

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, MAY 18, 2015 TIME: 6:15PM

AGENDA

- 6:15PM – AN ANICIPATED “NON-MEETING” WITH COUNSEL RE: LITIGATION/MEDIATION – RSA 91-A:2, I (b)
- 6:30PM – WORK SESSION REGARDING PROPOSED CHARTER AMENDMENT ALLOWING FOR ELECTION OF THE MAYOR

I. CALL TO ORDER (6:15PM)

II. ROLL CALL

III. INVOCATION

IV. PLEDGE OF ALLEGIANCE

PRESENTATIONS

1. Art-Speak Annual State of the Arts Report and Request to Extend the Agreement between the City and Art-Speak – Nancy Carmer, Economic Development Program Manager (**Sample motion – move to authorize the City Manager to Extend the Agreement from July 1, 2015 through June 30, 2016**)
2. *Update Re: Doble Center, David Moore, Community Development Director
3. *Final Report of the Self Assessment of Fire Department Operations - Steve Achilles, Fire Chief (**The following link on the City's Website will allow you to view the Report**): http://www.cityofportsmouth.com/fires/PFD_Self_Assessment_FINAL-REPORT.pdf

V. ACCEPTANCE OF MINUTES – MAY 4, 2015 & MAY 11, 2015

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARING

- A. ORDINANCE AMENDING THE ZONING MAP BY REZONING THE FOLLOWING LOTS FROM INDUSTRIAL (I), OFFICE RESEARCH (OR) OR MUNICIPAL (M) TO GATEWAY (GW):

- ASSESSORS MAP 163, LOTS 33, 34 AND 37;
- ASSESSORS MAP 165, LOTS 1, 2 AND 14;
- ASSESSORS MAP 172, LOTS 1 AND 3;
- ASSESSORS MAP 173, LOTS 2 AND 10;

AND INCLUDING CATE STREET BETWEEN HODGSON'S BROOK AND BARLETT STREET; AND AMENDING THE ZONING ORDINANCE AS FOLLOWS:

- ARTICLE 7, SECTION 10.730 – GATEWAY PLANNED DEVELOPMENT:
 - AMEND SECTION 10.734.20 – LOT REQUIREMENTS, BY ESTABLISHING FRONT YARD STANDARDS RELATIVE TO STREETS OTHER THAN LAFAYETTE ROAD;
 - AMEND SECTION 10.734.33 BY MODIFYING THE MAXIMUM BUILDING HEIGHT STANDARDS;
 - INSERT A NEW SECTION 10.734.40 – WORKFORCE HOUSING INCENTIVES, TO ALLOW INCREASED BUILDING HEIGHT AND BUILDING LENGTH, AND TO ALLOW PARKING TO BE LOCATED IN A REQUIRED FRONT YARD OR BETWEEN A PRINCIPAL BUILDING AND A STREET, FOR A GATEWAY PLANNED DEVELOPMENT THAT CONTAINS 10% OR GREATER WORKFORCE HOUSING UNITS.
- ARTICLE 15 – DEFINITIONS:
 - AMEND SECTION 10.1530 – TERMS OF GENERAL APPLICABILITY, BY INSERTING DEFINITIONS OF “WORKFORCE HOUSING” AND “WORKFORCE HOUSING UNIT.” (*Public Hearing kept open from the March 16, 2015 City Council meeting*)

VIII. APPROVAL OF GRANTS/DONATIONS

(There are no items under this section of the agenda)

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second reading of Ordinance the Zoning Map by rezoning the following lots from Industrial (I), Office Research (OR) or Municipal (M) to Gateway (GW):
- Assessors Map 163, Lots 33, 34 and 37;
 - Assessors Map 165, Lots 1, 2 and 14;
 - Assessors Map 172, Lots 1 and 2;
 - Assessors Map 173, Lots 2 and 10;
- and including Cate Street between Hodgson’s Brook and Bartlett Street; and amending the Zoning Ordinance as follows:
- Article 7, Section 10.730 – Gateway Planned Development:
 - Amend Section 10.734.20 – Lot Requirements, by establishing front yard standards relative to streets other than Lafayette Road;
 - Amend Section 10.734.33 by modifying the maximum building height standards;
 - Insert a new Section 10.734.40 – Workforce Housing Incentives, to allow increased building height and building length, and to allow parking to be located in a required front yard or between a principal building and a street, for a Gateway Planned Development that contains 10% or greater workforce housing units.
 - Article 15 – Definitions:
 - Amend Section 10.1530 – Terms of General Applicability, by inserting definitions of “workforce housing” and “workforce housing unit.”

