

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, OCTOBER 6, 2014 TIME: 6:00PM

AGENDA

- I. CALL TO ORDER (6:00 P.M.)
- II. ROLL CALL
- III. ANTICIPATED “NON-PUBLIC” SESSION WITH COUNSEL RE: PERSONNEL - RSA 91-A:3, II (a) and (c)

Immediately following Non-Public Session, there will be a Non-Meeting with Counsel in accordance with RSA 91-A:2, I (a) regarding Negotiations

- ANTICIPATED “NON-MEETING” WITH COUNSEL RE: COLLECTIVE BARGAINING NEGOTIATIONS – RSA 91-A:2, I (a)

- IV. INVOCATION
- V. PLEDGE OF ALLEGIANCE
- VI. ACCEPTANCE OF MINUTES – JUNE 16, 2014
- VII. PUBLIC COMMENT SESSION
- VIII. APPROVAL OF GRANTS/DONATIONS

- A. *Acceptance of Grant from the New Hampshire Charitable Foundation from the Our New Hampshire Heritage – a fund of Northeast Auctions for Restoration of the Kearsarge Fire Pumper - \$15,000.00 (***Sample motion – move to approve and accept the grant from the New Hampshire Charitable Foundation from the Our New Hampshire Heritage – a fund of Northeast Auction, as submitted***)
- B. Acceptance of Grant for State Declared Infrastructure Funds (***Sample motion – move to accept and expend a \$12,500.00 Department of Safety grant for the purpose of protecting the water resource at the Madbury Water Treatment Plant and authorize the City Manager to execute any documents which may be necessary for this grant contract***)
- C. Acceptance of Police Department Grants and Donation
 - A donation in support of the Police Department’s planned public service announcements addressing the opiate problems in our community:
 - Amos and Boris Fund under the aegis of Ellen & Ed Frechette - \$1,000.00

- A JAG grant in the amount of \$9,653.00 from the Department of Justice to provide funding to combat drug sales/use in the city. The \$9,653.00 is the city's portion of the \$31,113.00 total grant awarded to Rockingham County
- A grant in the amount of \$6,084.00 from NH Highway Safety for "Operaton Safe Commute" patrols

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

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First Reading of Proposed Ordinance amending Chapter 7, Article II, Section 7.213 – Fees and Terms for Medallions/Licenses ***(Sample motion – move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the October 20, 2014 City Council meeting, as presented)***
- B. Third and Final Reading of Proposed Ordinance Amendment to Chapter 7, Article II, Section 7.230 – Prohibited Conduct by Medallion Holders or Owners ***(Sample motion – move to pass third and final reading on the proposed Ordinance amendment, as presented)***

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. *Acceptance of Donation to Art-Speak:
- Harborside Associates, LP \$500.00
- (Anticipated action – move to approve and accept the donation to Art-Speak, as listed)***
- B. *Acceptance of Donation to the Coalition Legal Fund:
- Town of Rye \$5,000.00
- (Anticipated action – move to approve and accept the donation as listed, to be placed in the Coalition Legal Fund)***
- C. Request for Approval of Pole License to install 2 poles located on Woodbury 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)***
- D. Request for Approval of Pole License to install 2 poles located on Clinton Street and Thornton/Ruth Streets ***(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)***

- E. Letter from Matthew McFarland, Saint Patrick School, requesting permission to hold the 2nd Annual 5k Road Race on Saturday, March 14, 2015 at 10:30 a.m. (**Anticipated action – move to refer to the City Manager with power**)

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

Items Which Require Action Under Other Sections of the Agenda

1. First Reading of Proposed Resolutions and Ordinances:
 - 1.1 First Reading of Proposed Ordinance amending Chapter 7, Article II, Section 7.213 – Fees and Terms for Medallions/Licenses (**Action on this item to take place under Section IX of the Agenda**)
2. Third and Final Reading of Proposed Resolution and Ordinances:
 - 2.1 Third and Final Reading of Proposed Ordinance Amendment to Chapter 7, Article II, Section 7.230 – Prohibited Conduct by Medallion Holders or Owners (**Action on this item to take place under Section IX of the Agenda**)

