

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, OCTOBER 3, 2011 TIME: 7:00PM

## **AGENDA**

- **6:30PM – ANTICIPATED “NON-MEETING” WITH COUNSEL RE: NEGOTIATIONS RSA: 91-A:2, I (b-c)**

**I. CALL TO ORDER [7:00PM or thereafter]**

**II. ROLL CALL**

**III. INVOCATION**

**IV. PLEDGE OF ALLEGIANCE**

**V. ACCEPTANCE OF MINUTES – SEPTEMBER 19, 2011**

**VI. PUBLIC COMMENT SESSION**

**VII. PUBLIC HEARINGS**

A. ORDINANCE AMENDING CHAPTER 10, ARTICLE 4, SECTION 10.421.10 – DISTRICT LOCATION AND BOUNDARIES OF THE ZONING ORDINANCE OF THE CITY OF PORTSMOUTH AND THE CITY OF PORTSMOUTH ZONING MAP BE AMENDED BY REZONING THE PROPERTY LOCATED OFF BARTLETT STREET/CATE STREET AT ASSESSORS MAP 165, LOT 1 FROM INDUSTRIAL (I) TO BUSINESS (B) DISTRICT

B. RESOLUTION AUTHORIZING A SUPPLEMENTAL APPROPRIATION IN THE SUM OF ONE HUNDRED FIFTY THOUSAND DOLLARS (\$150,000.00) FOR NECESSARY EXPENDITURES FOR THE OPERATION OF THE INDOOR POOL FISCAL YEAR ENDING JUNE 30, 2012

**VIII. APPROVAL OF GRANTS/DONATIONS**

*There are no items under this section of the agenda*

**IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES**

A. First reading of Ordinance Amending Chapter 7, Article I, Section 7.103, 7.104, and further amend Chapter 1, Article IV, Section 1.412 entitled the Parking and Traffic Safety Committee

B. Second reading of Ordinance Amending Chapter 10, Article 4, Section 10.421.10 – District Location and Boundaries of the zoning ordinance of the City of Portsmouth and the City of Portsmouth Zoning Map be amended by rezoning the property located off Bartlett Street/Cate Street at Assessors Map 165, Lot 1 from Industrial (I) to Business (B) District

- C. Adoption of Proposed Resolution Authorizing a Supplemental Appropriation in the sum of One Hundred Fifty Thousand Dollars (\$150,000.00) for Necessary Expenditures for the Operation of the Indoor Pool Fiscal Year ending June 30, 2012

**X. CONSENT AGENDA**

***A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA***

- A. Acceptance of Donations to the Coalition Legal Fund
- Town of Hampton - \$1,500.00
  - Town of Grantham - \$1,000.00
- (Anticipated action – move to approve and accept the donations, as listed, to be placed in the Coalition Legal Fund)***
- B. Request from Deborah Bouchard-Smith, Scarecrows of the Port, requesting permission to mount approximately 30 scarecrows in the downtown from Friday, October 14, 2011 through Tuesday, November 1, 2011 ***(Anticipated action – move to refer to the City Manager with power)***
- C. Request from Trevor Bartlett, Portsmouth Halloween Parade, seeking permission to hold the annual Halloween Parade on Monday, October 31, 2011 ***(Anticipated action – move to refer to the City Manager with power)***
- D. Request for a License from Roy Bovell, owner of UBS for property located at 40 Congress Street to install a projecting sign ***(Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director and, further, authorize the City Manager to execute a 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***

- E. \*Acceptance of Donations to Art-Speak
- Robin Albert Lehman & Wayne Leman - \$50.00
  - Valerie Cunningham, African American Resource Center - \$25.00
  - M. Christine Dwyer - \$250.00
  - John Gregg - \$50.00
  - Mary Ann List - \$25.00
  - Paul McEachern - \$50.00
  - Steve McHenry, McHenry Architecture - \$100.00
  - Dennis Moulton & Maureen Gallagher - \$50.00
  - Elisabeth & Jeffrey Robinson - \$25.00
  - Valerie & Jonathan Sobel - \$100.00
  - Jay Gibson, Piscataqua Savings Bank - \$500.00
- (Anticipated action – move to approve and accept the donations, as listed, to Art-Speak for its Americans for the Arts: Arts & Economic Prosperity Study)***