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Acceptance of Police Department Grants:
- NH Highway Safety for DWI/DUI Patrol Grant - \$8,580.00
 - NH Highway Safety for Sobriety Checkpoints Grant - \$6,864.00
 - NH Highway Safety for Pedestrian Patrols Grant - \$6,292.00
 - NH Highway Safety for Enforcement Patrols Grant - \$6,292.00
 - NH Highway Safety to Address Red Light Running Grant - \$6,292.00
- (Anticipated Action – move to approve and accept the grants to the Portsmouth Police Department)***
- B. Request for License from Brendin McCord, owners of Bennett's Store for property located at 41 Congress 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 Brendin McCord, owners of Bennett's Store for a projecting sign at property located at 41 Congress Street and, further, authorize the City Manager to execute License Agreements 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***
- C. Request for License from Shore Gregory, owners of ROW 34 for property located at 5 Portwalk Place for 1 projecting sign on new bracket on Hanover Street at corner of Portwalk Place ***(Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Shore Gregory, owners of ROW 34 for 1 projecting sign at property located at 5 Portwalk Place at corner of Hanover Street and, further, authorize the City Manager to execute License Agreements 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***

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from John Prochilo, CEO of Northeast Rehabilitation Hospital regarding concerns with Wastewater Treatment Facility “Option 2”

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

Items Which Require Action Under Other Sections of the Agenda

1. Public Hearing and Second Reading of Proposed Ordinance:
 - 1.1 Ordinance the Zoning Map by rezoning the following lots from Industrial (I), Office Research (OR) or Municipal (M) to Gateway (GW):
 - Assessors Map 163, Lots 33, 34 and 37;
 - Assessors Map 165, Lots 1, 2 and 14;
 - Assessors Map 172, Lots 1 and 2;
 - Assessors Map 173, Lots 2 and 10;
 and including Cate Street between Hodgson’s Brook and Bartlett Street; and amending the Zoning Ordinance as follows:
 - Article 7, Section 10.730 – Gateway Planned Development:
 - Amend Section 10.734.20 – Lot Requirements, by establishing front yard standards relative to streets other than Lafayette Road;
 - Amend Section 10.734.33 by modifying the maximum building height standards;
 - Insert a new Section 10.734.40 – Workforce Housing Incentives, to allow increased building height and building length, and to allow parking to be located in a required front yard or between a principal building and a street, for a Gateway Planned Development that contains 10% or greater workforce housing units.
 - Article 15 – Definitions:
 - Amend Section 10.1530 – Terms of General Applicability, by inserting definitions of “workforce housing” and “workforce housing unit.”

City Manager’s Items Which Require Action:

1. Request for Approval of Parking Lot Agreement Re: Albacore Lot
2. Peirce Island Wastewater Treatment Facility Recommendation

Informational items

1. Events Listing
2. *Reminder Re: Continue of FY16 Budget Public Hearing and Work Session
3. Report Back Re: Small Business
4. *Report Back Re: Seacoast Outright Pride Event
5. Short-term Rentals
6. Household Hazardous Waste Day (***The following link on the City's Website will allow you to view information on the safe disposal of household hazardous waste products***): <http://www.cityofportsmouth.com/publicworks/solidwaste-recycle-hhw.htm>
7. African Burying Ground Events May 20, 2015 to May 23, 2015

