

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, MARCH 2, 2015 TIME: 7:00 PM

AGENDA

- I. CALL TO ORDER (7:00 PM)
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE

PRESENTATION

1. Taxi Commission Re: Proposed Ordinance – Peter Bresciano, Chair and Lawrence Cataldo, Taxi Commissioner

V. ACCEPTANCE OF MINUTES – FEBRUARY 17, 2015

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARING

- A. RESOLUTION AUTHORIZING THE ISSUANCE OF REFUNDING BONDS TO REFINANCE CERTAIN OUTSTANDING BONDS OF THE CITY SO AS TO REDUCE INTERESTS COSTS, AND TO PAY ALL COSTS INCIDENTAL AND RELATED THERETO ASSOCIATED WITH THE OUTSTANDING PORTION OF THE CITY'S \$6,960,000.00 GENERAL OBLIGATION BONDS DATED AUGUST 1, 2005 (THE "REFUNDED BONDS"), THE CITY IS AUTHORIZED TO ISSUE REFUNDING BONDS IN THE AMOUNT OF UP TO THREE MILLION FOUR HUNDRED SIXTY THOUSAND DOLLARS (\$3,460,000.00) TO REFINANCE ALL OR ANY PORTION OF THE REFUNDED BONDS, AND TO PAY ASSOCIATED INTEREST COSTS, REDEMPTION PREMIUM AND ALL ISSUANCE EXPENSES ASSOCIATED THEREWITH, SUCH REFUNDING BONDS TO BE ISSUED BY THE CITY TREASURER, WITH THE APPROVAL OF THE CITY MANAGER, AND OTHERWISE IN ACCORDANCE WITH THE MUNICIPAL FINANCE ACT

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Police Department Grant and Donation:
 - Acceptance of Grant from the NH Department of Justice to provide funding for the Police Department part-time Domestic Violence & Sexual Assault Victim Advocate - \$30,000.00
 - Acceptance of Donation from Mr. Richard Grossman in support of Police Explorer Cadets - \$20.00

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

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Ordinance amending Chapter 7, Article II – Taxicabs to be deleted in its entirety and replaced with a new Article II entitled – Transportation Services
- B. Adoption of Proposed Resolution Authorizing the Issuance of Refunding Bonds to Refinance Certain Outstanding Bonds of the City so as to Reduce Interests Costs, and to Pay all Costs Incidental and related thereto associated with the outstanding portion of the City's \$6,960,000.00 General Obligation Bonds dated August 1, 2005 (the "Refunded Bonds"), the City is authorized to issue refunding bonds in the amount of up to Three Million Four Hundred Sixty Thousand Dollars (\$3,460,000.00) to refinance all or any portion of the Refunded Bonds, and to pay associated interest costs, redemption premium and all issuance expenses associated therewith, such refunding bonds to be issued by the City Treasurer, with the approval of the City Manager, and otherwise in accordance with the Municipal Finance Act (***Sample motion – move to adopt the proposed Bond Resolution of up to Three Million Four Hundred Sixty Thousand Dollars (\$3,460,000.00) to refinance the remaining portion of a callable bond issued August 1, 2005 and all related costs***) (*The Refunding Resolution requires two readings and a public hearing with two-thirds vote of the City Council*)

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Cynthia Rybczyk, American Heart/Stroke Association, requesting permission to hold the Heart/Stroke Walk on Saturday, May 30, 2015 (***Anticipated action – move to refer to the City Manager with power***)
- B. Letter from Ken La Valley, American Foundation for Suicide Prevention, requesting permission to hold the Out of the Darkness Community Walk on Saturday, September 19, 2015 from 10:00 a.m. – Noon (***Anticipated action – move to refer to the City Manager with power***)

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Nancy Elwell regarding the city leasing a portion of the Fairpoint Parking Lot on State Street/Islington Street for the residents of The Keefe House (***Sample motion – move to refer to the City Manager for 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 Resolutions and Ordinances:

- 1.1 First Reading of Proposed Ordinance amending Chapter 7, Article II – Taxicabs to be deleted in its entirety and replaced with a new Article II entitled – Transportation Services (**Action on this item should take place under Section IX of the Agenda**)
2. Public Hearing and Adoption of Proposed Resolution:
 - 2.1. Public Hearing/Adoption of Proposed Bond Resolution of up to Three Million Four Hundred Sixty Thousand Dollars (\$3,460,000.00) to Refinance the remaining portion of a Callable Bond issued August 1, 2005 and all related costs (**Action on this item should take place under Section IX of the Agenda**)

City Manager's Items Which Require Action:

1. Request from the Portsmouth School Department for First Reading of a Proposed Bond Resolution of up to Five Million Dollars (\$5,000,000.00) for Elementary School Improvements (Little Harbour School)
2. Request to Renew Lease Agreement for Sons of Italy
3. Proposed Request for Public Hearing and Adoption of Resolutions for Use of Bond Premiums (*Resolution requires a Public Hearing and Adoption with two-thirds vote of the City Council*)
4. Work Session Re: Abandoned/Derelict Buildings

Informational items

1. Events Listing
2. Programmatic Needs Assessment Re: Municipal Complex
3. Bicycle Friendly Communities Application
4. Reschedule of Planning Board Work Session Re: Master Plan Kick-off Process
5. Use of Restrictive Covenant to Prevent Development of HarborCorp Lot for Use as a Casino

B. ASSISTANT MAYOR SPLAINE

1. Letter requesting a Resolution to the U.S. Supreme Court In Support of Marriage Equality (*Tabled from the February 17, 2015 City Council meeting*)

C. COUNCILOR KENNEDY

1. *How can the City of Portsmouth be more supportive of Small Business in our Community?

As we review the Budget I would like to be able to answer the following questions for my fellow residents:

Questions to Answer:

- What is the current number of small businesses in our Portsmouth Community?
- How does the City of Portsmouth communicate with our small business owners?
- Should the City be staffing the Visitor Kiosk on Market Street?
- Should the City's economic development supports set up a small business group to gather information about their current needs?
- How does the City's economic development supports work with organizations like Buy Local?
- Given that you can find Small Business in most of our neighborhoods. Has the Mayor's Blue Ribbon Neighborhood community discussed small business and the neighborhood's needs?

D. COUNCILOR LOWN

1. Parking and Traffic Safety Committee Action Sheet of February 12, 2015 meeting
(Sample motion – move to approve and accept the Action Sheet of the February 12, 2015 Parking and Traffic Safety Committee meeting)

E. COUNCILOR DWYER

1. *Formal request for the Planning Board to prepare proposed amendments to the zoning ordinance to address short-term rentals by home owners. Based on the Council-Planning Board work session discussion of February 17th, the Planning Board could take into account discussion points that emerged, including at least:
 - a) Creating a definition that captures the short-term rental, perhaps a bed-breakfast 3 rather than attempting to force-fit one of current definitions;
 - b) Addressing in the definition the requirements for number of rooms, parking, length of stay, life safety plan, health-food inspections, registration with the City
 - c) Considering which current zoning districts can allow the rental by special exemption

F. COUNCILOR MORGAN

1. *Impact Fees *(Tabled from the February 17, 2015 City Council meeting)*

G. COUNCILOR SPEAR

1. *Election of Mayor and Council Candidates Proposed Charter Amendment

Request the following Information:

Ask the City Attorney to Report Back with the proper language for a Referendum allowing for Election of Mayor;

- Candidates would choose either to run for Mayor or run for Council;
- The statutory authority and responsibility of Mayor would remain unchanged and,
- This would take effect 2017

H. COUNCILOR THORSEN

1. Criteria for Measuring the Appropriateness of Council Resolutions (*See Attached Memorandum*)

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

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

**Indicates Verbal Report*


INFORMATIONAL ITEMS

1. *Notification that the minutes of the December 2, 2014; December 16, 2014; January 21, 2015 and February 3, 2015 Zoning Board of Adjustment meetings are now available on the City's 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: February 26, 2015
To: Honorable Mayor Robert J. Lister and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on March 2, 2015 City Council Agenda

Presentation:

1. **Taxi Commission Re: Proposed Ordinance.** On Monday evening, Chairman Peter Bresciano and Commissioner Lawrence Cataldo of the Taxi Commission, will make a presentation to the City Council regarding a proposed ordinance to replace the existing Taxi Ordinance.

Acceptance of Grants and Donations:

1. **Acceptance of Police Department Grant and Donation.** [Attached under Section VIII of the Agenda is a memorandum](#), dated February 18, 2015, from John F. Golumb, Chairman of the Portsmouth Police Commissioners, and Police Chief Stephen J. DuBois, requesting that the City Council approve the following grant and donation:
 - a) A grant in the amount of \$30,000 from the New Hampshire Dept. of Justice to provide funding for our part-time Domestic Violence & Sexual Assault Victim Advocate.
 - b) Donation in the amount of \$20.00 from Mr. Richard Grossman in support of the Portsmouth Police Explorer Cadets.

I recommend the City Council move to approve and accept the grant 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. Request for First Reading of Proposed Resolutions and Ordinances.

