

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, SEPTEMBER 21, 2015 TIME: 6:00PM

AGENDA

- **6:00PM - ANTICIPATED “NON-MEETING” WITH COUNSEL REGARDING COLLECTIVE BARGAINING IN ACCORDANCE WITH RSA 91-A:2, I (b)**

I. CALL TO ORDER (6:00PM)

II. ROLL CALL

III. INVOCATION

IV. PLEDGE OF ALLEGIANCE

V. ACCEPTANCE OF MINUTES *(There are no minutes on for acceptance this evening)*

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARING

- A. ORDINANCE AMENDING CHAPTER 7, VEHICLES, TRAFFIC AND PARKING OMNIBUS ORDINANCE

VIII. APPROVAL OF GRANTS/DONATIONS

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

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second reading of Annual Omnibus Ordinance Change, Parking and Traffic

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. *Acceptance of Donation to the Coalition Legal Fund:
- Town of Moultonborough - \$6,500.00

(Anticipated action – move to approve and accept the donation as listed, to be placed in the Coalition Legal Fund)

- B. Letter from Andrea Abbott, Portsmouth Halloween Parade, requesting permission to hold the 21st annual Portsmouth Halloween Parade on Saturday, October 31, 2015
(Anticipated action – move to refer to the City Manager with power)

- C. Request for License from Lisa Shah, owner of LIT Boutique for property located at 19 Congress Street for a projecting sign located on Congress Street on an existing bracket ***(Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Lisa Shah, owner of LIT Boutique for a projecting sign located on Congress Street on an existing bracket 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 William Guernier regarding Transportation Network Services Ordinance ***(Sample motion – move to refer to the City Attorney for review and report back)***

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 Ordinance:
 - 1.1 Public Hearing/Second Reading of Annual Omnibus Ordinance Change, Parking and Traffic ***(Action on this item should take place under IX of the Agenda)***

City Manager’s Items Which Require Action:

1. Approval of Land Transfers for Proposed Municipal Parking Structure at 165 Deer Street
2. Proposed Land Acquisition (Frank Jones Center Property)
3. License Agreement Re: WSCA

4. License Request for 386-390 State Street
5. Polling Hours – November 3, 2015 Municipal Election

Informational items

1. Events Listing
2. Capital Improvement Plan (CIP) Process
3. Haven Park Public meeting

B. MAYOR LISTER

1. Appointments to be Considered:
 - Reappointment of Shari Donnermeyer to the Parking & Traffic Safety Committee
 - Appointment of Jennifer Pyke to the Portsmouth Housing Authority
2. Appointments to be Voted:
 - Appointment of Richard Winstanley to the Cable Television and Communications Committee
 - Appointment of Jolanda Fannin to the Library Board of Trustees filling the expired term of Jody Record until October 1, 2015
 - Reappointment of Ernie Greenslade to the Library Board of Trustees
 - Reappointment of Ronald Cypher to the Parking & Traffic Safety Committee
 - Reappointment of Frederick (Ted) Gray, Jr. to the Parking & Traffic Safety Committee
 - Reappointment of Harold Whitehouse to the Parking & Traffic Safety Committee

C. ASSISTANT MAYOR SPLAINE

1. Thanking John Connors

D. COUNCILOR KENNEDY

1. *Concerns with Property Assessments

E. COUNCILOR LOWN

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the August 13, 2015 meeting (***Sample motion – move to approve and accept the minutes of the August 13, 2015 Parking & Traffic Safety Committee meeting***)
2. Parking & Traffic Safety Committee Action Sheet and Minutes of the September 3, 2015 meeting (***Sample motion – move to approve and accept the minutes of the September 3, 2015 Parking & Traffic Safety Committee meeting***)

F. COUNCILOR DWYER

1. *Motion to request that the City Council engage the expert in police facility construction to make a presentation to the Council about the particular requirements for a police facility

G. COUNCILOR THORSEN

1. Recent Vote Restricting PPAF Operation, and Motion to Reconsider

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 August 12, 2015 meeting of the Conservation Commission are now available on the City's website
2. *Notification that the minutes of the August 12, 2015 meeting of the Historic District Commission are now available on the City's website
3. *Notification that the minutes of the June 10, 2015 and July 1, 2015 meetings of the Historic District Commission are now available on the City's website
4. *Notification that the minutes of the July 16, 2015 meeting of the Planning Board are now available on the City's website
5. *Notification that the minutes of the August 4, 2015 meeting of the Site Review Technical Advisory Committee 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: September 17, 2015
To: Honorable Mayor Robert J. Lister and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on September 21, 2015 City Council Agenda

6:00 p.m. Non-meeting with counsel regarding collective bargaining 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.

