

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, NOVEMBER 20, 2017 TIME: 6:30 PM

AGENDA

- **6:30PM – WORK SESSION REGARDING PORTSMOUTH LISTENS STUDY CIRCLES – CONFERENCE ROOM A**

- I. **CALL TO ORDER**
- II. **ROLL CALL**
- III. **INVOCATION**
- IV. **PLEDGE OF ALLEGIANCE**

PRESENTATIONS

1. Rockingham County Update - Kevin St. James, Rockingham County Commissioner
2. Coakley Landfill Group Update – Robert P. Sullivan, City Attorney

- V. **ACCEPTANCE OF MINUTES – OCTOBER 2, 2017**

- VI. **PUBLIC COMMENT SESSION**

- VII. **PUBLIC HEARINGS ON ORDINANCES AND/OR RESOLUTIONS**

- A. Public Hearing/Second reading Re: Zoning Ordinance Amendments – Off Street Parking – Chapter 10, Article 11 – Site Development Standards; Article 15 – Terms of General Applicability and Article 8 – Supplemental Use Standards

- **PRESENTATION**
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

- B. Public Hearing/Second reading Re: Gateway Mixed Use District Zoning Amendments – Chapter 10, Article 5B – Gateway Mixed Use Districts; Article 5A – Character-Based Zoning; and Article 4 – Zoning Districts and Use Regulations

- **PRESENTATION**
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

C. Public Hearing/Second reading to Amend Chapter 12 by Adopting the 2009 International Building Code and 2009 International Residential Code to Replace the Existing 2006 Versions and to Amend Chapter 15 by Adopting the 2009 International Plumbing and Mechanical Codes to Replace the Existing 2006 Version. This also includes local amendments to the 2014 National Electrical Code

- **PRESENTATION**
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

D. Public Hearing/Second reading to Amend Chapter 5, Fire Department and Prevention Regulation which includes Adoption of 2015 International Fire Code to Replace the Existing 2006 International Fire Code

- **PRESENTATION**
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

E. Second reading of Proposed Ordinance Amendments to Chapter 4 Pertaining to the City's Food Licensing and Regulations by Striking Article I-V in its entirety and replace with new language (*Postponed from October 16, 2017 City Council Meeting*)

VIII. APPROVAL OF GRANTS/DONATIONS

A. Acceptance of Police Department Grants & Donation:

- Donation from the Estate of Geraldine Webber – Final Disbursement of Funds to the Portsmouth Police Department - \$2,663.47
- Internet Crimes Against Children Task Force Grant – ICAC Task Force satellites in NH - \$264,256.00
- NH Highway Safety Grants
 - a. STEP Grant for Traffic Enforcement - \$15,940.28
 - b. DWI Patrol Grant - \$14,547.00
 - c. Pedestrian/Bicycle Patrol Grant - \$6,157.20
 - d. Sobriety Checkpoints Grant - \$7,426.56
 - e. Distracted Driving Grant - \$7,157.20

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

B. Acceptance of Fire Department Donations:

- Donation of a disbursement check in the amount of \$188,129.88 from the Estate of Geraldine W. Webber. This donation is the final disbursement of funds to the Portsmouth Fire Department
- *Donation from G. Willikers LLC in the amount of \$55.00 for fire prevention and awareness costs

(Sample motion – move to accept and approve the donations to the Portsmouth Fire Department, as presented)

- C. *Acceptance of Community Development Block Grant Funds (**Sample motion – move to accept and expend a Community Development Block Grant (CDBG) in the amount of \$513,580 from the U.S. Department of Housing and Urban Development**)
- D. *Acceptance of Donation Re: John McMaster Memorial Bench (**Sample motion – move to accept and approve the donation for the John McMaster Memorial Bench, as presented**)
- E. Acceptance of sponsorship for Zagster Bike Share Station from Portwalk Place for \$9,000.00 per year for two years (**Sample motion – move to accept and approve the sponsorship from Portwalk Place for the Zagster Bike Share Station**)

IX. CONSENT AGENDA

(ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)

- A. Letter from Emily Christian, National Multiple Sclerosis Society requesting permission to hold the 2018 Bike MS NH Seacoast Escape on Saturday, August 25, 2018 (**Anticipated action – move to refer to the Acting City Manager with power**)
- B. Letter from Lilia Potter-Schwartz requesting to hold the 3rd Annual Race To Educate on Sunday, May 27, 2018 at 12:30 p.m. (**Anticipated action – move to refer to the Acting City Manager with power**)
- C. Request for License to Install Projecting Sign from Friends of the Music Hall owner of The Music Hall for property located at 28 Chestnut Street (**Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement 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 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