- 1.1 **First Reading of Ordinance amending Chapter 7, Article II – Taxicabs to be deleted in its entirety and replaced with a new Article II entitled – Transportation Services.** Under Section IX of the Agenda, [attached for first reading is a proposed Ordinance](#) amending Chapter 7, Article II replacing the existing Taxi Ordinance with a new Ordinance entitled Transportation Services (refer to the Presentation for additional information).

The City Council may move to accept the recommendation of the Taxi Commission, and further, authorize the City Manager to bring back for public hearing and second reading the proposed Ordinance at the March 16, 2015 City Council meeting, as presented. Action on this matter should take place under Section IX of the Agenda.

2. Public Hearing and Adoption of Resolution:

- 2.1 **Public Hearing/Adoption of Proposed Bond Resolution of up to Three Million Four Hundred Sixty Thousand Dollars (\$3,460,000) to Refinance the remaining portion of a Callable Bond issued August 1, 2005 and all related costs.** As a result of the February 17th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and adoption the [attached proposed Bond Resolution](#) of up to Three Million Four Hundred Sixty Thousand Dollars (\$3,460,000) to refinance the remaining portion of a callable bond issued August 1, 2005 and all related costs. In reviewing the City's debt schedule, a refunding (refinancing) opportunity is available which may result in total future savings. The City issued a \$6,960,000 bond on August 1, 2005. The proceeds financed the construction of the Public Library.

The original bond terms included a call provision which allows the issuer the option to pay off bonds prior to the maturity date by issuing another bond at a lower interest rate. The average coupon rate (interest) for the remaining life of the bonds is 4.199%. Keeping in mind that interest rates are subject to change, the City, by opting to refinance this bond in the current market, could experience a savings in excess of \$278,000 net of all issuance costs, over the remaining life of the bonds.

I recommend the City Council move to adopt the proposed Bond Resolution of up to Three Million Four Hundred Sixty Thousand Dollars (\$3,460,000) to refinance the remaining portion of a callable bond issued August 1, 2005 and all related costs. (The Refunding Resolution requires two readings and a public hearing with two-thirds vote of the City Council.) Action on this matter should take place under Section IX of the Agenda.

City Manager's Items Which Require Action:

1. **Request from the Portsmouth School Department for First Reading of a Proposed Bond Resolution of up to Five Million Dollars (\$5,000,000) for Elementary School Construction Improvements (Little Harbour School).** Attached is a letter from [Leslie Stevens, Chair of the Portsmouth School Board](#) requesting the City Council approve a bond issue of up to Five Million Dollars (\$5,000,000) to undertake the construction improvements for the Little Harbour Elementary School. This will allow the School Department to bid the project before the beginning of FY 2016 (July 1, 2015). This was discussed at your Work Session with the School Department.

I recommend the City Council move to authorize the City Manager to bring back for first reading the proposed Bond Resolution, as presented, at your March 16, 2015 City Council meeting.

2. **Request to Renew Lease Agreement for Sons of Italy.** Attached is a copy of a letter from the [Sons of Italy, Seacoast Area Lodge #2303](#) requesting the renewal of their Lease Agreement for the property at One Plains Avenue, for a one-year extension effective April 1, 2015 through March 31, 2016. Also, [attached is a copy of the revised Lease Agreement.](#)

I recommend the City Council move to extend the Lease Agreement with the Sons of Italy at One Plains Avenue, for a period of one year from April 1, 2015 through March 31, 2016.

3. **Proposed Request for Public Hearing and Adoption of Resolutions for Use of Bond Premiums.** The City of Portsmouth currently holds the highest bond rating available from Standard and Poor's rating agency (AAA). The City was able to take advantage of its excellent bond rating when on June 27, 2013 and June 25, 2014, the City of Portsmouth issued \$6,696,000 and \$26,050,000 in bonds respectively. The proceeds of the bond will finance \$8,017,000 of General Fund capital projects, \$3,800,000 for School projects, \$3,500,000 for Water projects, and \$17,429,000 for Sewer Projects for a total of \$32,746,000 in projects. In addition to the \$32.746 million principal, the City received a premium of \$3,556,137.85 from the winning underwriter at closing. A premium is the amount by which the purchase price of a bond is greater than its par value. Under certain market conditions, in order to enhance the marketability of the bonds, bond underwriters will structure their bids with bond premiums. In this case, the City of Portsmouth received a True Interest Cost (TIC) rates of 2.39% (2013) and 2.72% (2014) and total bond premiums of \$3,556,137.85. Under Federal Tax Law and State Statutes, the City is restricted on how to appropriate and use these funds.

RSA 33:3-states that any premium received shall not be used to increase the amount to be spent for the purpose for which the loan was originally incurred. Therefore, the City cannot use this money to increase the costs of the projects set forth for the \$32.746 Million bond issuance. However, the RSA states "a city by a vote of 2/3 of the City Council may authorize the expenditure for the premiums received for any purpose or purposes for which bonds or serial notes may be issued for an equal or longer period of time."

