

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: TUESDAY, NOVEMBER 13, 2012 TIME: 6:15PM

## AGENDA

- 6:15PM – WORK SESSION – FY14 BUDGET

- I. CALL TO ORDER [7:00PM or thereafter]
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE

### PROCLAMATIONS

1. Portsmouth Music and Arts Center
2. Small Business Saturday in Portsmouth

### PRESENTATION

1. Memorial Bridge Illumination Committee

V. ACCEPTANCE OF MINUTES *(There will be no minutes on for acceptance)*

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARING

- A. PROPOSED ORDINANCE AMENDING CHAPTER 7, ARTICLE IX, SECTION 7.901 (E) – PENALTIES OF THE CITY ORDINANCES TO AMEND SECTION 7.105 (A) PARKING VIOLATION – EXPIRED METER FINE AMOUNT FROM \$10.00 TO \$15.00

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Police Department Grants/Donations:
- NH Department of Highway Safety Grant for “Operation Safe Commute” patrols - \$4,950.00
  - US Department of Justice Grant for the FY12 Internet Crimes Against Children Task Force continuation - \$237,531.00
  - Scholarship Grant to Emergency Communications Manager Gil Emery from APCO International for digital training - \$500.00
  - Donation from The Friends of the South End Neighborhood Association in support of the Police Explorer Cadets - \$400.00

***(Sample motion – move to approve and accept the grants and donation to the Portsmouth Police Department, as listed)***

- B. \*Acceptance of Donation Re: Bench (***Sample motion – move to approve and accept the donation for a bench, as presented***)
- C. \*Acceptance of Donation from Liberty Mutual Insurance (***Sample motion – move to authorize the City Manager to accept and expend a donation from Liberty Mutual Insurance for improvements to Peirce Island***)

## **IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES**

- A. Second Reading of Proposed Ordinance amending Chapter 7, Article IX, Section 7.901 (E) – Penalties of the City Ordinances to amend Section 7.105 (A) Parking Violation – Expired Meter Fine Amount from \$10.00 to \$15.00 (***Sample motion – move to pass second reading and schedule a third and final reading of the proposed Ordinance, as presented, at the December 3, 2012 City Council meeting***)
- B. Third and Final Reading of Proposed Ordinance which would amend the Zoning Ordinance, Chapter 10, to Rezone 143 Daniel Street (former Connie Bean Property) from Municipal to Central Business B (CBB) and also, to place that property in the Downtown Overlay District (DOD) (***Sample motion – move to pass third and final reading of the proposed Ordinance Amendments, as presented***)

## **X. CONSENT AGENDA**

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

- A. Request for Approval of Pole License to install 2 poles located on Maplewood and Woodbury Avenues (***Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes***)
- B. Request for Approval of Pole License to install 5 poles, 4 located on Woodbury Avenue and 1 located on Maplewood Avenue (***Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes***)

- C. Request for License from Robin Brownson owner of Orange Leaf Frozen Yogurt, for property located at 218 State Street for a projecting sign on a new bracket (***Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Robin Brownson owner of Orange Leaf Frozen Yogurt, for a projecting sign at property located at 218 State Street on a new bracket and, further, authorize the City Manager to execute License Agreements for this request***)

**Planning Director's Stipulations:**

- ***The licenses shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting signs, for any reason, will 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 signs, 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 from Dana Deniro owner of Lunachics, for property located at 65 Bow Street for a projecting sign on an existing bracket (***Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Dana Deniro, owner of Lunachics, for a projecting sign at property located at 65 Bow Street on an existing bracket and, further, authorize the City Manager to execute License Agreements for this request***)

**Planning Director's Stipulations:**

- ***The licenses shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting signs, for any reason, will 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 signs, 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 and Alex Marshall, Santa Ski New England 2012, requesting permission to hold a fundraising event on Saturday, December 1, 2012 at the Isles of Shoals Steam Ship Company located at 315 Market Street to raise food and money donations for three local food pantries; Footprints, Table of Plenty, and Operation Blessing

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

**A. CITY MANAGER**

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

- 1. Public Hearing/Second Reading of Proposed Resolution and Ordinance Amendments:
  - 1.1 Public Hearing/Second Reading of Proposed Ordinance amending Chapter 7, Article IX, Section 7.901 (E) – Penalties of the City Ordinances to amend Section 7.105 (A) Parking Violation – Expired Meter Fine Amount from \$10.00 to \$15.00 (**Action on this item should take place under Section IX of the Agenda**)
- 2. Third and Final Reading of Proposed Resolution and Ordinance Amendments:
  - 2.1 Third and Final Reading of Proposed Ordinance which would amend the Zoning Ordinance, Chapter 10, to Rezone 143 Daniel Street (former Connie Bean Property) from Municipal to Central Business B (CBB) and also, to place that property in the Downtown Overlay District (DOD) (**Action on this item should take place under Section IX of the Agenda**)