- D. Request for License to Install Projecting Sign from VPC LLC owner of Office Resources for property located at 28 Deer Street (**Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement 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 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

- E. Request for License to Install Projecting Sign from Jamer Realty Inc. owner of The Wilder for property located at 174 Fleet Street (**Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement 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 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

- F. Request for License to Install Projecting Sign from Andover Portland Avenue Assoc. LLC owner of Pretty Little Things for property located at 10 Vaughn Mall (**Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement 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 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

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. (See E-mail Correspondence)
- B. Letter from Greg Mahanna, Pheasant Lane Homeowners Association expressing their, opposition to the proposed expansion of the Gateway Mixed Zoning area, specifically, the inclusion of the St. James church property in the mixed-use expansion (**Anticipated action – move to accept and place the letter on file**)
- C. Letter from Paul Harrington, Diocese of Manchester, regarding Expansion of Gateway Corridor (**Anticipated action – move to accept and place the letter on file**)
- D. Letter from Neil Robinson request for a quit claim to release the City's interest in the paper street portions of Moffat Street adjoining property located at 170 Swett Avenue (**Anticipated action – move to refer to the Planning Board for report back**)
- E. Letter from Mike Somers, President and CEO, New Hampshire Lodging & Restaurant Association, regarding the update of Chapter 4, Articles I-V of the ordinances of the City of Portsmouth
- F. Letter from Karyn P. Forbes, Attorney-at-Law, Shaheen & Gordon, regarding Proposed amendment to Chapter 15, Part III, Fuel Gas Installations

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. ACTING CITY MANAGER

Acting City Manager's Items Which Require Action:

1. Request for Approval of the Tentative Agreement between the Fire Commission and the Firefighters Association of Portsmouth, New Hampshire Local #1313 Tentative Agreement
2. Request for Approval of the Tentative Agreement between the Fire Commission and The Portsmouth Professional Fire Officers Association Tentative Agreement
3. Report Back from Planning Department Re: Involuntarily Merged Lot at 346 Bartlett Street
4. Holiday Parking
5. Charles Lassen's Proposal for Dock Space
6. Report Back Re: Community Home Solutions PILOT Agreement
7. Request to Dispose of Surplus Vehicles and Equipment
8. Request Re: Installation of Fencing and Signage for the Jay Smith Memorial Garden, the Lower State Street Pocket Park
9. Request to Reschedule November 27, 2017 Work Session Re: McIntyre Property

Acting City Manager's Informational Items:

1. Guiding Principles Related to Code Adoption in Portsmouth
2. Events Listing
3. Letter Re: Uniform Standards of Professional Appraisal Practice 2017 Commercial / Industrial for City of Portsmouth
4. Report Back Re: Revaluation Peer Review
5. Trustees of the Trust Funds Annual Report, MS-9 and MS10
6. Greater Portsmouth Chamber Collaborative Semi-Annual Report
7. Business Retention and Expansion Report
8. Toxic-Free Weed Control
9. Report Back Re: Exploring the Concept of allowing Artists and Others who have a Studio, Gallery, Workplace, or Storefront in Portsmouth to be able to use their space for residence, with certain limitations of time period and fire and health standards

B. MAYOR BLALOCK

1. Appointment to be Considered:
 - Appointment of Adrienne Harrison (current alternate) as Regular member to the Conservation Commission
 - Appointment of Nathalie Morison as an Alternate member to the Conservation Commission

- Reappointment of Jim Lee to the Zoning Board of Adjustment
 - Appointment of Peter McDonell (current alternate) as a Regular Member to the Zoning Board of Adjustment
2. *Appointments to be Voted:
 - Appointment of Cyrus Beer as an Alternate to the Historic District Commission
 - Reappointment of Dana Levenson to the Economic Development Commission
 3. Resignations:
 - Matthew Cardin from the Conservation Commission
 - Fred “Ted” Gray, Jr. from the Parking & Traffic Safety Committee effective December 31, 2017
 4. *Appointment of City Councilors to the Joint Budget Committee

C. ASSISTANT MAYOR SPLAINE

1. Re-Thinking the McIntyre Development Process – Creating a Vision before Choosing a Developer

D. COUNCILOR LOWN

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the November 2, 2017 meeting (***Sample motion – move to accept and approve the Action Sheet and Minutes of the November 2, 2017 Parking & Traffic Safety Committee meeting***)