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

- A. Letter from Daniel Schwarz, Tidewatch Condominium Association, requesting that the City modify the existing ordinances so that residential condominium owners can participate in separate water meters for irrigation ***(Sample motion – move to refer to the City Manager for report back)***
- B. Letter from Linda Smith, NH Department of Transportation, regarding an offer for the acquisition of parcel as required for the reconstruction of US Route 1 Bypass ***(Sample motion – move to refer to the Planning Board for report back)***
- C. Letter from Deborah Peretz, Susan G. Komen Cure, requesting permission to hold the Susan G. Komen NH Race for the Cure 5k on May 12, 2012 at 9:00 a.m. ***(Sample motion – move to approve with the provision that the route be satisfactory to City staff)***
- D. Request from Delmira Morse, Sons of Italy, Lodge 2303, seeking permission to place a temporary sign at the apex of Woodbury and Maplewood Avenues to advertise the Italian Festival on Sunday, October 9, 2012 from Noon to 2:00 p.m.

## XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

### A. CITY MANAGER

#### **Items Which Require Action Under Other Sections of the Agenda**

1. Consideration of First Reading of Proposed Ordinance Amendments:
  - 1.1 First Reading of Ordinance Amending Chapter 7, Article I, Section 7.103, 7.104, and further amend Chapter 1, Article IV, Section 1.412 entitled the Parking and Traffic Safety Committee ***(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 of Ordinance Amending Chapter 10, Article 4, Section 10.421.10 – District Location and Boundaries of the zoning ordinance of the City of Portsmouth and the City of Portsmouth Zoning Map be amended by rezoning the property located off Bartlett Street/Cate Street at Assessors Map 165, Lot 1 from Industrial (I) to Business (B) District (**Action on this matter should take place under Section IX of the Agenda**)
3. Public Hearing/Adoption of Resolution:
  - 3.1 Public Hearing/Adoption of Proposed Resolution Authorizing a Supplemental Appropriation for Necessary Expenditures for the Operation of the Indoor Pool for the Fiscal Year ending June 30, 2012 (**Action on this matter should take place under Section IX of the Agenda**)

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

1. Installation of a Little Harbor Road Loop Trail
2. Report Back Re: Island in Sagamore Creek
3. Report Back Re: Purchase of City Property
4. Letter Re: Redistricting

### **Informational Items**

1. Events Listing
2. Report Back Re: Private Mosquito Spray Operations
3. Trustees of Trust Funds Annual Report
4. Economic Development Commission Meeting Agenda and Draft Minutes
5. African Burying Ground Trust Donations
6. News Release Re: Fall Prescription/Household Hazardous Waste Day

### **B. MAYOR FERRINI**

1. Appointment to be Considered:
  - John O'Leary – Reappointment to the Board of Library Trustees
  - Grace Lessner – Reappointment to the Board of Library Trustees
2. Appointments to be Voted:
  - Joseph Couture – Reappointment to the Portsmouth Housing Endowment Fund Advisory Board
  - Brian Groth – Appointment as an Alternate to the Planning Board
  - John Weaver – Appointment to the Board of Library Trustees
  - Peter Vandermark – Appointment to the Conservation Commission
  - Jennifer Wilhelm – Appointment to the Conservation Commission

**C. COUNCILOR DWYER**

1. \*Middle School Joint Building Committee Update
2. \*Subsurface Preservation

**D. COUNCILOR COVIELLO**

1. \*Purchase of Bike Racks at Schools

**E. COUNCILOR SMITH**

1. Traffic & Safety Committee Action Sheet and Minutes of the September 8, 2011 Meeting
2. Parking Committee Action Sheet and Minutes of the September 8, 2011 Meeting

**XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

**XIV. ADJOURNMENT [AT 10:00PM OR EARLIER]**

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

*\*Indicates Verbal Report*

**INFORMATIONAL ITEMS**

1. Notification that the Conservation Commission Minutes of August 10, 2011 meeting is available on the City's website for your review
2. Notification that the Planning Board Minutes of the July 21, 2011 meeting is available on the City's website for your review
3. Notification that the Board of Adjustment Minutes of June 21, 2011, June 28, 2011, July 19, 2011 and July 26, 2011 are available on the City's website for your review

**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:** September 29, 2011  
**To:** Honorable Mayor Thomas G. Ferrini and City Council Members  
**From:** John P. Bohenko, City Manager  
**Re:** City Manager's Comments on October 3, 2011 City Council Agenda

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*6:30 p.m. – Non-meeting with counsel.*

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

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***Items Which Require Action Under Other Sections of the Agenda:***

1. **Consideration of First Reading of Proposed Ordinance Amendments:**

- 1.1 **First Reading of Ordinance Amending Chapter 7, Article I, Section 7.103 and 7.104, Parking and Traffic Safety Committee.** As a result of the September 19<sup>th</sup> City Council meeting, under Section IX of the Agenda, I am bringing back for first reading the [attached proposed Ordinance](#) amending Chapter 7, Article I, Section 7.103 and 7.104. This amendment will delete the existing language under both of the aforementioned sections and under Section 7.103 create a Parking and Traffic Safety Committee; under 7.104 provide the City Manager with the authorities as outlined in the Ordinance; and further creating a new provision entitled Chapter 1, Article IV, Section 1.412 entitled the Parking and Traffic Safety Committee.

*I would recommend the City Council move to pass first reading and establish a public hearing and second reading on the proposed Ordinance, as presented at the October 17<sup>th</sup> City Council meeting. Action on this item should take place under Section IX of the Agenda.*

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

- 2.1 **Public Hearing/Second Reading of Ordinance Amending Chapter 10, Article 4, Section 10.421.10 –District Location and Boundaries of the zoning ordinance of the City of Portsmouth and the City of Portsmouth Zoning Map be amended by rezoning the property located off Bartlett Street/Cate Street at Assessors Map 165, Lot 1 from Industrial (I) to Business (B) District.** As a result of the September 19<sup>th</sup> City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the proposed zoning amendment to reflect this proposed change at the September 19, 2011 City Council meeting. At the September 6, 2011 City Council meeting, the Council voted to accept the Planning Board's rezoning recommendation as presented in Planning Director Rick Taintor's memorandum dated August 24, 2011. As outlined in Mr. Taintor's [attached memo](#), the proposed zoning amendment would result in the rezoning of land at 30 Cate Street (Map 165, Lot 1) from Industrial (I) to Business (B). Also, [attached is a proposed Ordinance](#) to implement the recommended Zoning Map amendment and an exhibit illustrating the zoning district change. Rick Taintor, Planning Director, will make a presentation to the City Council regarding this matter.

*I would recommend that the City Council move to pass second reading and schedule a third and final reading on the proposed Ordinance, as presented at the October 17, 2011 City Council meeting. Action on this item should take place under Section IX of the Agenda.*

3. **Public Hearing and Adoption of Resolution:**

- 3.1 **Public Hearing/Adoption of Proposed Resolution Authorizing a Supplemental Appropriation for Necessary Expenditures for the Operation of Indoor Pool for the Fiscal Year Ending June 30, 2012.** As a result of the September 19<sup>th</sup> City Council meeting, I am bringing back under Section VII of the Agenda, the proposed Resolution Authorizing a Supplemental Appropriation in the amount of \$150,000 for Necessary Expenditures for the Operation of Indoor Pool for the Fiscal Year Ending June 30, 2012. In order to maintain the operation of the indoor pool through a public/private partnership with Save the Indoor Portsmouth Pool (SIPP), a non-profit, the proposed amount of this supplemental appropriation is \$150,000 for FY12. I am recommending that this appropriation come from the City's fund balance. [Attached under the public hearing section of the Agenda, is the presentation](#) which was provided at the September 12<sup>th</sup> Work Session. As you are aware, this proposed supplemental appropriation is the first step in a five-year commitment to fund the pool through this public/private partnership in which the City will provide supplemental funds (\$150,000 a year) for the pool's operation and SIPP will provide funds for capital improvements (\$750,000 over 5 years).

