zoning Ordinance.

I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed amendment to the Boarding House Ordinance at the September 4, 2018 City Council meeting, as presented.

2. **Proposed Public Hearing Re: Exemption for Solar Energy Systems.** As you are aware, Councilor Denton requested a report back regarding an exemption for Solar Energy Systems. [Attached is the report back from City Assessor Rosann Lentz](#) which was provided to the City Council on April 30, 2018 and in the August 6, 2018 City Council packet. Councilor Denton has requested the [attached Resolution for Solar Energy Systems](#) be reviewed by the City Council and be brought forward for action at the September 4, 2018 City Council meeting.

In order to include solar energy systems that were put in place prior to 2011 and to grant the exemption for more than 5 years, the staff has recommend the modification of the current solar exemption as follows:

If qualified, for persons owning real property equipped with a solar energy system as defined in RSA 72:61, the City shall exempt from taxes an amount equal to the assessed value of the solar energy system.

City Assessor Rosann Lentz has advised this tax exemption will be made available for the April 1, 2018 tax year if adopted.

I am requesting that the City Council allow me to bring back for a public hearing the proposed Resolution at the September 4, 2018 City Council meeting, as presented.

3. **Public Hearing/Second Reading of Proposed Ordinance amending Chapter 7, Article IV, Section 7.402 regarding Foundry Place Garage Designation.** At the August 6, 2018 City Council meeting, the Council voted to pass first reading of a [proposed Ordinance](#) amending Chapter 7, Article IV, Section 7.402 regarding the Foundry Place Garage Designation, and schedule second reading and a public hearing for August 20, 2018. With the Foundry Place Garage scheduled to open in October, the aforementioned Ordinance needs to be amended in order to add the Foundry Place Parking Garage to the list of Off-Street Parking Areas in the City's Ordinance. The City Attorney's Office and the Public Works Department have reviewed and approved the amendment.

I recommend the City Council move to pass second reading and schedule third and final reading of the proposed Ordinance at the September 4, 2018 City Council meeting, as presented.

4. **Third and Final Reading on Ordinances Amending Chapter 10 – Zoning Ordinance – Petition for Rezoning, 105 Bartlett Street.** At the August 6, 2018 City Council meeting, the Council voted to pass second reading of the proposed 105 Bartlett Street zoning incorporated recommended revisions from the Planning Department staff and schedule a third reading for August 20, 2018. [See attached Ordinances.](#)

The 105 Bartlett Street zoning amendments consist of three parts:

- Part 1A: Proposed Zoning Ordinance Amendments for the portion of the property proposed as Character District 4-W

- Part 1B: Proposed Zoning Ordinance Amendments for the portion of the property proposed as Character District 4-L1
- Part 2: Proposed Zoning Ordinance Amendments addressing primarily housekeeping revisions to update and clarify building and façade types in Article 5A

I recommend the City Council move to pass third and final reading of the proposed amendments Part 1A, 1B, and 2 as presented (should be done as three separate votes on each Part).

5. **Third and Final Reading of Ordinance Amending Chapter 7 - Parking Omnibus.** At the August 6, 2018 City Council meeting, the Council voted to pass second reading of the [attached proposed annual omnibus set of ordinances](#) recommended by the Parking and Traffic Safety Committee, and schedule a third and final reading at the August 20, 2018 City Council meeting. In addition, at the August 6, 2018 City Council meeting, the Council voted to amend [Item K. Chapter 7, Article XVIII – Electric Vehicle Charging Stations and Electric Vehicle Parking Spaces Regulations, Section 7.1802 – 7.1803](#), as presented by Councilor Denton.

I recommend the City Council move to pass third and final reading on the proposed Parking Omnibus Ordinance, as presented.

City Manager’s Items Which Require Action:

1. **Portsmouth Historical Society Portsmouth400 Grant Request (Presentation).** In January 2017, in preparation for the City’s 400 anniversary, the City entered into an agreement with the Portsmouth Historical Society (PHS) for creation of *Portsmouth400*, an inclusive celebration of 400 years on the New Hampshire Seacoast 1623-2023. The Agreement includes a scope of work, fundraising goals necessary to accomplish the *Portsmouth400* objective as well as a schedule for progress reports to the City Council. At the August 20th City Council meeting, Susan Labrie, Director of *Portsmout400*, will report on achievements and fundraising from January-June 2018, goals for the period July-December 2018 and future fundraising benchmarks including a request for continued financial support from the City. PHS is requesting continued support up to \$25,000 for the first half of FY19 with the City contributing \$1.00 for every \$2.00 raised by PHS and the same for the second half of FY19 for a total of up to \$50,000.