City Manager's Items Which Require Action:

1. Request for Approval of Agreement Between the Trustees of the Trust Funds of the City of Portsmouth and The Gundalow Company
2. Request for Approval of Amendment to Wright Avenue LLC License Agreement
3. Request for Continuous Concrete Sidewalks Union Street from Middle Street to Lincoln Avenue

Informational items

1. Events Listing
2. Report Back Re: Sunday Free Parking Commencing on November 1, 2014 for 20 Sundays
3. Estimated Annualized Operating Costs for Downtown Parking Shuttle
4. Report Back on Commercial Alley Lighting Request
5. Letters and Article Re: Federal Aviation Administration and Helicopter Noise
6. Memorandum of Agreement with Air Force Re: Haven Well
7. Report Back Re: Abandoned or Derelict Buildings
8. Household Hazardous Waste Day
9. News Release Re: Public Meeting on Atlantic Heights Emergency Access

B. MAYOR LISTER

1. Appointments to be Voted:
 - Amy Burns – appointment to the Cable Television and Communication Commission
 - John Pratt – reappointment to the Economic Development Commission
 - John Crist – reappointment to the Library Board of Trustees
 - Stephanie Hausman – appointment to the Library Board of Trustees
 - Shaula Balomenos Levenson – appointment to the Library Board of Trustees
 - Donald Margeson – appointment to the Library Board of Trustees
 - Rick Becksted Jr. – appointment to the Recreation Board
2. Letter from Governor Hassan Re: Sea-3 (*See attached letter from Governor Hassan*)

C. ASSISTANT MAYOR SPLAINE

1. “Non-Meetings” vs. “Non-Public Sessions:” (*See attached letter from Assistant Mayor Splaine*) (**Sample motion – move that the Portsmouth City Council agrees not to hold any more “non-meetings,” and that when non-public sessions are held they will follow the provisions of the New Hampshire Right-To-Know Law with a recorded public vote prior to meeting behind closed-doors for any purpose.**) (*Tabled from the September 22, 2014 City Council meeting*)

D. COUNCILOR KENNEDY

1. *Non Public with the Police Commission on Personnel (*Tabled from the September 22, 2014 City Council meeting*)

E. COUNCILORS KENNEDY, SPEAR & THORSEN

1. Conflict of Interest / Mandatory Disclosure Ordinance – Option A & Option B (*See attached memorandum from City Attorney Robert P. Sullivan*)

F. COUNCILOR DWYER

1. Formal request to PDA for transition plan from Grimmel Re: Scrap (*See attached letter from Dave Mullen*) (*Tabled from the September 22, 2014 City Council meeting*)
2. Non-Public Sessions (*See attached memorandum from Councilor Dwyer*)

G. COUNCILOR MORGAN

1. *City Ordinance for Helicopters (*Tabled from the September 22, 2014 City Council meeting*)
2. *EDC – Updating the composition of the Economic Development Committee (*Tabled from the September 22, 2014 City Council meeting*)

3. *North End Visioning process (*Tabled from the September 22, 2014 City Council meeting*)
4. *Request for Additional Council Meeting in November

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 for April 17, 2014 and May 15, 2014 meetings are available on the city 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: October 2, 2014
To: Honorable Mayor Robert J. Lister and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on October 6, 2014 City Council Agenda

6:00 p.m. - *Nonpublic session in accordance with RSA 91-A:3,II (a) and (c) regarding personnel.*

Immediately following Nonpublic Session, there will be a non-meeting with counsel in accordance with RSA 91-A:2,I (a) regarding collective bargaining negotiations.