*I would recommend the City Council move to adopt the proposed Resolution as presented. Action on this item should take place under Section IX of the Agenda.*

## ***Consent Agenda:***

1. **Acceptance of Donations to the Coalition Legal Fund.** Attached are copies of checks from the Town of Hampton in the amount of \$1,500.00 and the Town of Grantham in the amount of \$1,000.00 donating funds 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 donations, as listed, to be placed in the Coalition Legal Fund. Action on this matter should take place under Section VII of the Agenda.*

2. **Request for a License from Roy Bovell, owner of UBS for property located at 40 Congress Street to install a projecting sign.** Attached under Section IX of the Agenda is a request from Roy Bovell, owner of UBS for property located at 40 Congress Street for a Projecting Sign License (see memorandum from Rick Taintor, Planning Director).

*I would recommend the City Council move to approve the aforementioned Projecting Sign License as recommended by the Planning Director and, further, authorize the City Manager to execute a License Agreement for this request. Action on this matter should take place under Section IX of the Agenda.*

3. **Acceptance of Donations to Art-Speak.** Art-Speak requests that the following Art-Speak donations, totaling \$1,225, for its *Americans for the Arts: Arts & Economic Prosperity Study* appeal, be accepted by the City Council on behalf of Art-Speak.

The checks are as follows:

➤ Robin Albert Lehman & Wayne Leman	\$50
➤ Valerie Cunningham, African American Resource Center	\$25
➤ M. Christine Dwyer	\$250
➤ John Gregg	\$50
➤ Mary Ann List	\$25
➤ Paul McEachern	\$50
➤ Steve McHenry, McHenry Architecture	\$100
➤ Dennis Moulton & Maureen Gallagher	\$50
➤ Elisabeth & Jeffrey Robinson	\$25
➤ Valerie & Jonathon Sobel	\$100
➤ Jay Gibson, Piscataqua Savings Bank	\$500

*I would recommend the City Council move to approve and accept the donations, as listed, to Art-Speak for its Americans for the Arts: Arts & Economic Prosperity Study. Action on this matter should take place under Section VII of the Agenda.*



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

1. **Installation of a Little Harbor Road Loop Trail.** As you know the Society for the Protection of New Hampshire Forests, the State of NH for the Wentworth Coolidge Mansion and the City have been exploring the possibility of a loop trail off of Little Harbor Road. At your meeting on November 22, 2010 the City Council voted to accept the proposal to move ahead in developing a concept for a trail in this location. These groups have been successful in identifying an appropriate trail location and have flagged the route in the field. The Society for the Protection of NH forests has been working with its Friends of the Creek farm group and outreach to all of the neighbors. There has been a great deal of support for this project to move forward. Clearing for the trail will be fairly minimal, consisting of some clearing of branches, shrubs and a few small trees and installing some small wooden trail markers. The Conservation Commission has unanimously supported the location of the trail on this property and believes that this trail will help to reduce negative impacts to the property ([see attached aerial](#)). City staff, Forest Society staff and members of the Conservation Commission would like to get the trail work completed this fall while the weather is still mild. If the City Council is supportive, the date of October 29<sup>th</sup> has been selected as a tentative date when volunteers will be encouraged to come help with the trail clearing.