Attached in the City Council packet are the following documents:

1. *The Portsmouth400 Agreement*
2. *A request for continued support from the City through December 2018 and the formula for continued support through July 2019.*
3. *Portsmouth400 Achievements January 1- June 30, 2018*
4. *Portsmouth400 Goals July 1-December 31, 2018*
5. *Early Adopter Program*
6. *Summary of Donations/Pledges January 1- June 30, 2018*

I recommend the City Council move to approve a grant request by Portsmouth Historical Society – Portsmouth400 of up to \$25,000 for the first half of FY19 with the City contributing \$1.00 for every \$2.00 raised by PHS and the same for the second half of FY19 for a total of up to \$50,000.

2. **Report Back Re: Osprey Landing Water Tank Release of Land.** As you may recall from the meeting of July 9, 2018, the Spinnaker Point Condominium Association is interested in acquiring the 65 by 60 foot parcel which formally held the Osprey Landing Water Tank. That tank has been decommissioned and the property is no longer needed for the water system.

The City Council referred this matter to the Planning Board for its recommendation. At the July 19, 2018 meeting, the Planning Board voted to recommend that the City Council release this land to the Spinnaker Point Condominium Association. *Attached are a copy of a letter from Spinnaker Point Condominium, Osprey Tank Deeds, and a map indicating the location of the Osprey Landing Tank property.* I recommend that the City Council divest itself of the property conditioned upon the successful negotiation with the Spinnaker Point Condominium Association of all transfer documents satisfactory to the legal department.

I recommend the City Council move to authorize the City Manager negotiate the transfer of the property to Spinnaker Point Condominium Association and to execute all necessary documents to effectuate that transfer.

3. **Rockingham Avenue Subdivision Easements.** On April 20, 2018, the Planning Board approved an application from Jim Bouzianis of Seacoast Development, LLC, requesting Subdivision Approval for a property located on Rockingham Avenue. The application proposed to subdivide the property into 3 residential lots.

As approved, the Subdivision includes: 1) a stormwater drainage easement along the Rockingham Avenue side of all three lots; 2) a stormwater drainage easement along the rear of all three lots paralleling the bike path; 3) a stormwater drainage and wetland restoration easement along the western side of Lot 2. See attached plan.

All of the easements provide the City the right to direct stormwater across the easement areas and to construct and maintain drainage structures for collection and discharge of stormwater in these areas. Furthermore, the easement on Lot 2, also provides for the ability to retain and restore wetland plants and soils in the easement area. All of the foregoing has been approved by the Planning Board and is recommended by the Planning and Legal Departments.

If the City Council is in agreement with the recommendation, an appropriate motion would be:

Move that the City Manager be authorized to negotiate, execute, deliver and record the deeds regarding the Rockingham Ave Subdivision as presented.

4. **Islington Commons LLC Water Access Easement.** On June 21, 2018, the Planning Board approved an application from Islington Commons, LLC, requesting Site Plan Approval for a property located at 410, 420, 430 Islington St. The application proposed to remodel 4 existing residential buildings and build 11 new residential units. As approved, the Site Plan includes a water service access easement to provide municipal access to the City for the purpose of accessing water infrastructure for routine service. [See attached Access Easement Deed.](#)

All of the foregoing has been approved by the Planning Board and is recommended by the Planning and Legal Departments.

If the City Council is in agreement with the recommendation, an appropriate motion would be:

Move that the City Manager be authorized to negotiate, execute, deliver and record the deeds regarding the Islington Commons property as presented.

5. **15 Thornton Street Subdivision Easements.** On June 21, 2018, the Planning Board approved an application from the Guilberts requesting Subdivision Approval for a property located 15 Thornton St. The application proposed to subdivide the property into 2 residential lots.

As approved, the Subdivision includes to easements to benefit the City: 1) a sidewalk easement and 2) a sight line easement. Both of which are located at the intersection of Dennett Street and Thornton Street on Proposed Lot 1. [See attached Sidewalk Easement Deed.](#)

The purpose of the sight line easement is to ensure that no structure, plantings, or other obstructions are placed on the property that would obstruct sight lines for drivers turning from Thornton Street onto Dennett Street. The sidewalk easement provides for the City to install and maintain a public sidewalk on a portion of the owner's property. All of the foregoing were approved by the Planning Board and were reviewed and approved by the Planning and Legal Departments. Both of these deeds have already been recorded.

If the City Council is in agreement with the recommendation, an appropriate motion would be:

Move to ratify the acceptance and recording of the easement deeds and plan related to the 15 Thornton Street Subdivision.