Items Which Require Action Under Other Sections of the Agenda:

1. **Public Hearing/Second Reading of Proposed Ordinance.**

1.1 **Public Hearing/Second Reading of Annual Omnibus Ordinance Change, Parking and Traffic.** As a result of the September 8th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the [attached proposed annual omnibus set of ordinances recommended by the Parking and Traffic Safety Committee](#). This year's omnibus changes are detailed on the [attached sheets](#), and address changes to on-street spaces and update wording to reflect current conditions.

By way of background, On March 29, 2000, the City Council adopted Ordinance #4-2000 under Chapter 7, Article 1, Section 7.103 of the Vehicles, Traffic and Parking Ordinance. This ordinance was adopted in order to be more responsive to the changing parking needs of the downtown. Before its adoption, it often took three readings of the City Council to simply change a parking space from a two-hour time restriction to a 15-minute one. This process would often take four to six months to complete.

The current ordinance authorizes the Parking Traffic and Safety Committee to recommend temporary parking and traffic regulations to the City Council for its

approval in the form of its monthly meeting minutes. Once the Council approves these minutes, the temporary regulations are in effect for a period not to exceed one year. During that year the Council and the public have the benefit of seeing how a temporary regulation works before adopting it as a permanent change to the parking ordinance. These temporary regulations are presented at one time to the Council for its consideration.

The [attached amendments to Chapter 7, Vehicles, Traffic and Parking](#) for the Council's consideration summarize the temporary parking regulations implemented by the Parking and Traffic Safety Committee between June 13, 2014 and June 11, 2015, as well as updates to reflect current conditions.

In addition, [attached is a summary](#) of the number of new parking spaces created and lost by the annual proposed Omnibus Ordinance change, which lists the ordinance changes and their impact on parking spaces. Further, other changes in the downtown area that affected parking spaces, but were not part of the omnibus ordinance, are included for informational purposes.

[As shown in this attachment](#), the Ordinance changes result in a loss of ten on-street spaces year round. This represents approximately 1 percent of the total 783 on-street spaces in the downtown area. Twenty-eight additional on-street metered spaces are lost due to development projects. However, the HarborCorp project will include the construction of a 523 space parking garage, of which 70 to 170 spaces are projected to be available to the public during typical peak demand of the HarborCorp site. These additional private spaces offset the loss of 40 on-street parking and with the exception of special events will add a net of 30 to 130 spaces.

City staff will be available to answer any questions the City Council may have regarding this matter.

I recommend the City Council move to pass second reading and schedule third and final reading of the attached proposed Ordinance, at the October 5th City Council meeting, as presented. Action on this matter should take place under Section IX of the Agenda.

Consent Agenda:

1. **Acceptance of Donation to the Coalition Legal Fund.** The City of Portsmouth has received a donation from the Town of Moultonborough in the amount of \$6,500 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.

2. **Request for License to Install Projecting Sign.** Attached under Section X of the Agenda is a request for a projecting sign license (see attached memorandum from Rick Taintor, Planning Director):

- Lisa Shah, owner of LIT Boutique, for property located at 19 Congress Street

I would recommend the City Council move to approve the aforementioned Projecting Sign License as recommended by the Planning Director and, further, authorize the City Manager to execute this License Agreement for this request. Action on this item should take place under Section X of the Agenda.

City Manager's Items Which Require Action:

1. **Approval of Land Transfers for Proposed Municipal Parking Structure at 165 Deer Street.** As part of the public-private partnership project to develop a new municipal parking structure off Deer Street, the City is in the process of negotiating several land transfers with private property owners. These include:

- Acquisition by the City from Deer Street Associates of a parcel of land on which to construct the parking garage, construct a new city street providing primary access to the garage, and relocate an existing sewer line;
- Acquisition by the City from the John W. Gray and Bradford A. Gray Revocable Trusts of a small portion of an existing parcel to provide needed width at a pinch point for the proposed new city street; and
- Conveyance from the City to Deer Street Associates of a triangular area of land at the corner of Deer and Bridge Streets.