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

- 1. Prescott Park Docks
- 2. New Castle Avenue Dock Revocable License Agreement for Priscilla Semprini
- 3. Report Back Re: Proposed Amendments to Zoning Ordinance Relative to Exemptions from Certificate of Approval in the Historic District
- 4. Proposed Zoning Ordinance Amendment – Building Height
- 5. Acceptance of Easements and Quitclaim of Abandoned Lines

### **Informational Items**

1. Events Listing
2. Informational Meeting Re: Scrap Pile
3. Sale of Connie Bean
4. Update on Wayfinding Project

### **B. MAYOR SPEAR**

1. Appointment to be Considered:
  - Marc Stettner to the Peirce Island Committee
  - John Bosen to the Economic Development Commission
  - Ernestine Greenslade to the Library Board of Trustees
2. Appointments to be Voted:
  - Karina Quintans to the Planning Board (alternate)
  - Robert Marchewka reappointment to the Economic Development Commission
  - Jeffrey Mountjoy reappointment to the Housing Endowment Fund
3. Resignations:
  - Tim Allison from the Economic Development Commission
  - Lisa DeStefano from the Economic Development Commission
  - Brian Groth as an Alternate to the Planning Board

### **C. ASSISTANT MAYOR LISTER & COUNCILOR SMITH**

1. Resolution Supporting USS Thresher Memorial and Request to Donate \$1,000.00 for the USS Thresher Memorial Project from the Contingency Fund (***Sample motion – move to adopt the Resolution in Support of the USS Thresher Memorial and further, donate \$1,000.00 for the Thresher Memorial Project from the Contingency Fund***)

### **D. COUNCILOR DWYER**

1. \*Middle School Update

### **E. COUNCILOR SMITH**

1. Parking Traffic and Safety Committee Action Sheet and Minutes of the October 11, 2012 meeting (Also attached - Downtown Speed Study)

## **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 Planning Board Minutes of June 21, 2012 meeting is 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:** November 9, 2012  
**To:** Honorable Mayor Eric Spear and City Council Members  
**From:** John P. Bohenko, City Manager   
**Re:** City Manager's Comments on November 13, 2012 City Council Agenda

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***Work Session:***

6:15 p.m.

1. **FY14 Budget.** As discussed at the October 27<sup>th</sup> City Council Retreat, the Mayor has scheduled a work session on Tuesday evening to discuss the FY14 Budget (July 1, 2013 through June 30, 2014). As requested, I will be providing the City Council with an estimate of expenses and revenues for FY14. As I indicated at the Retreat, these numbers would be very preliminary, but would give you a baseline for discussion purposes.

***Presentation:***

1. **Memorial Bridge Illumination Committee.** On Tuesday evening, Peter Somssich, Chairman of the Memorial Bridge Illumination Committee will be making a presentation regarding their Committee's efforts regarding the illumination of the Memorial Bridge. Attached for your information are a letter from Peter Somssich and a synopsis of the project.

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

1. **Acceptance of Police Department Grants & Donation.** Attached under Section VIII of the Agenda is a memorandum, dated October 24, 2012, from John F. Golumb, Chairman of the Portsmouth Police Commissioners, and Police Chief Stephen J. DuBois, requesting that the City Council approve the following grants and donation:
  1. A grant in the amount of \$4,950 from the NH Department of Highway Safety For "Operation Safe Commute" patrols.

2. A grant in the amount of \$237,531 from the US Department of Justice for the FY12 Internet Crimes Against Children Task Force continuation.
3. A scholarship grant in the amount of \$500 to Emergency Communications Manager Gil Emery from APCO International for digital training.
4. A donation in the amount of \$400 from The Friends of the South End Neighborhood Association in support of the Police Explorer Cadets.

The Police Commission is submitting this information pursuant to City Policy Memorandum #94-36 for City Council approval and acceptance.

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

2. **Acceptance of Donation Re: Bench.** As you are aware, Everett Kern retired as General Foreman from the Public Works Department in October. The Kern Family requested to sponsor a bench in honor of Everett's career and commitment to the City of Portsmouth. Their request was to purchase and install a bench in Market Square and then have family, co-workers and friends surprise Everett with this bench, which was presented to Everett on October 26<sup>th</sup>. The City of Portsmouth has received a donation from the Kern Family in the amount of \$1,400 for the purchase and installation of a bench in Market Square in honor of Everett Kern.

*Therefore, I am recommending the City Council move to approve and accept the donation for a bench, as presented. Action on this matter should take place under Section VIII of the Agenda.*

3. **Acceptance of Donation from Liberty Mutual Insurance.** The City has received a donation of \$3,000 from Liberty Mutual Insurance. These funds have been donated in appreciation of the City's participation in the Liberty Mutual Insurance 100<sup>th</sup> Anniversary Celebration Volunteer Program.

