

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, DECEMBER 17, 2012 TIME: 7:00PM

AGENDA

- 6:30 PM – CITY COUNCIL TOUR AND PRESENTATION OF SEACOAST FAMILY FOOD PANTRY

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

PRESENTATIONS

1. 2012 Portsmouth High School Football Division III State Champions
2. Portsmouth High School Holiday Brass Ensemble

- V. ACCEPTANCE OF MINUTES – OCTOBER 1, 2012, OCTOBER 22, 2012 AND NOVEMBER 13, 2012

- VI. PUBLIC COMMENT SESSION

- VII. PUBLIC HEARING

- A. ORDINANCE AMENDMENTS TO CHAPTER 10 – ZONING ORDINANCE, ARTICLE 6 – OVERLAY DISTRICTS, SECTION 10.633.20 – EXEMPTIONS FROM CERTIFICATE OF APPROVAL IN THE HISTORIC DISTRICT; AND TO ARTICLE 15 – DEFINITIONS, SECTION 10.1530 – TERMS OF GENERAL APPLICABILITY, DEFINING THE TERM “CONTRIBUTING STRUCTURE”

- VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant for Art-Speak - \$500.00 (***Sample motion – move to accept a grant to Art-Speak to be used for operational support of Art-Speak, as presented***)

- IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards, Section 10.535 – Dimensional Standards in the Central Business Districts, Relating to the Height Requirements in the CBA and CBB Districts_(*Voted to postpone at the December 3, 2012 City Council meeting for revisions to the ordinance and bring back for first reading at the December 17, 2012 City Council meeting*)

- B. Second Reading of Proposed Amendments to Chapter 10 - Zoning Ordinance, Article 6 – Overlay Districts, Section 10.633.20 – Exemptions from Certificate of Approval in the Historic District; and to Article 15 - Definitions, Section 10.1530 – Terms of General Applicability, Defining the term “Contributing Structure”

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Donald Allison, Eastern States 20 Mile, requesting permission to hold the annual Eastern States 20 Mile Road Race on Sunday, March 30, 2013 (***Anticipated action – move to refer to the City Manager with power***)
- B. *Acceptance of Donation to the Coalition Legal Fund
- Town of Center Harbor - \$500.00
- (***Anticipated action – move to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund***)
- C. Letter from Doug Bates, President of Greater Portsmouth Chamber of Commerce requesting permission to hold the Portsmouth Community Road Race Series 5K Races for 2013 and January of 2014:
- Thursday, August 1st at 6:00 p.m. – Portsmouth Rotary Club Thunder Chicken – Peirce Island - Prescott Park Course
 - Saturday, September 21st at 9:00 a.m. – BreastCancerStories.org – Little Harbour School Course
 - Saturday, October 12th at 9:00 a.m. – Community Child Care – West Road-Banfield Course
 - Thursday, November 28th at 8:30 a.m. – Seacoast Rotary Club Turkey Trot – Peirce Island – Prescott Park Course
 - Wednesday, January 1, 2014 – Great Bay Services – Little Harbour School Course
- (***Anticipated action – move to refer to the City Manager with power***)

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Aphrodite Georgopoulos & Louis Georgopoulos regarding zoning of property located at 1900 Lafayette Road (***Sample motion – move to refer to the Planning Board for report back***)
- B. Letter from Attorney John E. Lyons, Jr., regarding commercial water deduct meters (***Sample motion – move to refer to staff for review as part of water/sewer rate study***)
- C. Letter and Petition from Islington Creek Neighborhood Association Re: 21 Brewster Street. (*Full packet of information is available in the City Clerk’s Office*) (***Sample motion – refer to City Manager for a report back***)

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

Items Which Require Action Under Other Sections of the Agenda

1. First Reading of Proposed Resolution and Ordinance Amendments:
 - 1.1 First Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards, Section 10.535 – Dimensional Standards in the Central Business Districts, Relating to the Height Requirements in the CBA and CBB Districts_ (*Voted to postpone at the December 3, 2012 City Council meeting for revisions to the ordinance and bring back for first reading at the December 17, 2012 City Council meeting*) **(Action on this item should take place under Section IX of the Agenda)**
2. Public Hearing/Second Reading of Proposed Resolution and Ordinance Amendments
 - 2.1 Public Hearing/Second Reading of Proposed Amendments to Chapter 10 - Zoning Ordinance, Article 6 – Overlay Districts, Section 10.633.20 – Exemptions from Certificate of Approval in the Historic District; and to Article 15 - Definitions, Section 10.1530 – Terms of General Applicability, Defining the term “Contributing Structure” **(Action on this item should take place under Section IX of the Agenda)**