E. COUNCILOR CYR

1. *Parrott Avenue Parking - half employee parking/half metered parking to be implemented in September 2018, when the Foundry Place Garage is completed (***Sample motion – move to bring back for First Reading at the December 4, 2017 City Council meeting***)

F. COUNCILOR DENTON

1. ***Motion for City Staff to report back on the role the Liquor Enforcement Board plays in regards to the State Liquor Commissions’ liquor license letter requirement, what in the Fire Code could lead people to believe a “No Dancing Policy’ existed, and any potential changes to either the Liquor Enforcement Boards’ policies or the Fire Code that could result in more establishments allowing dancing.**

XII. MISCELLANEOUS/UNFINISHED BUSINESS

XIII. ADJOURNMENT

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

**Indicates Verbal Report*

INFORMATIONAL ITEMS

1. Notification that the minutes of the September 12, 2017 and September 21, 2017 meetings of the Planning Board are now available on the City’s website

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: November 16, 2017
To: Honorable Mayor Jack Blalock and City Council Members
From: Nancy Colbert Puff, Acting City Manager *NCP*
Re: Acting City Manager's Comments on November 20, 2017 City Council Agenda

Work Session:

6:30 p.m.

1. **Portsmouth Listens Re: Study Circles.** On Monday evening at 6:30 p.m., the City Council will hold a Work Session at which time Portsmouth Listens will present its findings from Study Circles review of housing. [See attached reports.](#)

Presentations:

1. **Rockingham County Update.** Kevin St. James, Rockingham County Commissioner, will make a presentation to the City Council regarding the Rockingham County budget.
2. **Coakley Landfill Group Update.** City Attorney Robert Sullivan will update the City Council regarding the Coakley Landfill Group.

Acceptance of Grants and Donations:

1. **Acceptance of Police Department Grants & Donation.** [Attached under Section VIII of the Agenda is a memorandum](#), dated October 24, 2017, from Kathleen M. Levesque, Executive Assistant, Office of the Police Chief; at the October 24, 2017 monthly Police

Commission meeting, the Board of Police Commissioners approved and accepted the following grant:

1. a. A donation in the amount of \$2,663.47 from the Estate of Geraldine Webber. Said donation is the final disbursement of funds from the Estate to the Portsmouth Police Department.
- b. A grant in the amount of \$264,256 for internet Crimes Against Children Task Force funding from the US Dept. of Justice, Office of Justice Programs. NOTE: Portsmouth is the grant administrator. The grant goes to fund all of the ICAC Task Force satellites in New Hampshire.
- c. NH Highway Safety Grants as follows –
 - i. A Portsmouth STEP grant in the amount of \$15,940.28 for traffic enforcement.
 - ii. A Portsmouth DWI Patrol grant in the amount of \$14,547.
 - iii. A Portsmouth Pedestrian/Bicycle Patrol grant in the amount of \$6,157.20 for enforcement of the state’s pedestrial/bicycle laws via directed patrol.
 - iv. A Portsmouth Sobriety Checkpoints grant in the amount of \$7,426.56.
 - v. A Portsmouth Distracted Driving grant in the amount of \$7,157.20.

The Police Commission submits the information to the City Council pursuant to City Policy Memorandum #94-36, for the City Council’s consideration and approval at this evening’s City Council meeting.

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

2. **Acceptance of Fire Department Donations.** [Attached under Section VIII of the Agenda is a memorandum](#), dated July 19, 2017 from City Attorney Robert Sullivan, regarding the acceptance of a donation to the Fire Department.

1. a. Donation of a disbursement check in the amount of \$188,129.88 from the Estate of Geraldine W. Webber. This donation is the final disbursement of funds to the Portsmouth Fire Department.
2. b. Donation from G. Willikers LLC in the amount of \$55.00 for fire prevention and awareness costs.

I recommend the City Council move to accept and approve the donations to the Portsmouth Fire Department, as presented. Action on this matter should take place under Section VIII of the Agenda.

3. **Acceptance of Community Development Block Grant Funds.** The U.S. Department of Housing and Urban Development has informed the City that a Community Development Block Grant (CDBG) in the amount of \$513,580 will be made available to Portsmouth for FY 2018. This amount represents an increase of \$2,684 or .52% from last year. These funds are used to carry out a variety of housing rehabilitation and accessibility projects and other CDBG eligible community development and public improvements as well as assistance to public service agencies.