In June 2012, over 160 volunteers from Liberty Mutual offices in the area performed a full day of community service on several different landscaping, painting and trails projects in Portsmouth. I recommend that these funds be accepted and expended to fund improvements at Peirce Island. Peirce Island has been the site of many successful volunteer efforts by various community groups and I believe it is an appropriate place to utilize this donation.

*I would recommend the City Council move to authorize the City Manager to accept and expend a donation from Liberty Mutual Insurance for improvements to Peirce Island. 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 Resolution and Ordinance Amendments:**

#### **1.1 Public Hearing/Second Reading of Proposed Ordinance amending Chapter 7, Article IX, Section 7.901 (E) – Penalties of the City Ordinances to amend Section 7.105 (A) Parking Violation Expired Meter Fine Amount from \$10.00 to \$15.00.**

As a result of the October 22nd 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 IX, Section 7.901(E) – Penalties of the City Ordinances to amend Section 7.105 (A) Parking Violation Expired Meter Fine Amount from \$10.00 to \$15.00.

*I would recommend the City Council move to pass second reading and schedule a third and final reading of the proposed Ordinance, as presented, at the December 3, 2012 City Council meeting. Action on this item should take place under Section IX of the Agenda.*

### **2. Third and Final Reading of Proposed Resolution and Ordinance Amendments:**

#### **2.1 Third and Final Reading of Proposed Ordinance which would amend the Zoning Ordinance, Chapter 10, to Rezone 143 Daniel Street (former Connie Bean Property) from Municipal to Central Business B (CBB) and also, to place that property in the Downtown Overlay District (DOD).**

As a result of the October 22nd City Council meeting, under Section IX of the Agenda, I am bringing back for third and final reading the attached proposed Ordinance and map which would amend Zoning Ordinance, Chapter 10, to rezone 143 Daniel Street (former Connie Bean property) from Municipal to Central Business B (CBB) and also, to place that property in the Downtown Overlay District (DOD).

As you will recall, at the August 20, 2012 City Council meeting, the Council referred a proposed rezoning from Municipal to Central Business B (CBB), and also that it be included with the Downtown Overlay District (DOD) to the Planning Board for report back. Attached is a memorandum from Rick Taintor, Planning Director, regarding this matter. At its September 20, 2012 meeting, the Planning Board voted to recommend the rezoning of this property.

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



## ***Consent Agenda:***

1. **Request for License to install Projecting Signs.** Attached under Section X of the Agenda are the following requests for projecting sign licenses (see attached memorandums from Rick Taintor, Planning Director):

- Dana Deniro, owner of Lunachics for property located at 65 Bow Street.
- Robin Brownson, owner of Orange Leaf Frozen Yogurt for property located at 218 State Street.

*I would 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 the License Agreements for these requests. Action on this matter should take place under Section X of the Agenda.*

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

1. **Prescott Park Docks.** Attached is a copy of the "Policy for the Prescott Park Docks" for the 2013 boating season that includes the minor changes which the Trustees voted at their meeting on October 25, 2012. These requested changes are subject to City Council approval. Primarily, what is being changed is the moving up of the lottery date from March 1 to February 15 in an effort to provide additional time for boaters who are not successful dock license recipients to make alternative arrangements. The rates will not be changing, however, there will be more generic language to replace the specific dollar amount(s) so that future rate change would not require a change to the policy itself. The rates listed go through the City rate adoption process similar to all other City rates.

The Trustees derive all of their authority to operate Prescott Park from the City Council. Therefore this proposal to modify the Dock Policy should be approved by the City Council.

*I would recommend the City Council move to approve the Policy for the Prescott Park Docks for the 2013 boating season, as presented.*

2. **New Castle Avenue Dock Revocable License Agreement for Priscilla Semprini.** Attached please find a Revocable License Agreement which has been prepared with respect to the reconstruction of a dock located on City property on New Castle Avenue. As written it is a 30 year agreement and has been prepared for Priscilla Semprini who owns property at 300 Newcastle Avenue. This agreement is a mirror to the one approved by the City Council on March 3, 2008 for Thomas Watson and Kathleen Salisbury who own property at 200 Newcastle Avenue. Ms. Semprini is desirous of reconstructing a dock which was previously removed due to the New Castle Avenue project.

*I would recommend the City Council move to approve the New Castle Avenue Dock Revocable License Agreement for Priscilla Semprini, as presented, and further, authorize the City Manager to execute the Agreement.*



3. **Report Back Re: Proposed Amendments to Zoning Ordinance Relative to Exemptions from Certificate of Approval in the Historic District.** At its meeting on September 17, 2012, the City Council referred a proposed Zoning Ordinance amendment to the Planning Board for report back. The proposed amendment concerns exemptions from the requirement to obtain Historic District Commission approval for maintenance and repair work, and for other minor changes meeting specific performance standards set forth in the proposed amendments.