City Manager’s Items Which Require Action

1. Spinnaker Point Field House Management Agreement
2. Connie Bean Trust

Informational Items

1. Events Listing
2. Parking Omnibus

B. MAYOR SPEAR

1. Appointment to be Considered:
 - Elizabeth Moreau appointment as an alternate to the Planning Board
 - Karina Quintans appointment as a regular member to the Planning Board (*current alternate*)
 - Thomas Watson reappointment to the Trustees of the Trust Fund
2. Appointments to be Voted:
 - Alicia Weaver appointed to the Citizens Advisory Committee
 - John Pratt appointed to the Economic Development Commission
 - Reagan Ruedig appointed to the Historic District Commission
 - Jody Record reappointment to the Board of Library Trustees
 - Philip Cohen reappointment to the Economic Development Commission

- Charles LeMay reappointment to the Zoning Board of Adjustment
 - Patrick Moretti reappointment to the Zoning Board of Adjustment
 - David Witham reappointment to the Zoning Board of Adjustment
3. Resignations
- Skye Maher from the Blue Ribbon Committee on Sustainable Practices
 - Joe Couture from the Portsmouth Housing Endowment Fund

C. COUNCILOR DWYER

1. *Update Re: African Burying Ground

D. COUNCILOR SMITH

1. Bow Street Parking License
2. *Budget Options Re: Retirement

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 Historic District Commission Minutes of August 1, 2012 meeting are available on the City's website for your review
2. Notification that the Planning Board Minutes of the July 19, 2012 and August 16, 2012 meetings are available on the City's website for your review
3. Notification that the Site Review Technical Advisory Committee Minutes of the September 4, 2012 and October 30, 2012 meetings 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: December 13, 2012
To: Honorable Mayor Eric Spear and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on December 17, 2012 City Council Agenda

6:30 p.m.

1. **Tour and Presentation Re: Seacoast Family Food Pantry.** Assistant Mayor Robert Lister has requested that the City Council take a tour of the Seacoast Family Food Pantry in the Seybolt Building on Monday evening at 6:30 p.m. Diane Giese, Executive Director, will give a tour and then make a short presentation on the Seacoast Family Food Pantry's mission. The presentation will be held in the School Board Conference Room.

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Acceptance of Grants and Donations:

1. **Acceptance of Grant for Art-Speak.** Art-Speak requests that the City Council accept a \$500 grant from the Joseph G. and Jean E. Sawtelle Fund of the New Hampshire Charitable Foundation (see attached letter). The grant is for operational support of Art-Speak, the City's Cultural Commission.

I would recommend the City Council move to accept a grant to Art-Speak to be used for operational support of Art-Speak, as presented. Action on this item should take place under Section VIII of the Agenda.

Items Which Require Action Under Other Sections of the Agenda:

1. **First Reading of Proposed Resolution and Ordinance Amendments:**
 - 1.1 **First Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards, Section 10.535 – Dimensional Standards in the Central Business Districts, Relating to the Height Requirements in the CBA and CBB Districts (Voted to postpone at the December 3, 2012 City Council meeting for revisions to the ordinance and bring**

back for first reading at the December 17, 2012 City Council meeting). As you will recall, at the December 3rd City Council meeting, the City Council voted to postpone first reading of a proposed Zoning Ordinance amendment addressing building height in the Central Business Districts, and to bring the proposed Ordinance back for first reading at the December 17, 2012 City Council meeting.

Under Section IX of the Agenda, I am bringing back for first reading the [attached proposed Ordinance amendment to Chapter 10 – Zoning Ordinance](#). Also, attached is a memorandum from Rick Taintor, Planning Director, regarding this matter.

At the December 3rd meeting, representatives of several downtown developers raised concerns about potential impacts of the amendment. In response to these concerns, the Planning Department staff revised the initial proposal and met with a group of architects and designers to discuss the revised draft. The revised amendment is simpler than the previous version and would make the following changes to the building height provisions in the Central Business Districts:

- a) Require that within 25 feet of a street line, no portion of a building be higher than 50 feet above the street in the CBA district or 60 feet above the street in the CBB district. (The “street line” is the edge of the municipal right of way, which in the downtown area is approximately at the back of the sidewalk.)
- b) Exempt from this requirement parapet walls, railings, fences, and roof appurtenances (such as HVAC equipment or antennas) that are no more than 2 feet above the roof surface.

In order to accommodate two identified development projects that have initiated a formal process with the City’s land use boards (and thereby demonstrated significant investment in project design), the proposed ordinance also exempts applications which have been the subject of legal notice for a hearing before the Zoning Board of Adjustment.

Finally, as the City Council is aware, during 2013 the Planning Department will be preparing a form-based zoning ordinance for the downtown area. This project will include opportunities for public input, and will provide an opportunity to thoroughly consider and address a range of urban design issues including appropriate building height.

I would recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance, as presented, at the January 7, 2013 City Council meeting. Action on this item should take place under Section IX of the Agenda.

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

2.1 **Public Hearing/Second Reading of Proposed Amendments to Chapter 10 - Zoning Ordinance, Article 6 – Overlay Districts, Section 10.633.20 – Exemptions from Certificate of Approval in the Historic District; and to Article 15 Definitions, Section 10.1530 – Terms of General Applicability, Defining the term “Contributing Structure”.** As a result of the December 3rd City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the attached proposed Ordinance amendments to Chapter 10 - 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 ordinance.