Planning Department Approvals and Recommendations

The proposed land transfers have required the consolidation and subdivision of two existing lots and the adjustment of an existing lot line. At its meeting on August 20, 2015, the Planning Board voted to approve the following two applications for subdivision approval:

1. The application of Deer Street Associates and the City of Portsmouth to re-align the roadway at the corner of Bridge and Deer Streets and to transfer 1,717 ± s.f. of land so that property at 165 Deer Street increases in area from 108,359 ± to 110,076 ± s.f.
2. The application of Deer Street Associates to consolidate two lots at 165 Deer Street and 191 Hanover Street and subdivide the combined lot into six new lots ranging in area from 8,519 s.f. to 54,017 s.f.

At the same meeting, the Planning Board took the following actions in support of proposed land transfers:

- A. Voted to recommend that the City transfer to Deer Street Associates its right, title and interest in a parcel of land at the intersection of Deer Street and Bridge Street, containing 1,717 s.f. (0.0394 ac.), as shown on the “Proposed Roadway Alignment & Land Transfer Plan” prepared by Ambit Engineers, Inc., dated July 2015 (revised 8/7/15), approved by the Planning Board on August 20, 2015.

- B. Voted to recommend that the City acquire two parcels of land off Deer Street and Bridge Street for construction of a municipal parking garage and associated access and utility improvements, and to acquire or convey any further property interests necessary to implement the intent of this recommendation. Said parcels are shown on the Disposition Plan, Sheet C1 – Disposition Plan Land Ownership, prepared by Ambit Engineering, Inc., dated July 2015 (amended 8/8/15), and include two parcels:
 1. Lot 1 as shown on the “Consolidation & Subdivision Plan” for Deer Street Associates, approved by the Planning Board on August 20, 2015, containing 54,017 ± s.f. (1.2401 ac.), to be acquired from Deer Street Associates;

 2. A triangular parcel of land, containing 421 ± s.f. (0.0097 ac.), to be acquired from the John W. Gray Revocable Trust and the Bradford A. Gray Revocable Trust.

Said land is to be acquired along with and subject to certain easements as described on the Disposition Plan, Sheet C2 – Disposition Plan Easements, prepared by Ambit Engineering, Inc., dated July 2015 (amended 8/8/15).

Disposition Plan

Attached for reference is the Disposition Plan, consisting of Sheet C1 – Land Ownership and Sheet C2 – Easements. Sheet C1 shows the three proposed land transfers:

- **Lot “A”** (outlined in red) is the land that is to be conveyed from Deer Street Associates to the City of Portsmouth. This parcel extends from Bridge Street, near its intersection with Deer Street, to the rear of the City-owned parking lot off Rock Street. The majority of this parcel is the proposed site of the new parking garage, with a 32-foot (+/-) strip providing future access from Bridge Street to the garage.

- **Lot “B”** (outlined in blue) is the land that is to be conveyed from the City to Deer Street Associates. This area is currently part of the right of way of Deer and Bridge Streets but is not required for public use.

- **Lot “C”** (outlined in green) is a small triangular area that is to be acquired by the City from the Gray Trusts. It is located at the rear of the parcel at 126 Bridge Street occupied by Redlon & Johnson Supply, and is needed to provide sufficient width and alignment for the new city street to access the garage.

[Sheet C2 of the Disposition Plan](#) shows a number of existing and proposed easements that are associated with the land transfers. On the plan, numbers in diamonds [◇] represent existing easements that will be terminated as part of the garage project, and numbers in hexagons [⬡] represent permanent or temporary easements that will be created as part of the project. (These easements are numbered nonsequentially because the plan does not show existing easements that will be unaffected by the land transfers and garage project.)