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

Acceptance of Grants/Donations:

1. **Acceptance of Grant from the New Hampshire Charitable Foundation from the Our New Hampshire Heritage – a fund of Northeast Auctions for Restoration of the Kearsarge Fire Pumper.** I am pleased to announce that a \$15,000.00 grant has been awarded from the New Hampshire Charitable Foundation from the Our New Hampshire Heritage – a fund of Northeast Auctions, one of the Foundation's advised funds for restoration of the Kearsarge fire pumper by the Portsmouth Fire Department.

I recommend the City Council move to approve and accept the grant from the New Hampshire Charitable Foundation from the Our New Hampshire Heritage – a fund of Northeast Auction, as submitted. Action on this item should take place under Section VIII of the Agenda.

2. **Acceptance of Grant for State Declared Infrastructure Funds.** The Madbury Water Treatment Plant has been identified as one of New Hampshire's key resources by the Critical Infrastructure Protection Program.

This program is designed to reduce the vulnerability of Critical Infrastructure or Key Resource sites in NH by extending the protected area around a site into the surrounding community and supporting prevention efforts.

This grant will allow the City to better safeguard the water reservoir by extending the fencing at the property in Madbury thereby protecting the water supply.

A grant in the amount of \$12,500.00 from the Department of Safety has been applied for and is available to the City to assist in managing the cost of the fencing. This grant would supplement the City funds proposed in the FY '15 budget ([see attached](#)).

I would recommend the City Council move to accept and expend a \$12,500.00 Department of Safety grant for the purpose of protecting the water resource at the Madbury Water Treatment Plant and authorize the City Manager to execute any documents which may be necessary for this grant contract. Action on this item should take place under Section VIII of the Agenda.

3. **Acceptance of Police Department Grants and Donation.** Attached [under Section VIII of the Agenda is a memorandum](#), dated September 17, 2014, 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:

- a) A donation in support of the Police Department's planned public service announcements addressing the opiate problems in our community. The donation was received from the Amos and Boris Fund in the amount of \$1,000. The Amos and Boris Fund is under the aegis of Ellen and Ed Frechette.
- b) A JAG grant in the amount of \$9,653 has been received from the Dept. of Justice to provide funding to combat drug sales/use in the city. The \$9,653 is the city's portion of the \$31,113 total grant awarded to Rockingham County.
- c) A grant in the amount of \$6,084 has been received from NH Highway Safety for "Operation Safe Commute" patrols.

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

Items Which Require Action Under Other Sections of the Agenda:

1. First Reading of Proposed Resolutions and Ordinances:

- 1.1 **First Reading of Proposed Ordinance amending Chapter 7, Article II, Section 7.213 – Fees and Terms for Medallions/Licenses.** Attached under Section IX of the Agenda, is a proposed Ordinance amending Chapter 7, Article II, Section IX of the Agenda, which has been requested by the Taxi Commission. The proposed Ordinance, which was drafted by the Taxi Commission itself appears to eliminate the fee for restoration of a taxi medallion which has been revoked and replaces it with the fee for restoration of medallions which have been suspended. However, even the suspension fee would not be due when the suspension is due to failure to meet a vehicle inspection and the vehicle is repaired within one business day after the suspension.

I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the October 20, 2014 City Council meeting, as presented. Action on this matter should take place under Section IX of the Agenda.

2. Third and Final Reading of Proposed Ordinances:

- 2.1 **Third and Final Reading of Proposed Ordinance Amendment to Chapter 7, Article II, Section 7.230 – Prohibited Conduct by Medallion Holders or Owners.** As a result of the September 22nd City Council meeting, under Section IX of the Agenda, I am bringing back for third and final reading the attached proposed Ordinance Amendment to Chapter 7, Article II, Section 7.230 – Prohibited Conduct by Medallion Holders or Owners. The Taxi Commission recommended the following proposed Ordinance at their meeting on June 16, 2014.

Section 7.230: Prohibited Conduct by Medallion Holders or Owners.

No holder of a taxi medallion or owner of a taxi to which a medallion has been issued shall, either individually or in conjunction with any other person, transport passengers for hire within the City except by the use of vehicles which have been issued a taxi medallion by the City.