Section 10.633.20 of the Zoning Ordinance lists specific activities that are exempt from the requirement to obtain a Certificate of Approval from the Historic District Commission. The changes proposed by the HDC are designed to:

- Streamline the current permitting process,
- Remove ambiguity and clarify the current exemptions, and
- Refine and develop new performance standards for many of the listed exemptions.

The HDC believes that the proposed amendments will significantly reduce its caseload and also reduce the cost and time burden to homeowners making minimal improvements. It will thus afford the HDC more time to carefully review larger projects within the Historic District.

At its meeting on October 18, 2012, the Planning Board voted unanimously to recommend that the City Council enact the proposed amendments, as set forth in the attached proposed ordinance.

*Therefore, I would recommend the City Council move to authorize the City Manager to bring back for first reading the attached proposed Ordinance amendment, as presented, at the December 3, 2012 City Council meeting.*

4. **Proposed Zoning Ordinance Amendment – Building Height.** At the October 22, 2012 City Council meeting, the Planning Department was requested to prepare an amendment to the Zoning Ordinance to close a loophole so that future projects will meet the intent of the Ordinance with respect to building height. Attached is a memorandum from Rick Taintor, Planning Director, regarding this matter. Also, attached is a draft amendment to the Zoning Ordinance for the City Council's consideration. This amendment would modify the existing building height provisions for the Central Business districts in three ways:

- a) Define "street wall" as the wall of the building along the street edge and establish maximum street wall heights that are 10 feet lower than the maximum height for the district.
- b) Establish a "stepback" provision under which allowable building height increases with distance from the street. (These first two changes will replace a "building height setback" provision that was enacted in 2007 for the CBA district only.)
- c) Require that no portion of a building be higher above the street grade than the nominal maximum building height (50 feet in the CBA district and 60 feet in the CBB district.)



Finally, the draft amendment amends the definition of "grade plane" for buildings in the Central Business Districts. The current definition allows buildings that are set back more than 6 feet from a lot line to measure building height in relation to the finished grade within 6 feet from the property line. Buildings in the Central Business districts have used this provision to artificially increase building height by modifying the grade to create an elevated podium.

If the Council wishes to pursue this type of amendment to the Zoning Ordinance, it should be referred to the Planning Board for consideration at its meeting on November 15, 2012.

*I would recommend the City Council move to refer the aforementioned matter to the Planning Board for report back to the City Council.*

5. **Acceptance of Easements and Quitclaim of Abandoned Lines.** As part of the Cass Street Sewer Separation Project, the City needs to acquire certain temporary and permanent easements. By City Ordinance, the Planning Board provides an advisory opinion to the City Council regarding the acquisition of property, including easements. At its meeting of October 18, 2012, the Planning Board reviewed the proposed easements related to the project and voted to recommend them to the City Council.

The Cass Street Sewer Separation project entails replacement of existing combined sewer with separate drain lines and new sewer lines. In addition to the sewer and drain work, there will be upgrades to water lines as well as rebuilding of roads and sidewalks. The Planning Board has previously approved this project as part of the Capital Improvement Plan. This project is part of the work required by the City's Consent Decree with the Environmental Protection Agency.

In order to construct this project, the temporary and permanent easements identified in Exhibit A and shown on the attached plans are necessary. In addition, certain older lines will be abandoned and quitclaimed once the new lines are complete.

*I would recommend the City Council move to authorize the City Manager to negotiate and convey the property interests identified in the attached Exhibit A.*

### ***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 22, 2012. In addition, this now can be found on the City's website.
2. **Informational Meeting Re: Scrap Pile.** As you are aware, the Pease Development Authority (PDA) will be conducting an informational meeting on Monday, November 26, 2012 regarding the scrap pile issue at the Port. The meeting will be conducted at City Hall in the City Council Chambers which will be televised. The meeting will commence at 6:30 p.m. and will be run by the Chair of the PDA Arthur Nickless.

3. **Sale of Connie Bean.** As you are aware, the City has retained Paul McInnis Auctioneers to facilitate the sale of 143 Daniel Street (Old Connie Bean Center). The process for disposition will be through a modified auction. On December 12, 2012, all bids for the property will be due in the Finance Department by 1:00 p.m. EST. On Thursday, December 13<sup>th</sup>, the five (5) highest bidders that have been identified through the sealed bid process will be invited to participate in the live auction at 1:00 p.m. at the Connie Bean Center. The live auction is open to the public.
  
4. **Update on Wayfinding Project.** Attached is a memorandum from Juliet Walker, Planning Department, regarding an update on the Wayfinding Project.