- **Easement 1** is an existing sewer easement that crosses the land of Deer Street Associates, including both Lot A (to be acquired by the City) and adjacent land that will be retained by Deer Street Associates. The garage project includes the relocation of this easement onto land currently owned or to be acquired by the City, including the future city street from Bridge Street to the garage. Therefore, this easement can be terminated.
- **Easement 3** is a portion of an existing sidewalk easement on property of Deer Street Associates along the north side of Deer Street. This portion of the easement will serve no purpose once Lot “B” has been transferred to Deer Street Associates; therefore, it is proposed to be discontinued.
- **Easement 4** is an existing water line easement across property of Deer Street Associates. The water line will be relocated as part of the garage project and therefore the easement is proposed to be terminated.
- **Easement 10** is a proposed permanent easement to the Boston & Maine Railroad for an agency office to be created within the parking garage structure. The Railroad has an existing easement for such an office on property of Deer Street Associates, and that easement will be relocated to the City property as part of the garage project.
- **Easement 11** is a proposed permanent cross easement between the City and Deer Street Associates on Lots 1, 2, and 3 (and possibly also Lot 4) for the purpose of providing a secondary, underground access route between the municipal garage and Deer Street. The configuration and location of this easement will be identified during the design of the City’s garage and buildings planned by Deer Street Associates on Lots 3 and 4.
- **Easement 12** is a proposed temporary easement from the City to Deer Street Associates for access to its parcels shown on the plan as Lots 2, 3 and 6. The easement area is indicated by a heavy dashed border, which is the same area that is planned to become a new city street as part of the garage development. This easement is required to allow Deer Street Associates access to its parcels until the new city street has been constructed and accepted.

- **Easement 13** is a proposed temporary easement from Deer Street Associates to the City for building encroachments. The parcel to be acquired by the City (shown as Lot “A” on Sheet C1 and as “Lot 1” on Sheet C2) includes a building that encroaches onto Lot 2. This easement, outlined in a heavy dashed line, will allow the City to maintain the building until the garage construction begins, and then to demolish the entire building as part of the project.
- **Easement 14** is a proposed parking easement from the City to Deer Street Associates to provide for future temporary and permanent parking spaces to serve Lot 6. The location of these parking spaces will be determined during project design.

Move the following motions to implement these transfers:

1. *Vote to acquire from Deer Street Associates a parcel of land off Deer Street and Bridge Street containing 54,017 ± s.f. (1.2401 ac.) for construction of a municipal parking garage and associated access and utility improvements, and to acquire or convey any further property interests necessary to implement the intent of this acquisition.*

Said parcel is shown as Lot “A” on the Disposition Plan, Sheet C1 – Disposition Plan Land Ownership, prepared by Ambit Engineering, Inc., dated July 2015 (amended 9/15/15). Easements to be created, terminated or relocated in connection with this acquisition are shown on the Disposition Plan, Sheet C2 – Disposition Plan Easements, prepared by Ambit Engineering, Inc., dated July 2015 (amended 9/15/15).

2. *Vote to transfer to Deer Street Associates the City’s right, title and interest in a parcel of land at the intersection of Deer Street and Bridge Street, containing 1,717 ± s.f. (0.0394 ac.).*

Said parcel is shown as Lot “B” on the Disposition Plan, Sheet C1 – Disposition Plan Land Ownership, prepared by Ambit Engineering, Inc., dated July 2015 (amended 9/15/15).

3. *Vote to acquire from the John W. Gray Revocable Trust and the Bradford A. Gray Revocable Trust a triangular parcel of land off Bridge Street containing 421 ± s.f. (0.0097 ac.) for construction of access and utility improvements, and to acquire or convey any further property interests necessary to implement the intent of this acquisition, including an 8-foot sidewalk easement between said parcel and Bridge Street.*

Said parcel is shown as Lot “C” on the Disposition Plan, Sheet C1 – Disposition Plan Land Ownership, prepared by Ambit Engineering, Inc., dated July 2015 (amended 9/15/15). The sidewalk easement is shown as Easement “12” on the Disposition Plan, Sheet C2 – Disposition Plan Easements, prepared by Ambit Engineering, Inc., dated July 2015 (amended 9/15/15).

2. **Proposed Land Acquisition (Frank Jones Center Property).** As requested by the City Council, I met with Brian Thibeault of Portsmouth Land Acquisition LLC, owner of the property known as Frank Jones Center. This property consists of 12.2 acres. Mr. Thibeault is willing to sell 8.4 acres for \$9,000,000 ([see attached letter and aerial map](#)). Mr. Thibeault is interested in retaining 3.8 acres which includes the Frank Jones Center. The current draft assessed value of the 12.2 acres is \$5.8M The current draft assessed value of the 8.4 acres is \$2.8M.