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

Consent Agenda:

1. **Acceptance of Donation to Art-Speak.** Art-Speak has received the following donation and Art-Speak requests that the City Council accept the following donations on behalf of Art-Speak for their Annual Appeal:

➤ Harborside Associates, LP \$500.00

I would recommend that the City Council move to approve and accept the donation to Art-Speak, as listed. Action on this item should take place under Section X of the Agenda.

2. **Acceptance of Donations to the Coalition Legal Fund.** The City of Portsmouth has received a donation from the Town of Rye in the amount of \$5,000.00 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 X of the Agenda.

City Manager's Items Which Require Action:

1. **Request for Approval of Agreement Between the Trustees of the Trust Funds of the City of Portsmouth and The Gundalow Company.** [Attached is an Agreement between the Trustees of the Trust Funds of the City of Portsmouth and The Gundalow Company](#) for City Council review and action.

I would recommend the City Council move to approve the Agreement between the Trustees of the Trust Funds of the City of Portsmouth and The Gundalow Company, and further, authorize the City Manager to execute the document.

2. **Request for Approval of Amendment to Wright Avenue LLC License Agreement.** Wright Avenue, LLC ("Owner") requests an Amendment to the License Agreement for Wright Avenue, LLC dated March 11, 2014 and approved by vote of the City Council on February 18, 2014. [Attached is a letter from Stephen Kelm of Wright Avenue LLC.](#)

The [attached Amendment](#) extends the term of the [attached License Agreement](#) to reflect the current construction schedule and further clarifies the Owner's responsibility to construct, repair and restore the licensed areas after completion of construction.

I would recommend the City Council move to authorize the City Manager to negotiate and enter into an Amendment to the License Agreement for Wright Avenue, LLC dated March 11, 2014 and approved by vote of the City Council on February 18, 2014.

3. **Request for Continuous Concrete Sidewalks on Union Street from Middle Street to Lincoln Avenue.** Attached please find a petition to the City of Portsmouth which staff received on August 18, 2014 from residents on Union Street between Middle Street and Lincoln Avenue. The petition requests concrete sidewalks be installed continuous through driveway aprons. The Department of Public Works current practice is and has historically been to install concrete sidewalks up to either side of a driveway apron and leave the driveway apron continuous asphalt. This practice was selected for ease of maintenance as asphalt is a more forgiving material for a driveway, and to establish consistency throughout the City where applicable (e.g. outside historic districts).

For the reconstruction of the Lincoln Area (5 total construction contracts), approximately 6 miles of new sidewalk and driveway aprons were installed to date. With little exception, the Department's current practice has been followed in that concrete sidewalks were installed up to either side of a driveway apron with continuous asphalt driveway aprons. The exceptions included installation of brick sidewalks with asphalt driveway aprons in the historic district areas and also continuous concrete on Richards Avenue from South Street to Lincoln Avenue to meet historic conditions.

I, along with City Staff, am requesting guidance from the City Council on this requested change from current practice. The options to address this petition include the following:

1. Continue with current practice of constructing concrete sidewalks and asphalt driveway aprons in accordance with the Department's current practice at no additional cost to the project, or,
2. Adopt a new policy for City sidewalk projects which would construct continuous concrete sidewalks through driveway aprons at a 15% to 20% increase in sidewalk construction costs. The cost impact for this work on Union Street, between Middle Street and Lincoln Avenue is approximately \$6,500. If this change were applied to the entire project the projected cost impact would be up to \$42,000. If this were applied to the entire City the cost impact to the bi-annually sidewalk budget would be up to \$160,000.

City staff will be available to discuss the proposed change at Monday's City Council meeting. In the meantime the contractor in this area is installing concrete sidewalks between the driveway aprons only and will install binder pavement in driveways to allow resident access to their homes until a final sidewalk policy is decided on.