Nick Cracknell, the City’s Principal Planner, will make a presentation on Monday evening regarding this matter.

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 January 7, 2013 City Council meeting. Action on this item should take place under Section IX of the Agenda.

3. **Letter and Petition from Islington Creek Neighborhood Association Re: 21 Brewster Street.** Attached under Written Communications is a letter and petition from the Islington Creek Neighborhood Association regarding 21 Brewster Street. The entire packet of information is on the inside cover of your binder. In addition, a full packet of information is available at the City Clerk's Office.

I would recommend the City Council move to refer this matter to the City Manager for report back to the City Council.

Consent Agenda:

1. **Acceptance of Donation to the Coalition Legal Fund.** Attached is a copy of a check from the Town of Center Harbor in the amount of \$500.00 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 donation, as listed, to be placed in the Coalition Legal Fund. Action on this matter should take place under Section X of the Agenda.

City Manager's Items Which Require Action:

1. **Spinnaker Point Field House Management Agreement.** Since July 1, 2001 the City has been engaged with the Spinnaker Point Condominium Association in a Field House Management Agreement which has allowed City residents and certain specified non-residents to use the Spinnaker Point Athletic Facilities. That Agreement has undergone several amendments. One of those amendments created a trial period which would allow for up to 300 non-residents of the City to be members of Spinnaker Point as long as there are no more than 1,900 total members. That trial period expires on December 31, 2012. Presently, there are 187 non-resident members. The total membership is approximately 1,500. Attached is a copy of the Agreement.

The Spinnaker Point Condominium Association and the City's Recreation Department desire to extend the trial period indefinitely until such time as the 300 member non-resident or 1,900 total member threshold has been reached.

I would recommend the City Council authorize the City Manager to negotiate and execute an amendment to the Spinnaker Point Field House Management Agreement which will have the effect of extending indefinitely the period of time under which up to 300 non-residents may be added to the membership of the Spinnaker Point Recreation Center or the total number of members of the Spinnaker Point Recreation Center equals 1,900 members, whichever occurs first.

2. **Connie Bean Trust.** For the City Council's review and action is a proposed trust instrument to hold the proceeds from the sale of the municipal property located at 143/135 Daniel Street, formerly known as the Connie Bean Center (the "Property"). As you know, the Property consists of three adjacent parcels which the City acquired in a series of transfers from The Army and Navy Association. The parcels were encumbered by certain charitable restrictions relative to use of the Property for recreational, educational, civic and military support purposes.

On December 6, 2010, the City Council authorized legal action to clear the charitable restrictions on the Property to facilitate sale or lease of the Property. By Probate Court Order dated May 29, 2012, the restrictions were lifted subject to further order regarding the disposition of any proceeds from the sale of the property.

A public hearing was held on November 27, 2012 to take comment regarding the use of the proceeds. At the hearing, City staff proposed establishing a trust to serve as a repository for the sale proceeds. The trust would have two purposes: (1) to provide funds for commemorative and celebratory purposes for events recognizing service men and women; and (2) to develop or improve a facility(ies) and its associated programs for recreational and other community purposes; such facilities and programs to serve a multi-generational population (the bulk of funds dedicated for this purpose). Public comment was by and large supportive of the purposes described by the trust instrument.

The Charitable Trusts Unit of the Office of the Attorney General has approved this form of the Trust. The Intervenor, Mrs. Margaret Hartford, has also approved this form of Trust. If the City Council approves this form of Trust, it will be submitted to the Probate Court for its review and approval prior to execution.

I would recommend the City Council move to authorize the City Manager to submit the trust to the Rockingham County Probate Court and execute this Trust instrument if the form of the Trust is approved by the Rockingham County Probate Court.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on December 3, 2012. In addition, this now can be found on the City's website.
2. **Parking Omnibus.** As you know, on August 20, 2012, the City Council passed the Consolidated Parking Supply and Demand Omnibus Ordinances which included a number of changes to the downtown parking regulations and fees. Those changes will go into effect on January 3, 2013.

The changes include the following:

- Increase the maximum time at which a vehicle could remain at a metered spot on the street or in a metered lot from two (2) to three (3) hours;

- No fee for the first hour of parking in the High Hanover Parking Facility;
- No fee on Sunday at the High Hanover Parking Facility for a vehicle that is owned or operated by a Portsmouth resident.

In addition to the parking omnibus, on October 20, 2012, the City Council voted to create the High Occupancy Parking Zones with a parking rate of \$1.50 in the following areas ([High Occupancy area map attached](#)):

1. Daniel Street, starting at Chapel Street through to Market Square;
2. Bow Street, starting at Chapel Street through to Market Street;
3. Congress Street, starting at Market Square through to Chestnut Street
4. Pleasant Street, starting from Court Street through to Market Square
5. Market Street, starting from Moffatt-Ladd House through to Market Square.

We will be issuing public information notices relative to these changes in multimedia.