B. MAYOR LISTER

1. Appointments to be Voted:
 - Appointment of Matthew Cardin to the Conservation Commission as a Regular member
 - Appointment of Kimberly Meuse to the Conservation Commission as a Regular member
 - Appointment of Kate Zamarchi to the Conservation Commission as a Regular member
 - Appointment of Adrienne Harrison to the Conservation Commission as an Alternate member
 - Appointment of Samantha Wright to the Conservation Commission as an Alternate member
 - Reappointment of Carl Diemer to the Recreation Board
 - Appointment of Patrick Moretti to the Zoning Board of Adjustment as a Regular member

C. ASSISTANT MAYOR SPLAINE

1. Arranging an Interactive Work Session for PS21 Topics on the Search for Walkability, On-Street Parking, and Street Flow (***Postponed from the May 4, 2015 City Council meeting***)

D. COUNCILOR KENNEDY

1. *Parking Update: Transportation Patterns and On Street Parking Increased in Accordance with our Visiting Parking Experts

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

XIV. ADJOURNMENT

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

**Indicates Verbal Report*


INFORMATIONAL ITEMS

1. *Notification that the minutes of the March 25, 2015 and April 1, 2015 meetings of the Historic District Commission 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: May 14, 2015
To: Honorable Mayor Robert J. Lister and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on May 18, 2015 City Council Agenda

6:15 p.m. Non-meeting with counsel regarding litigation/mediation in accordance with RSA 91-A:2, I (b).

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

Work Session:

6:30 p.m.

1. **Proposed Charter Amendment Allowing for the Election of the Mayor.** At the April 6th City Council meeting, the Council voted to schedule a Work Session for the May 4, 2015 City Council meeting, regarding a Charter Amendment for the election of Mayor and Council Candidates. Instead, the Mayor requested that this Work Session be held on Monday evening. [Attached is a memorandum from City Attorney Robert Sullivan](#), regarding this matter.

Presentations:

1. **Art-Speak Annual State of the Arts Report and Request to Extend the Agreement Between the City and Art-Speak.** On Monday evening, Art-Speak will give its annual report on local arts and culture activity during FY 14/15 and request renewal of the Agreement between the City and Art-Speak for the period July 1, 2015 through June 30, 2016.

In the report, Art-Speak President Mike Teixeira will provide a snapshot of how local cultural organizations are faring, a progress report of the newly established Portsmouth Area Arts and Cultural Alliance (PACA), and a glimpse of the year ahead. The report will also include an update on the following work required under the current funding agreement between Art-Speak and the City:

- Assist the City in implementation of the Cultural Plan for promotion appreciation, awareness, participation, and dialogue in the support of arts and culture in the City of Portsmouth;
- Convene an annual arts and cultural forum;
- Serve as an advisor to all departments of City government on arts and cultural issues;
- Perform a coordination function for local cultural organizations and advocate on their behalf at the local, state and national level;

During FY 14/15, Art-Speak continued implementation of the Cultural Plan and promoted Portsmouth as a local and regional arts and culture leader with diverse cultural assets that contribute to local quality of life and economic vitality. It has successfully engaged the business community through the activities of PACA, resulting in a broader spectrum of stakeholders and a more sustainable revenue stream for Art-Speak to continue its mission. In 2014/15 Art-Speak raised \$3,200 through donations and other grants for its operations. The FY 15/16 UDAG Budget includes \$15,000 for Art-Speak to continue the work outlined in the annual report.

By supporting the activities of Art-Speak, the City of Portsmouth advocates and leverages the power of the local creative economy and continues to be a model for other communities. [Attached is a copy of the Agreement between the City and Art-Speak for your information.](#)

I recommend that the City Council move to authorize the City Manager to extend the agreement from July 1, 2015 through June 30, 2016.

2. **Update Re: Doble Center.** An update on the Doble Center will be made to the City Council by David Moore, Community Development Director, at Monday evening's meeting.
3. **Final Report of the Self-Assessment of Fire Department Operations.** On Monday evening, Fire Chief Steve Achilles will make a presentation to the City Council regarding the Final Report of the Self-Assessment of Fire Department Operations (April 2015). This final report is available on the City's website at http://www.cityofportsmouth.com/fires/PFD_Self_Assessment_FINAL-REPORT.pdf.