The Community Development Department, working in conjunction with the City's Citizens Advisory Committee, held a series of public hearings and meetings in the spring to solicit input and prioritize projects with regard to the expenditure of these FY 2018 funds.

I recommend the City Council move to accept and expend a Community Development Block Grant (CDBG) in the amount of \$513,580 from the U.S. Department of Housing and Urban Development. Action on this matter should take place under Section VIII of the Agenda.

4. **Acceptance of Donation Re: John McMaster Memorial Bench.** The City of Portsmouth has received a donation in the amount of \$1,200.00 from Craig Alie, on behalf of the Alie Family, which represents their contribution toward the John McMaster Memorial Bench.

I recommend the City Council move to accept and approve the donation for the John McMaster Memorial Bench, as presented. Action on this matter should take place under Section VIII of the Agenda.

5. **Acceptance of Sponsorship for Zagster Bike Share Station from Portwalk.** As you are aware, the City of Portsmouth has created a bike share program and leases Zagster Bicycles and Zagster Bicycle Stations from Zagster Inc. The City has installed Zagster Bicycle Stations on its property, manages the bike share program and receives revenue from membership and user fees. Zagster provides maintenance and repair for the Zagster Bicycles and Zagster Bicycle Stations in the bike share program and data usage information to the City.

Network Sponsors are private property owners who want to expand the City's bike share program by installing additional Zagster Bicycle Stations and Zagster Bicycles on private property. The Network Sponsor will not receive any revenue generated by use of Zagster Bicycles and this MOU does not amend the revenue distribution set forth in the City and Zagster's contract.

[Attached is a Memorandum of Understanding between the City of Portsmouth and Portwalk, the Network Sponsor.](#) Portwalk cost to City of Zagster Bicycle Station and Zagster Bicycles is \$9,000 per year for two years beginning May 1, 2018.

The City Council is required to accept and approve this sponsorship.

Therefore, I recommend the City Council move to accept and approve the sponsorship from Portwalk Place for the Zagster bike share station. Action on this matter should take place under Section VIII of the Agenda.

Items Which Require Action Under Other Sections of the Agenda:

1. Public Hearing and Second Reading of Proposed Ordinances and Resolutions:

- 1.1 **Public Hearing/Second Reading Re: Zoning Ordinance Amendments – Off-Street Parking.** As a result of the October 16th City Council meeting, I am bringing back for public hearing and second reading the [attached](#) proposed Zoning Ordinance Amendments to Off-Street Parking. [Attached is a memorandum](#) from Planning Director Juliet Walker dated November 14, 2017 reflecting revisions since first reading.

At its September 21, 2017 meeting, the Planning Board voted to recommend that the City Council enact the proposed amendments to Articles 8, 11 and 15 regarding off-street parking regulations.

I recommend the City Council move to pass second reading and schedule a third and final reading on the proposed Zoning Ordinance Amendments to the off-street parking regulations at the December 4, 2017 City Council meeting, as presented. Action on this matter should take place under Section VII of the Agenda.

- 1.2 **Public Hearing/Second Reading Re: Gateway Mixed Use District Zoning Amendments.** As a result of the October 16th City Council meeting, I am bringing back for public hearing and second reading the [attached](#) proposed Ordinance to Gateway Mixed Use District Zoning Amendments. [Attached is a memorandum](#) from Planning Director Juliet Walker requesting first reading and outlining the proposed Gateway Mixed Use District Zoning Amendments.

At its September 21, 2017 meeting, the Planning Board voted to recommend that the City Council enact the proposed amendments to Articles 4, 5A, and 7 and to adopt a new Article 5B Gateway Mixed Use Zoning Districts (as amended based on discussion by Planning Board) to City Council for approval.

I recommend the City Council move to pass second reading and schedule third and final reading on the proposed Ordinance to the Gateway Mixed Use District Zoning Amendments at the December 4, 2017 City Council meeting, as presented. Action on this matter should take place under Section VII of the Agenda.

- 1.3 **Public Hearing/Second Reading to Amend Chapter 12 by Adopting the 2009 International Building Code and 2009 International Residential Code to Replace the Existing 2006 Versions and to Amend Chapter 15 by Adopting the 2009 International Plumbing and Mechanical Codes to Replace the Existing 2006 Version. This also includes local amendments to the 2014 National Electrical Code.** As a result of the October 16th City Council meeting, I am bringing back for public hearing and second reading the [attached](#) aforementioned proposed Ordinance.