I am requesting that the City Council give me direction regarding this matter.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on September 22, 2014. In addition, this can be found on the City's website.
2. **Report Back Re: Sunday Free Parking Commencing on November 1, 2014 for 20 Sundays.** As requested by Councilor Kennedy, I am reporting back on Sunday free parking commencing on November 1, 2014 for 20 Sundays. For your information, [attached is a spreadsheet](#) that indicates the estimated loss of parking revenue for free Sunday parking. The estimated cost for 20 weeks totals \$261,593 and the estimated cost for 16 weeks totals \$203,200.
3. **Estimated Annualized Operating Costs for Downtown Parking Shuttle.** For your information, [attached is a memorandum from Juliet Walker, Transportation Planner](#), regarding estimated annualized operating costs for the Downtown Parking Shuttle.
4. **Report Back on Commercial Alley Lighting Request.** In response to the City Council referral on the request from Commercial Alley property owners and tenants for "coordinated lighting of the full length of Commercial Alley consistent with the historic nature of Portsmouth", City staff has considered the existing public and private lighting in the Alley and proposes to meet with the stakeholders and propose the following actions:
 - At the Market Street end of the Alley where there is currently no wall-mounted lights, City proposes to enter into an agreement with the building owners of 41 Market St. (Kennedy Gallery) and 31 Market St. (I like That/Commercial Alley Brews) for City to run conduit on the edge of the buildings and purchase and install 2-3 small versions of the Portsmouth streetlight.
 - Where there is existing private lighting infrastructure, enter into an agreement with the building owner for the City to buy and install LED light bulbs with the owners/tenants paying the ongoing electric costs.
 - On the existing PSNH utility pole @ Cava restaurant, City will work with PSNH to purchase and install two smaller, historic, pedestrian-scale lights.
 - DPW estimated cost for lights, bulbs, electrical work is \$10,000-\$12,000.

5. **Letters and Article Re: Federal Aviation Administration and Helicopter Noise.** For your information, [David Mullen, Executive Director, Pease Development Authority, \(PDA\)](#) has provided the following documents regarding a request from the City for a meeting with the Federal Aviation Administration (FAA) to discuss helicopter noise:
 - 1) Letter from David Mullen, Executive Director, PDA, dated August 28, 2014, to FAA requesting a meeting.
 - 2) Letter from Amy L. Corbett, Regional Administrator, FAA, dated September 22, 2014 to the PDA declining the invitation to attend a meeting.
 - 3) Copy of Seacoastonline Article, dated September 29, 2014, “FAA Explains Why It Won’t Meet With The City”.
 - 4) Letter from David Mullen, Executive Director, PDA, dated September 29, 2014 to Senator Jeanne Shaheen, Senator Kelly Ayotte, and Representative Carol Shea-Porter requesting that the FAA come out for a meeting.

6. **Update Re: Memorandum of Agreement with Air Force regarding Haven Well.** For your information, [attached is a memorandum](#) from Suzanne Woodland, Deputy City Attorney and Brian Goetz, Deputy Director of Public Works with the Air Force regarding Haven Well.

7. **Report Back Re: Abandoned or Derelict Buildings.** As you will recall, at the March 17, 2014 City Council meeting, Councilor Splaine requested a report regarding abandoned or derelict buildings. For your information, [attached is a memorandum](#) from City Attorney Robert Sullivan, regarding this matter.

8. **Household Hazardous Waste Day.** For your information, Household Hazardous Waste Day is scheduled for Saturday, October 25, 2014 from 8:00 a.m. – Noon. Residents of Portsmouth, Greenland and Newington may bring their household hazardous waste to the Department of Public Works facility at 680 Peverly Hill Road, Portsmouth. Please note that Proof of Residency Required. There is more information on the City’s Website at <http://cityofportsmouth.com/publicworks/solidwaste-recycle-hhw.htm>.

9. **News Release Re: Public Meeting on Atlantic Heights Emergency Access.** [Attached for your information is a news release](#) regarding a public meeting on the Atlantic Heights Emergency Access.