*I would recommend the City Council move to give the City Manager power to authorize the installation of a trail on City property along Little Harbor Road.*

2. **Report Back Re: Island in Sagamore Creek.** As you will recall, at the August 15, 2011 City Council meeting, the Council referred a request from Robert Thoresen, representing David Linn, offering the sale of a small island in Sagamore Creek to the City as conservation land ([see attached letter](#)), to the Planning Board for report back to the City Council. Also, [attached is a memorandum from Rick Taintor, Planning Director](#), outlining this matter ([see attached aerial](#)). The Planning Board considered this request at its meeting on September 15, 2011, and voted unanimously to recommend that the City acquire the island on such terms as the City Council may determine appropriate. Because the Conservation Commission has not yet voted on a recommended purchase price, I am recommending that the City Council accept the Planning Board's report and refer the matter to the Conservation Commission for its concurrence.

*I would recommend the City Council move to accept the Planning's Board's report back and refer this matter to the Conservation Commission for its concurrence.*

3. **Report Back Re: Purchase of City Property.** As you will recall, at the August 15, 2011 City Council meeting, the Council referred the [attached request from Gene Fisk & Associates, on behalf of Mr. and Mrs. Rex Van Aken](#), to purchase from the City a small piece of land at the intersection of Myrtle Avenue and the Route 1 Bypass to the Planning Board for a report back to City Council. [Attached is a memorandum from Rick Taintor, Planning Director](#), outlining this matter. The Planning Board considered this request at its meeting on September 15, 2011, and voted unanimously to recommend that the land not be conveyed.

*I would recommend the City Council move to accept the Planning Board's recommendation that the land not be conveyed.*

4. **Redistricting Ward Boundaries.** Attached for your information is a memorandum from [Kelli Barnaby, City Clerk](#), regarding testimony before the House Special Committee on Redistricting, House Bill 656. As outlined in the memorandum, the House Special Subcommittee on Tuesday, September 27, 2011 accepted the City's proposal to adjust the ward boundaries by relocating the following streets:

- Lois Street, Marjorie Street, Sylvester Street, Swett Avenue, Wentworth Avenue, Leavitt Avenue, a section of Peverly Hill Road, McClintock Avenue and Moffat Street

*I would recommend the City Council move to authorize the City Manager to submit the adjusted ward lines on behalf of the City Council to the Legislature requesting a session law change to act upon the reflected new boundaries in January 2012.*

### ***Informational Items:***

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on October 3, 2011. In addition, this now can be found on the City's website.
2. **Report Back Re: Private Mosquito Spray Operations.** For your information, [attached is a report back](#) from Robert P. Sullivan, City Attorney, dated September 23, 2011, regarding private mosquito spray operations.
3. **Trustees of Trust Funds Annual Report.** Attached for your information is a copy of the [Trustees of Trust Funds Annual Report, MS-9 and MS-10](#) for fiscal year 2011 ending June 30, 2011.
4. **Economic Development Commission Meeting Agenda and Draft Minutes.** Attached is a [copy of the Economic Development Commission Agenda](#) for the Friday, October 7, 2011 meeting at 7:30 a.m., in Conference Room A, as well as [the draft meeting minutes](#) of September 9, 2011.
5. **African Burying Ground Trust Donations.** The African Burying Ground Committee has received the following donations to the African Burying Ground Trust since its August 24, 2011 memo to City Council. The total donated to the trust to date is \$22,731.04.

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|-----------------------------|---------|
| ➤ Jack & Diane Chambers     | \$500   |
| ➤ Sandy Domina              | \$1,000 |
| ➤ Lawrence Drake            | \$500   |
| ➤ John Gregg                | \$500   |
| ➤ Sharon Nichols            | \$500   |
| ➤ Mardelle Pohlman          | \$500   |
| ➤ Gail & Jim Sanders        | \$100   |
| ➤ Peter & Kathleen Somssich | \$500   |
| ➤ John Tinios               | \$1,000 |

- Barbara Tsairis \$50
- Jeremy Waldron \$200
- Popovers on the Square \$1,000
- NHCF Krasker Fund for Arts & Humanities \$1,000

6. **News Release Re: Fall Prescription/Household Hazardous Waste Day.** For your information, [attached is a news release](#) regarding the annual fall Household Hazardous Waste/Unwanted Prescription Collection Day on Saturday, October 15<sup>th</sup>, for residents of Portsmouth, Greenland and Newington.