Chapter 12 (International Building Code, 2006 & the International Residential Code, 2006), Chapter 15 (International Plumbing Code, 2006 & International Mechanical Code, 2006), and Chapters 12 and 5 (which reference the National Electric Code, and the International Energy Conservation Code), need to be updated to conform with the 2009 adopted state building code, and in addition we recommend adopting the Existing Building Code (also part of the state building code but not reflected in our current ordinances).

As with the existing ordinances, the [attached](#) includes local amendments that are tailored to City. We also propose amending the 2014 Electrical Code to prohibit NM cable (trade name Romex) from commercial installations, to prohibit service entrance cable (SER) in commercial installations and to require GFCI protection for certain residential installations (including, for example, in kitchens, bathrooms, garages and basements), to better protect the public health and safety.

In addition, [see attached memorandums from the Legal Department](#) for Chapters 12 and 15 regarding stylistic, formatting changes and amendment to the effective date for the Ordinance.

Further, the Legal Department has recommended two additional amendments to Chapter 15 – one amendment related to Corrugated Stainless Steel Tubing and another amendment to reflect the 2017, not the 2014 National Electric Code because the State has adopted the 2017 National Electric Code effective January 1, 2017.

Pursuant to Councilor Dwyer’s request, attached under Acting City Manager’s Informational Items is a draft of principles that may be considered as foundation information that underlies the code adoption/amendment process in the City. I plan to speak to these at the start of this public hearing on amendments to Chapter 12.

City Council may move the following motions for Chapter 12:

- 1) Move to amend the form of the ordinance amending Chapter 12 that went to first reading as set forth in the memorandum from the Legal Department to the Acting City Manager dated November 15, 2017.*

2) Move to pass Chapter 12 as amended and to bring forward for third and final reading at the December 4, 2017 City Council meeting.

City Council may move the following motions for Chapter 15:

1) Move to amend the form of the ordinance amending Chapter 15 that went to first reading as set forth in the memorandum from the Legal Department to the Acting City Manager dated November 15, 2017.

2) Move to pass Chapter 15 as amended and to bring forward for third and final reading at the December 4, 2017 City Council meeting.

Action on this matter should take place under Section VII of the Agenda.

- 1.4 **Public Hearing/Second Reading to Amend Chapter 5, Fire Department and Prevention Regulation which includes Adoption of 2015 International Fire Code to Replace the Existing 2006 International Fire Code.** As a result of the October 16th City Council meeting, I am bringing back for public hearing and second reading the [attached](#) aforementioned proposed Ordinance.

Chapter 5, Fire Department and Prevention Regulations, Articles I, 4, 5, 7 and 8 have been updated to delete obsolete sections of the ordinance and amended to reflect current operations of the Fire Department. For example, we no longer have call firemen (Article 1), there is no longer a petroleum inspector or petroleum district (Article 4) and the municipal fire alarm system is being retired (Article 5). Our current ordinance (Article 9) adopts the 2006 International Fire Code and the amendment to Article 9 would adopt the 2015 International Fire Code and formally adopt the State Fire Code (Saf-C 6000). The proposed amendments to Article 9 reflect the updates from the 2006 to the 2015 International Fire Code. The amendment also modifies sections of the 2015 International Fire Code to reflect the State's requirements regarding smoke alarms and carbon monoxide detection. Article 9 has also been amended to address our current practices regarding permitting processes, defining "no burn permit" areas in the City, providing additional guidance regarding the installations of sprinkler system and adds a new section on solar panels to give our community clear guidelines regarding this popular source of energy for homeowners and businesses. [See attached.](#)

In addition, see attached memorandum from the Legal Department regarding stylistic and formatting changes to the Ordinance.

City Council may move the following motions:

1) Move to amend the form of the ordinance amending Chapter 5 that went to first reading as set forth in the memorandum from the Legal Department to the Acting City Manager dated November 15, 2017.

- 2) *Move to pass Chapter 5 as amended and to bring forward for third and final reading at the December 4, 2017 City Council meeting.*

Action on this matter should take place under Section VII of the Agenda.

2. **Second Reading of Proposed Ordinances and Resolutions:**

- 2.1 **Second Reading of Proposed Ordinance Amendments to Chapter 4 Pertaining to the City's Food Licensing and Regulations by striking Articles I-V in its entirety and replaced with new language (Postponed from October 16, 2017 City Council Meeting).** At the October 16, 2017 City Council meeting, the Council requested that City staff meet with the NH Lodging and Restaurant Association (NHLRA) to discuss proposed amendments to Chapter 4 which were provided to the City Council on October 16, 2017.