6. **299 Vaughan Street Temporary Construction Licenses.** On June 15, 2017, the Planning Board granted site plan review, wetlands conditional use, and subdivision approvals for Vaughan Street Hotel LLC (formerly 299 Vaughan Street LLC) to construct a five-story, 143-room hotel with additional ground-floor retail uses on properties currently occupied by a municipal parking lot and an auto parts business.

The Construction Mitigation and Management Plan (CMMP), signed in April 2018, identified a number of temporary construction licenses for project-related work that will require the encumbrance of the City property along Green Street and Vaughan Street for different periods of time during of the project's construction. These licenses require approval by the City Council. In addition, the licenses are subject to the "License Fee for Encumbrance of City Property" policy, which was adopted by the City Council on April 16, 2018.

Although the CMMP identifies multiple licenses required for this project, the license request in front of the City Council for this meeting is only for the initial Phase of the construction project. On June 18, 2018, the City Council approved a license for this phase, but due to unforeseen delays in construction, the developer is requesting to revise the previously approved license agreement.

The new License Areas are show on the [attached plan labeled "License Exhibit" and dated June 4, 2018](#). License Area 1 is shown with green hatch markings and is located behind the development site on the land deeded to the City for the construction of the Community Park along the North Mill Pond. This area will be used for construction staging and laydown of construction materials. The duration of the license for Area 1 is July 1, 2018 to August 1, 2019.

License Area 2 is shown with blue hatch markings and includes the sidewalk and parking area immediately in front of the development site on Vaughan Street as well as two existing parking spaces on the bend in the road on Vaughan Street (labeled 6 and 7 on the plan). This area will be used for construction of site drainage, hotel water connections, and gas service connection. The proposed revised duration of the license for Area 2 is September 11, 2018 to January 30, 2019 (142 days).

The total fee for the temporary license was calculated based on the \$0.15 per square foot per day as defined in the City Council policy. The policy also allows the City Manager to waive the license fees for parking in unmetered spaces if the applicant can provide equivalent public parking in the immediate vicinity of the licensed area. The developer is proposing to provide four (4) temporary parking spaces at the 111 Maplewood Avenue property, labeled as T6 to T9 on the license plan provided. In addition, the developer is proposing to provide 10 daily parking passes for covered spaces in the Portwalk Place parking garage.

Each space is 160 square feet, which calculates to \$24 per space per day. For the 4 uncovered spaces, 142 days, the total credit is \$13,632. As the 10 covered parking spaces are generally higher value to the City and the users than an unmetered on-street space, City staff are proposing a credit of \$36 per day per space. For the 10 covered spaces, 102 weekdays, the total credit is \$51,120. As a result, the license fee has been reduced from \$87,650 to \$22,898. [Attached is an Amendment to the License Agreement](#).

All of the foregoing has been reviewed by the Planning and Legal Departments and is recommended for approval.

If the City Council is in agreement with the recommendation, an appropriate motion would be:

Move that the City Manager be authorized to execute and accept the revised temporary construction license regarding 299 Vaughan Street as submitted.

7. **Proposed Tax Exemptions for Wind-power and Woodheating.** Councilor Denton has requested the [attached two Resolutions for Wind-power and Woodheating Tax Exemptions](#) be reviewed by the City Council and be brought forward for action at the September 4, 2018 City Council meeting. For your information, City Assessor Rosann Lentz has advised that these two tax exemptions will be made available for the April 1, 2019 tax year if adopted.

I am requesting that the City Council allow me to bring back for a public hearing the two aforementioned proposed Resolutions at the September 4, 2018 City Council meeting.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the updated Events Listing showing events from this date forward through 2018](#). In addition, this can be found on the City's website.
2. **McIntyre Update.** [Attached is a memorandum from Deputy City Manager Nancy Colbert Puff](#) giving an update regarding the recent progress concerning the McIntyre project.
3. **Berry's Brook Update Re: PFAS.** As you will recall, much of the attention has been directed to PFAS detections in the headwaters of Berry's Brook which is at the toe of the Coakley Landfill superfund cap. [Attached is a copy of a letter](#) that has been sent to the regulatory agencies with regard to those detections. The letter indicates that the Coakley Landfill Group and its contractors have tentatively identified the source of that PFAS.

As your review of the letter will indicate, it appears that the source of the detections in the headwaters of Berry's Brook appears to be **above** the landfill cap, not from the refuse material collected **below** the cap.

It is too early to completely understand the import of this development. There are seven (7) multimedia layers of different materials located above the actual refuse contained in the landfill. It is likely that the source of the high PFAS readings comes from somewhere within those layers. Further monitoring and analysis will be required to more precisely indicate the source. Proposed follow-up investigative work is found within the attached letter. Once the source is located then an appropriate response can be determined. Further information will be provided as it is developed.

City Attorney Robert Sullivan will be available to answer any questions regarding this matter.