Items Which Require Action Under Other Sections of the Agenda:

1. Public Hearing/Second Reading for Proposed Ordinance.

- 1.1 **Public Hearing/Second Reading of Proposed Ordinance Amending the Zoning Map by Rezoning Lots Outlined in the Ordinance from Industrial (I), Office Research (OR) or Municipal (M) to Gateway (GW) and including Cate Street Between Hodgson's Brook and Bartlett Street; and Amending the Zoning Ordinance Article 7, Section 10.730 Gateway Planned Development and Article 15 – Definitions (Public Hearing kept open from the March 16, 2015 City Council meeting).** Portsmouth Land Acquisitions, the owner of several parcels of land on the Route One Bypass and Cate Street, has requested that the area generally bounded by Hodgson's Brook, Bartlett Street, the Pan Am Railroad line and the Route One Bypass be rezoned to the Gateway district, and that the Zoning Ordinance be amended to provide incentives for developments that include workforce housing. The Council opened its public hearing on this matter at its meeting on March 16, 2015, and then voted to continue the public hearing and second reading to May 18, 2015, and to refer the proposed zoning amendments to the Planning Board for a report back.

At its meeting on April 30, 2015, the Planning Board considered the proposed zoning changes and voted unanimously in favor of (1) the request to rezone the subject parcels to the Gateway district, and (2) the staff recommendations to amend two provisions of the Zoning Ordinance relating to building setbacks and height. However, the Board did not support the workforce housing incentives proposed by Portsmouth Land Acquisitions because of the considerable increases in residential density and building scale that would be allowed. The Board requested the Planning Department staff to draft alternative language to provide zoning flexibility for projects that incorporate workforce housing, and postponed the matter to its next meeting on May 21, 2015. [Attached is a memorandum from Rick Taintor, Planning Director](#), that explains this further.

It is the staff's recommendation to postpone second reading on the proposed zoning amendments to the June 1st City Council meeting and to keep the public hearing open until the Planning Board has had an opportunity to complete its review and make a final recommendation.

I recommend that the City Council move to continue the public hearing and postpone the vote on second reading to the City Council meeting on June 1, 2015 until after the Planning Board has worked on the Workforce Housing portion of this Ordinance. Action on this matter should take place under Section IX of the Agenda.

Consent Agenda:

1. **Acceptance of Police Department Grants.** [Attached under Section X of the Agenda is a memorandum](#), dated May 13, 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 grants:
 - a) A grant in the amount of \$8,580 has been received from NH Highway Safety for DWI/DUI patrols.
 - b) A grant in the amount of \$6,864 has been received from NH Highway Safety for Sobriety Checkpoints in Portsmouth.
 - c) A grant in the amount of \$6,292 has been received from NH Highway Safety for Pedestrian Patrols to address j-walking and bicycle safety.
 - d) A grant in the amount of \$6,292 has been received from NH Highway Safety for Enforcement Patrols addressing speed issues in Portsmouth.
 - e) A grant in the amount of \$6,292 has been received from NH Highway Safety to address red light running in Portsmouth.

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

2. **Request for License to Install Projecting Signs.** [Attached under Section X of the Agenda](#) are requests for a projecting sign licenses (see [attached memorandums from Rick Taintor, Planning Director](#)):
 - Brendin McCord, owner of Bennett's Store for property located at 41 Congress Street.
 - Shore Gregory, owner of ROW 34 for property located at 5 Portwalk Place for the installation of a projecting sign on a new bracket on Hanover Street.

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

City Manager's Items Which Require Action:

1. **Request for Approval of Parking Lot Agreement Re: Albacore Lot.** I have [attached a proposed new License Agreement](#) that will provide an additional 50 spaces at the Albacore Submarine site off Market Street. The public parking in the designated area will be

available during hours of operation of the City's Downtown Parking Shuttle. The License Agreement is for a period of 2 years for an annual fee of \$5,500 to be paid in bi-annual payments. In addition, the City will be surfacing and striping the portion of the parking area designated for this use which will be funded through the parking and expenditures fund. The City will also be installing a bus shelter and signage.