On October 9, 2017, City staff met with Mike Sommers from NHLRA, Jonathan Flagg, Esquire, and Hugo Marin. After discussion, the participants agreed in concept to exempt certain transfers to trusts from the definition of change of ownership and to create a Food Licensing Board of Appeals. The City did not agree to revise the provisions of the ordinance regarding dogs on decks, enclosing outdoor bars and Health Department Guidelines.

[Attached is a memorandum from the Legal Department summarizing the City's response after meeting with NHLRA and representatives of local restaurants. Also, attached is a redline version of the ordinance which reflects the changes made after the aforementioned meeting.](#)

City Council may move the following motions:

- 1) *Move to amend the form of the ordinance that was passed at first reading on August 27, 2017 and was amended at second reading on October 16, 2017 as set forth in the redline amendments to the proposed ordinances included in the agenda packet at item VII E.*
- 2) *Move to pass Chapter 4 as amended and to bring forward for third and final reading at the December 4, 2017 City Council meeting.*

Action on this matter should take place under Section VII of the Agenda.

Consent Agenda:

1. **Request for Licenses to Install Projecting Signs.** Attached under Section IX of the Agenda are requests for projecting sign licenses (see attached memorandums from Juliet Walker, Planning Director):
 - Friends of the Music Hall, owner of The Music Hall, located at 28 Chestnut Street
 - VPC LLC, owner of Office Resources, located at 28 Deer Street
 - Jamer Realty Inc – The Wilder, owner of the Wilder, located at 174 Fleet Street
 - Andover Portland Avenue Assoc LLC, owner of Pretty Little Things, located at 10 Vaughan Mall

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

Acting City Manager's Items Which Require Action:

1. **Request for Approval of the Tentative Agreement between the Fire Commission and the Firefighters Association of Portsmouth, New Hampshire Local #1313 Tentative Agreement.** The Portsmouth Fire Commission has reached a Tentative Agreement with the Firefighters Association of Portsmouth, New Hampshire Local #1313 for a one-year contract extension that continues the Union's current collective bargaining agreement until June 20, 2019.

For your information and to facilitate discussion regarding this matter, [attached please find the following documents:](#)

- [A letter from Thomas Closson, City Negotiator recommending this Tentative Agreement;](#)
- [Executed Memorandum of Agreement for a one-year extension;](#)
- [Copy of the contract showing the insertions and deletions to implement the Tentative Agreement, if approved, and,](#)
- [Cost Analysis showing the cost to implement this Tentative Agreement, if approved.](#)

Also, this proposed Agreement is posted on the City's Website at:

<http://files.cityofportsmouth.com/files/hr/MOALocal1313oneyearextensionsigned.pdf>

I recommend the City Council move to accept the proposed Tentative Agreement for a one-year extension to the existing contract between the Portsmouth Fire Commission and the Firefighters Association of Portsmouth, New Hampshire Local #1313 until June 30, 2019.

2. **Request for Approval of the Tentative Agreement between the Fire Commission and The Portsmouth Professional Fire Officers Association Tentative Agreement.** The Portsmouth Fire Commission has reached a Tentative Agreement with the Portsmouth Professional Fire Officers Association that continues the Union’s current collective bargaining agreement until June 20, 2019.

For your information and to facilitate discussion regarding this matter, [attached please find the following documents:](#)

- A letter from Thomas Closson, City Negotiator recommending this Tentative Agreement;
- Executed Memorandum of Agreement for a one-year extension;
- Copy of the contract showing the insertions and deletions to implement the Tentative Agreement, if approved, and,
- Cost Analysis showing the cost to implement this Tentative Agreement, if approved.

Also, this proposed Agreement is posted on the City’s Website at:

<http://files.cityofportsmouth.com/files/hr/MOAoneyarextensionsigned.pdf>

I recommend the City Council move to accept the proposed Tentative Agreement for a one-year extension to the existing contract between the Portsmouth Fire Commission and The Portsmouth Professional Fire Officers Association until June 30, 2019.

3. **Report Back from Planning Department Re: Involuntarily Merged Lot at 346 Bartlett Street.** In a letter dated June 22, 2017, John Byron requested restoration of two involuntarily merged lots to their premerger status. At the July 10, 2017 City Council meeting, the Council voted to refer this request to the Planning Board for report back.

[Attached is a memorandum from Planning Director Juliet Walker](#), outlining the description of the parcel, an explanation of the statutory requirement under RSA 674-39-aa regarding “involuntarily merged lots”, and an analysis regarding this request.