The City Council for Monday evening has requested an opportunity to give a counter offer to Mr. Thibeault.

Action on this matter is necessary.

3. **License Agreement Re: WSCA.** The City Council by vote on February 17, 2015 authorized the granting of a license to Portsmouth Community Radio (WSCA) for the construction of a 40 foot antenna on top of the City's Newington Booster Pump Station. [Original license attached](#). Portsmouth Community Radio has since determined that it would be in its interest to construct an 80-foot free-standing antenna with a [WSCA FM radio transmitter antenna attached](#). City staff has no objection to this change.

WSCA seeks approval from the City Council to amend the license agreement to allow an 80-foot free standing antenna instead of a 40-foot rooftop antenna. The free standing tower will become the property of the City of Portsmouth upon satisfactory completion of its construction. The primary use of the tower will be for the benefit of the FM antenna for WSCA for its business operations, however, the City of Portsmouth will have the right to use the tower up to the midpoint of the tower (approximately 40-feet from grade) as long as there are no communication interferences with WSCA.

If the City Council approves the amendment, WSCA will proceed with trying to obtain necessary approvals from the Town of Newington to undertake that project.

I recommend the City Council move to authorize the City Manager to amend the existing WSCA License to allow an 80-foot free-standing antenna and to make such other minor amendments to the agreement as may be necessary to accommodate the change.

4. **License Request for 386-390 State Street.** FA Gray is currently working on a painting project for property owners John and Skye Maher at 386-390 State Street. FA Gray applied for and was granted a sidewalk encumbrance to facilitate painting work at that location. [See attached encumbrance permit](#). FA Gray would like to extend the encumbrance until October 2 and that requires a license. Susan Wolf at FA Gray reports that the project fell behind due to weather and additional preparation work. [See attached communication](#). Staff has no objection to the grant of a license provided that it includes terms and conditions similar to those already contained in the encumbrance permit which includes protection of pedestrians, clean up of debris, and related conditions.

I recommend the City Council move to authorize the City Manager to enter into a license with FA Gray to facilitate the completion of painting activities for 386-390 State Street.

5. **Polling Hours – November 3, 2015 Municipal Election.** [Attached is a memorandum from Kelli L. Barnaby, City Clerk,](#) recommending that the polling hours for the Municipal Election on November 3, 2015 be set from 8:00 a.m. to 7:00 p.m.

I would recommend the City Council move to set the polling hours from 8:00 a.m. to 7:00 p.m. for the Municipal Election on Tuesday, November 3, 2015.

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 8, 2015. In addition, this can be found on the City's website.
2. **Capital Improvement Plan (CIP) Process.** For your information, on September 23rd from 6:30 p.m. to 8:30 p.m. in the Levenson Room at the Portsmouth Public Library, City staff will be holding a public meeting to provide an overview of the Capital Improvement Plan (CIP) process. Topics covered in the meeting will include information about how projects are selected for inclusion in the CIP, the CIP's relationship to the Master Plan and other city and state plans, and how funding is allocated to CIP projects. This meeting is being held in coordination with the City-Wide Neighborhood Committee. Additional public meetings for the CIP preparation process will also be scheduled with the Planning Board in November and the City Council in February 2016.

CIP Public Meeting Agenda (September 23, 6:30 p.m.)

I. Capital Improvement Plan (CIP) Process

- a. Planning process and schedule
- b. Project selection and prioritization
- c. Relationship to City Master Plan, other city plans, and state or federal requirements

II. Overview of Current CIP projects

- a. Summary of geographic distribution
- b. Summary of funding by project or facility type

III. Public Input Session

- a. Opportunity for public to provide input on project priorities

3. **Haven Park Public Meeting.** For your information, [attached is a public meeting notification](#) regarding the Haven School Playground Improvement Project, which is at the Corner of South and South School Streets. The public meeting will be held on Tuesday, September 29, 2015 at 6:30 p.m., in the Levenson Room at the Portsmouth Public Library.