I recommend that the City Council move to refer this matter to the City Manager with power and, and further, authorize the City Manager to execute this Agreement, as presented.

2. **Peirce Island Wastewater Treatment Facility Recommendation.** As a result of the last meeting, [attached is a memorandum](#) from Public Works Director Peter Rice, Deputy Public Works Director Brian Goetz, Deputy City Attorney Suzanne Woodland, and City Engineer Terry Desmarais, regarding a recommendation for the Wastewater Treatment Facility.

As you may be aware, at the April 8, 2013 City Council meeting the Council, voted the following motion:

“Move to comply with EPA mandate to meet secondary treatment at the Peirce Island Wastewater Treatment Plant with the ability to treat a total nitrogen limit 8 milligrams per liter on a seasonal rolling average basis, stay within the current fence line, and to support the Biological Aerated Filter (BAF) technology.”

City staff will be present on Monday evening to answer any questions the City Council may have regarding this matter.

I recommend that the City Council move to reaffirm the City Council's vote of April 8, 2013 to move forward with the Peirce Island Wastewater Treatment Facility upgrade.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on May 4, 2015. In addition, this can be found on the City's website.
2. **Reminder Re: Continue of FY16 Budget Public Hearing and Work Session.** This is a reminder that the FY16 Budget Public Hearing and Work Session is on Wednesday, May 20, 2015 at 6:30 p.m., in the Eileen Dondero Foley Council Chambers.
3. **Report Back Re: Small Business.** [Attached is a memorandum from Everett Eaton, Chair of the Economic Development Commission](#), regarding City support of small business. This is the report back as requested by Councilor Esther Kennedy.
4. **Report Back Re: Seacoast Outright Pride Event.** As you will recall, at the April 20th City Council meeting, Seacoast Outright requested to hold a Pride Event on June 27, 2015 in Market Square. I am reporting back that City staff and myself met with Chuck Rhoades,

Chair of Seacoast Outright Board of Directors, regarding the logistics of the event. For your information, the event will be held from 12:00 p.m. to 4:00 p.m.; Porter to Congress Streets will be closed from Noon until after Pro Portsmouth's Summer in the Streets, which is held after 4:00 p.m. The event also includes six walk routes and all walkers will be on the sidewalks and meet in Market Square. Mr. Rhoades is working with City departments to ensure a successful event.

5. **Short-term Rentals.** As you will recall, at the March 2, 2015 City Council meeting, the Council voted to request the Planning Board 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 exception

For your information, [attached is a memorandum from Rick Taintor, Planning Director](#), responding to the City Council's request. The Planning Board considered these draft amendments at its meeting on April 30, 2015, and voted to postpone the matter in order to allow the Planning Department to prepare a revised draft for consideration. Issues of concern to Board members included (1) whether short-term rentals should be allowed by right or by special exception in the MRB district; (2) the requirement that lots with short-term rentals conform to all dimensional standards of the Zoning Ordinance, (3) the proposed 300-foot separation requirement, and (4) off-street parking standards.

The matter will be addressed again at the Planning Board's meeting on May 21, 2015. Therefore, this matter will be placed on the agenda for the City Council meeting on June 1, 2015.

6. **Household Hazardous Waste Day.** For your information, Household Hazardous Waste Spring Collection Day is on Saturday, May 30, 2015 between 8:00 a.m. and noon at the Department of Public Works facility at 680 Peverly Hill Road. [Attached is information](#) regarding the safe disposal of household hazardous waste products, which is also available on the City's website at <http://cityofportsmouth.com/publicworks/solidwaste-recycle-hhw.htm>.
7. **African Burying Ground Events May 20, 2015 to May 23, 2015.** For your information, [attached is a list of African Burying Ground Events from May 20, 2015 to May 23, 2015.](#)