At the October 19, 2017 Planning Board meeting, the Board voted to recommend that the City Council restore the involuntarily merged lots to their premerger status as requested.

I recommend the City Council move to accept the Planning Board’s recommendation, as presented.

4. **Holiday Parking.** In keeping with past tradition, I propose the Council consider offering on-street downtown parking free of charge from December 18th to December 24th in an effort to attract the shopping public and in support of downtown business. In October, daily downtown parking revenue (including the High Hanover garage) averaged \$9,656, which would equate to a total of \$67,655 for the 7-day period. When the City estimated its parking revenues for the year, it accounted for this holiday period of free parking.

I recommend the City Council move to authorize the City Manager to implement a 7-day free holiday parking period from December 18th to December 24th.

5. **Charles Lassen's Proposal for Dock Space.** Charles and Susan Lassen are the owners of a home on Round Island located in a back channel of the Piscataqua River between Peirce Island and the mainland. The only access to the home is by means of watercraft. In the past, the Lassens have made arrangements with various private landowners to tie up a small ferry vessel to serve that purpose. Since March of 2015, the Lassens have been in discussions with the City seeking to secure a docking facility on City property to tie up the ferry vessel. After numerous iterations that process has now produced a proposed License Agreement which is on the agenda for this evening. This License Agreement has been negotiated between the office of the City Manager, the Public Works Director, the City

Attorney, Mr. Lassen and his attorney, Thomas Watson. If approved by the City Council, the License Agreement would generally:

1. Provide the Lassens and their successors with the right to construct and maintain a docking structure attached to the City property behind the Mechanic Street Pump Station as shown in the attached exhibit for a period of twenty (20) years.
2. Provide the Lassens with the right to construct and maintain a mailbox, construct and maintain a trash receptacle, and use a parking space on the City property for loading and unloading from a motor vehicle to the dock for the twenty (20) year period. The motor vehicle would not be allowed to park on the City property unless actively engaged in loading or unloading.
3. The Lassens would bear all costs of constructing and maintaining the dock. The dock would be City property.
4. The Lassens would pay a license fee to the City in the amount of \$5,000.00 per year adjusted annually by the CPI for the right to construct, maintain and use the dock and the other items described above.

The proposed License Agreement itself is included in the agenda packet. The City Attorney and I will be prepared at the meeting along with a representative of Mr. Lassen to answer any questions that the Council may have concerning that proposed License.

I recommend the City Council move to approve the proposed Agreement, and further, authorize the City Manager to proceed with executing the document.

6. **Report Back Re: Community Home Solutions PILOT Agreement.** As you will recall, at the October 2, 2017 City Council meeting, Community Home Solutions requested an exemption for property taxes under Chapter 72:23-k for property located at 413 Lafayette Road. The City Council voted to refer this matter to the City Assessor for report back (see attached).

Attached is a memorandum from City Assessor Rosann Maurice-Lentz regarding this matter. Upon review of the application and documentation submitted by Community Home Solutions, the City Assessor affirms that the organization qualifies as a Charitable, Nonprofit Housing Project in accordance with Chapter 72:23-k (see attached).

As the memorandum states, Community Home Solutions must request a PILOT agreement with the City Council on or before November of each year. This request is for December of 2018.

I recommend the City Council move to authorize the City Manager and the City Assessor to negotiate a PILOT Agreement with Community Home Solutions and bring it back for City Council action.

7. **Request to Dispose of Surplus Vehicles and Equipment.** The Police Department has five old cruisers and the Department of Public Works has one Onan Generator that are ready to be disposed of through our bidding process, (see attached).

According to City Ordinance Section 1.505, any sale of property valued at or over \$500 must be authorized by the City Council and may be conducted by competitive bidding, public auction or any other means authorized by a two-thirds vote of the City Council.

As in the past, we have disposed the surplus equipment through a sealed bid process or through GovDeals an online auction site, in which the equipment is sold to the highest bidder.

The Finance Department has requested that the City use GovDeals as it has shown that the City receives more money for our surplus property than through a sealed bid process. The Onan Generator value is approximately \$7500.00.

I recommend the City Council move to authorize the City Manager to dispose of surplus vehicles and equipment using GovDeals.

8. **Request Re: Installation of Fencing and Signage for the Jay Smith Memorial Garden, the Lower State Street Pocket Park.** Attached is a letter from Kate Crowell, Tony Belisle, Mark Bodi and the “Friends of Sheafe Street” regarding the installation of fencing and signage for the Jay Smith Memorial Garden, the Lower State Street Pocket Park.