The bond premium of \$3,556,137.85 has been allocated as follows:

- General Fund in the amount of \$1,417,897.12;
- Water Fund \$412,161.92;
- Sewer Fund \$1,726,078.81

In accordance with State Statute, the staff and I recommend that the City Council authorize appropriations of \$1,966,370.43 from bond premiums for capital projects as follows:

General Fund project:

- Municipal Complex Improvements - \$1,417,897.12

Water Fund project:

- Madbury Well Upgrades - \$412,161.92

Sewer Fund project:

- McDonough Street Area Sewer Line Replacements - \$136,311.39

If approved as recommended, this will leave a bond premium balance in the Sewer Fund of \$1,589,767.42 which was received from bonds issued for the upgrade to the City's Sewer treatment plant and will be used to lower future bonding needs for that project.

As these projects have a useful life that exceeds the original bond issue from which the premiums were received, and would be eligible for bonding under the Municipal Finance Act, it is in the best interest of the City to utilize the premium of \$1,966,370.43 to fund costs associated with General Fund, Water Fund and Sewer Fund projects.

I recommend the City Council move to authorize the City Manager to bring back for public hearing and action at the March 16th City Council meeting the aforementioned three Bond Premium resolutions.

4. **Work Session Re: Abandoned/Derelict Buildings.** The Mayor has requested that the City Council meet on March 16, 2015 at 6:00 p.m., in a Work Session prior to the regular City Council meeting regarding abandoned/derelict buildings.

I recommend the City Council move to establish a Work Session on March 16, 2015 regarding abandoned/derelict buildings, as requested by Mayor Lister.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on February 17, 2015. In addition, this can be found on the City's website.
2. **Programmatic Needs Assessment Re: Municipal Complex.** The Public Works Department will be advertising for proposals from qualified architectural/engineering firms to conduct a comprehensive programmatic needs evaluation of the City Hall Complex at 1 Junkins Avenue. The objective of this evaluation is to assess the current and future operational needs of each department located at the City Hall Complex. (City Hall moved to this complex in 1989.)

The municipally operated buildings at the City Hall Municipal Complex are comprised of the Boiler Plant and the City Hall which is comprised of three (3) sections; the 1929 building (Seybolt); the 1950s administrative building; and the 1962 addition. Each of these buildings have electrical, plumbing, heating and ventilation systems that range in age and condition.

Through its efforts to better identify the capital needs at the City's Municipal Complex, the Department of Public Works contracted with ISES Corporation (ISES), an engineering firm that specializes in facilities assessments, to perform a Facility Condition Assessment of the City Hall Municipal complex. The Facility Condition Assessment identified planning level costs for short-and long-term facility upgrades.

Among the various building systems reviewed by ISES include: site conditions; exterior structure; interior finishes; accessibility (Americans with Disabilities Act, ADA compliance); health, fire & life safety; heating ventilation and air conditioning (HVAC); electrical, plumbing, and elevators. Based on their initial assessment of the City Municipal Complex, the cost to address the identified deficiencies is over \$10,000,000. This cost is planning level cost. The final cost will depend on the extent of work, additional design, and the ability to phase construction while continuing to operate a municipal government.

The City Hall Complex is anticipated to continue to be used to house the majority of the City departments and nonprofit groups for the foreseeable future. The current configuration and infrastructure of the City Hall Complex has not significantly changed since it was a hospital before the City moved in. In addition to the physical problems of the building, insufficient space and lack of storage is a growing operational problem for the City departments that use the complex.

This Programmatic Needs Assessment will look at how the current configuration is used by staff and determine if changes to the buildings' configuration will improve function and service at the City Hall Complex. The intent of the programmatic needs assessment is to ensure that any investment made to the physical plant of the Complex does not preclude future changes that will address the operational needs of the City departments using the Complex.

3. **Bicycle Friendly Communities Application.** For your information, [attached is a memorandum from Juliet Walker, Transportation Planner](#), regarding the Bicycle Friendly Communities Application.
4. **Reschedule of Planning Board Work Session Re: Master Plan Kick-off Process.** For your information, the Planning Board has rescheduled the March 5, 2015 Work Session to Thursday, March 12, 2015 starting at 6:30 p.m., regarding the Master Plan Kick-off Process.
5. **Use of Restrictive Covenant to Prevent Development of HarborCorp Lot for Use as a Casino.** [Attached is a report back from City Attorney Robert Sullivan](#) regarding the use of a restrictive covenant to prevent the development of HarborCorp lot for use as a casino.