As stated in the proposal, all costs incurred for the beautification and protection of Jay Smith’s Memorial Garden will be by The Lower State Street Pocket Park Trust, also a gift from Jay Smith, and in conjunction with the generosity of Tony Belisle.

City Attorney Robert Sullivan has reviewed this request, and he opines that with the approval of the City Council and authorization to the City Manager, the group will be able to apply to the Historic District Commission for the installation of the fence and the Trustees of the Trust for funding.

I recommend the City Council move to approve the aforementioned request, authorize the City Manager to execute any necessary documents, and further, the group to apply to the Historic District Commission and the Trustees of the Trust.

9. **Request to Reschedule November 27, 2017 Work Session Re: McIntyre Property.** As you are aware, the City Council has a second Work Session regarding the McIntyre property scheduled for Monday, November 27, 2017. The Mayor has recommended scheduling the Work Session to Wednesday, November 29, 2017.

I recommend the City Council move to reschedule the Work Session to Wednesday, November 29, 2017.

Informational Items:

1. **Guiding Principles Related to Code Adoption in Portsmouth.** Pursuant to Councilor Dwyer's request, [attached is a draft of principles](#) that may be considered as foundation information that underlies the code adoption/amendment process in the City. I plan to speak to these at the start of the first scheduled public hearing on amendments to Chapter 12.
2. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on October 16, 2017. In addition, this can be found on the City's website.
3. **Letter Re: Uniform Standards of Professional Appraisal Practice 2017 Commercial / Industrial for City of Portsmouth.** [Attached is a letter](#) from the State of New Hampshire Department of Revenue Administration regarding the Uniform Standards of Professional Appraisal Practice (USPAP) Standard 6 report submitted by Property Valuation Services for the Commercial and Industrial update for the City of Portsmouth for the 2017 tax year. Also attached is the Mass Appraisal Evaluation Report (PA-50).
4. **Report Back Re: Revaluation Peer Review.** At the October 16, 2017 City Council meeting, the Council voted to direct the Acting City Manager to conduct a review of the revaluation and to bring back the review to the City Council some time in November. The revaluation was completed by David M. Cornell, President of Cornell Consultants LLC. If the City Council chooses, we will schedule a meeting with Mr. Cornell to review the results of this report.

5. **Trustees of the Trust Funds Annual Report, MS-9 and MS10.** For your information, [attached is a copy of the Trustees of the Trust Funds Annual Report, MS-9 and MS-10](#), for fiscal year 2017 ending June 30, 2017.
6. **Greater Portsmouth Chamber Collaborative Semi-Annual Report.** At the November 3, 2017 Economic Development Commission (EDC) meeting, Greater Portsmouth Chamber Collaborative staff reported on the recent strategic plan, new business development and member initiatives and destination marketing/tourism metrics for the period January 1, 2017 through October 30, 2017. You will recall that the report is part of the City of Portsmouth and Chamber Collaborative partnership for which the Council has requested copies of the semi-annual reports presented to the EDC. [The report is attached for your review.](#)
7. **Business Retention and Expansion Report.** For your information, [attached is a memorandum from Chair Everett Eaton of the Economic and Development Commission as well as a copy of the Business Retention and Expansion Report.](#)
8. **Toxic-Free Weed Control.** At its September 18, 2017 meeting the City Council passed a resolution to eliminate the use of synthetic toxic pesticides on City rights of ways and properties. In addition, the resolution directed City Staff to consult with the City's Conservation Commission to prepare to prepare an outreach program outlining viable alternatives to synthetic toxic pesticides for the general public's use. City Staff will be reaching out the Conservation Commission to discuss how best to work with them to promote toxic free alternatives to weed control.

The City has been aware of the concerns related to use of synthetic compounds and had been working to minimize their use in its weed control program. In 2015, the Department of Public Works directed its weed control contractor Swamp Inc., to investigate alternative products for weed control. These efforts led to a limited pilot study in 2016 and a more comprehensive study in 2017. [Attached is a summary of the 2017 pilot effort.](#)

9. **Report Back Re: Exploring the Concept of allowing Artists and Others who have a Studio, Gallery, Workplace, or Storefront in Portsmouth to be able to use their space for residence, with certain limitations of time period and fire and health standards.** For your information, [attached is a memorandum from Planning Director Juliet Walker](#) regarding a request from Councilor Splaine for a report back on live/work spaces for artists and others.