

CITY COUNCIL MEETING

Remote Meeting Via Zoom Conference Call

To register in advance for this meeting, click on the link below or copy and paste it into your web browser: https://zoom.us/webinar/register/WN_oOJpcvqRTkKgpurG9EvvNQ. You are required to register in advance to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. Please note, this meeting will also be broadcast on the City's YouTube Channel. Public comments for the Council's consideration can be emailed in advance via the City's web site: <https://www.cityofportsmouth.com/citycouncil/contact-all-city-councilors>. Per NH RSA 91-A:2 III (b) the Chair has declared COVID-19 Outbreak an emergency and has waived the requirement that a quorum be physically present at the meeting pursuant to the Governor's Executive Order 2020-04, Section 8, as extended by Executive Order 2020-8, and Emergency Order #12, Section 3. Members will be participating remotely and will identify their location and any person present with them at that location. All votes will be by roll call.

DATE: MONDAY, MAY 4, 2020

TIME: 7:00PM

AGENDA

- **6:30PM AN ANTICIPATED NON-PUBLIC SESSION RE: COLLECTIVE BARGAINING AGREEMENTS IN ACCORDANCE WITH RSA 91-A:3 II (a) – *Register in advance for this webinar:*** https://zoom.us/webinar/register/WN_QTLLKrmJT6W2CI1WDq4Wtw

- I. **6:00PM WORK SESSION – THERE IS NO WORK SESSION THIS EVENING**
- II. **PUBLIC DIALOGUE SESSION [when applicable – every other regularly scheduled meeting] – *POSTPONED***
- III. **CALL TO ORDER [7:00 p.m. or thereafter]**
- IV. **ROLL CALL**
- V. **INVOCATION**
- VI. **PLEDGE OF ALLEGIANCE**

PROCLAMATIONS

1. Police Week in Portsmouth – May 10 to May 16, 2020
Peace Officers' Memorial Day, Friday, May 15, 2020
2. Bike Month – May 2020

- VII. **ACCEPTANCE OF MINUTES – *There are no minutes on for acceptance this evening.***

- VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**

- IX. **PUBLIC COMMENT SESSION – (*Via Zoom*)**

- X. **PUBLIC DIALOGUE SUMMARY [when applicable] – *POSTPONED***

- XI. **PUBLIC HEARINGS AND VOTES ON ORDINANCES AND/OR RESOLUTIONS**

- A. First reading of Ordinance amending Chapter 7, Article I, Section 7.105 C – Designated Motorcycle Parking Area

XII. MAYOR BECKSTED

1. Appointment to be Considered:
 - Robert W. Bogardus appointment to the Recreation Board Senior Subcommittee
2. *Appointment to be Voted:
 - Reappointment of Richard Blalock to the Recreation Board
3. *Formation/Reestablishment of the Prescott Park Blue Ribbon Committee
 - Petra Huda, Councilor Representative
 - Beth Margeson
 - Thomas Watson
 - Genevieve Aichele
 - Alan Gordon
 - Robin Lurie-MeyerKopf
4. *Clipper Strong Fund Update

XIII. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR SPLAINE

1. Assembling Plans for “Opening Up” When the Time Comes to Help Our Residents, Businesses, and Employees/Creating A Portsmouth Economic Re-Opening Task Force

B. COUNCILOR McEACHERN

1. *Preparation to Open Portsmouth Safely with an emphasis safe and socially distant economic activity

C. ASSISTANT MAYOR SPLAINE & COUNCILORS McEACHERN & LAZENBY

1. *Support for Elections

D. COUNCILOR WHELAN

1. *McIntyre Update
2. *Parking Traffic and Safety Valet Request

E. COUNCILOR HUDA

1. April 2020 Revenue Receipts (***Sample motions: 1) move to request the City Manager provide an Update to the Residents & City Council of the Latest Data Available on the Actual April 2020 Revenue Receipts (1st full month of pandemic effect); 2) moved that the City Manager provide a Series of Budget Scenarios for Potential Cuts of 20%, 30%, and 40% in State of Local Revenue in Order to Adjust the FY21 Budget and Prioritize High-Need Items***)

XIV. APPROVAL OF GRANTS/DONATIONS

There is no Grants/Donations on this evening

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager's Items Which Require Action:

1. Portsmouth Housing Authority – Release of Reverter (*Tabled from the April 20, 2020 City Council meeting*)
2. Bellamy Source Protection Easement – Duffy Property
3. Planning Board Report Back Regarding Market Street Property Purchase
4. West End Yards Easements
5. Request For Release of Any City Interest In Assessor Map 206, Lot 1

XVI. CONSENT AGENDA

- A. Request for License to Install Projecting Sign for owner Robert Walker of 110 Grill Portsmouth HS LLC for property located at 99 Hanover 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***

- B. Request for License to Install Projecting Sign for owner Jennifer Mathieson of Hello Lovely for property located at 92 Pleasant 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 Work***

XVII. PRESENTATIONS & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. *Presentation by Health Officer Kim McNamara regarding COVID-19 Update
- B. Presentation – Update on the Governor’s Office for Emergency Relief & Recovery (GOFERR) by Assistant City Attorney Jane Ferrini
- C. Email Correspondence (***Sample motion – move to accept and place on file***)

XVIII. CITY MANAGER’S INFORMATIONAL ITEMS

- 1. Peirce Island Road Improvements
- 2. May 6, 2020 Budget Public Hearing Agenda
- 3. Election and Security Grant Funding

XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

XX. ADJOURNMENT [at 10:00 p.m. or earlier]

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

** Indicates verbal report*



Karen S. Conard
City Manager

CITY OF PORTSMOUTH

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Portsmouth, New Hampshire 03801
kconard@cityofportsmouth.com
(603) 610-7201

Date: April 30, 2020
To: Honorable Mayor Rick Becksted and City Council Members
From: Karen S. Conard, City Manager *KSC*
Re: City Manager's Comments on City Council Agenda of May 4, 2020

XI. Public Hearings and Votes on Ordinances and/or Resolutions:

A. First Reading of Ordinance Amending Chapter 7, Article I, Section 7.105 C – Designated Motorcycle Parking Area:

In June 2019, the Parking and Traffic Safety Committee approved an amendment to the Designated Motorcycle Parking Area Ordinance (Chapter 7, Article I, Section 7.105 C). A citizen raised concerns regarding the amendment, and in August 2019 the Committee rescinded its approval and requested a report back from City staff. Upon review, the Committee voted to request a revised amendment in September 2019. On February 6, 2020, the Parking and Traffic Safety Committee voted to approve the attached amendment to Chapter 7, Article I, Section 7.105 C and to refer it to the City Council to request first reading. At the March 16th Council meeting, Ben Fletcher, Director of Parking, provided a brief presentation on the amended ordinance, with the Council then voting to postpone the first reading for a future date.

Due to the outbreak of COVID-19, no readings have yet taken place to address this necessary update to Chapter 7. Bearing in mind the Council's decision on April 20, 2020 to resume normal parking operations, it is prudent that this ordinance update return for first reading at the meeting this evening, with a sample motion to pass and schedule a public hearing and a second reading for the May 18, 2020 Council meeting. The ordinance in question is [attached](#).

I recommend that the City Council move to pass first reading of an amendment to Chapter 7, Article I, Section 7.105 C, the Designated Motorcycle Parking Area Ordinance, and schedule a public hearing and a second reading at the May 18, 2020 Council meeting.

XV. City Manager's Items which Require Action:

1. Portsmouth Housing Authority – Release of Reverter:

The City holds a reverter interest in certain property owned by the Portsmouth Housing Authority (PHA) on Court Street which was conveyed to the PHA by the City in 1968.

The reverter provision in the deed from the City to PHA says that if the property is not used for “housing for the elderly”, ownership of the land reverts back to the City. PHA now wants to exchange some, but not all, of the property covered by the reverter with an abutter as part of its workforce housing project. Because it involves the conveyance of the City’s interest in real estate, the ordinances require this matter should be forwarded to the Planning Board by the City Council for a report back and recommendation.

The Portsmouth Housing Authority is represented by attorney John K. Bosen who has provided additional documentation for this evening’s Council meeting, including a memorandum outlining PHA’s request.

I recommend that the City Council move to refer this item to the Planning Board for a report and recommendation back.

2. **Bellamy Source Protection Easement – Duffy Property:**

The City’s Water Division has been actively identifying and protecting properties adjacent to the City’s surface water supply, the Bellamy Reservoir (see attached map). The City has partnered with Southeast Land Trust (SELT) for the negotiation, due diligence, installment payments of the purchase price, and completion of a conservation easement on an approximately 107-acre portion of the property owned by Mary Ellen Duffy (‘Duffy Property’ on the attached map) in order to benefit the protection of one of the City’s primary water supplies.

The property was appraised by McManus & Nault Appraisal Company, Inc. in 2019. A conceptual build-out analysis was also performed to assist with the valuation. Their analysis resulted in development potential for between six and thirteen house lots on the property. The estimated value of the whole parcel without an easement was \$730,000. The value of this parcel was also appraised with an easement on all but five acres that will remain as a buildable lot, and this amount was estimated as \$200,000. Thus, the value of the conservation easement was identified to be \$530,000.

In addition to the value of the conservation easement of \$530,000, there are costs for the property survey, conservation easement preparation, an environmental site assessment and baseline documentation that are estimated by Southeast Land Trust as \$44,300. The total cost for the acquisition of the conservation easement on 107 acres is \$574,300. Grant funding for up to \$287,000 from the NH Drinking Water and Groundwater Trust Fund (DWGTF) has been approved by the DWGTF Advisory Commission (see attached letter) leaving a balance of \$287,300 to be paid for by the Water Fund. In order to meet the total appropriation of \$574,300 for the purchase of the easement, a supplemental appropriation from the Water Fund using \$287,300 from unrestricted net position and a grant of up to \$287,000 from the NH Drinking Water and Groundwater Trust Fund for a total of \$574,300 would need to be approved by the City Council following a public hearing.

The subject parcel is ranked as the second most valuable parcel with respect to protection of the Bellamy Reservoir based on an assessment of abutting parcels ('Duffy Property' on the [attached map](#)). The parcels on this map are ranked based on parcel size, percent wetlands, development potential, slope, length of shoreline, proximity to water supply intake, and aesthetics. This ranking approach is intended to assist with the prioritization of protection efforts as they pertain to the land surrounding the reservoir. Development has the potential to greatly affect surface water quality through direct impacts of chemical runoff, septic system leachate, and stormwater sediment loading, and indirect affects in terms of higher nutrient loading which can cause an increased likelihood of harmful algal blooms and impacts to dissolved oxygen concentrations. For these reasons, efforts to protect land that has the greatest potential to impact water quality, such as Ms. Duffy's property, is important for the long-term management of the Portsmouth water supply.

The next step in this process will be to finalize the agreement and it will then be put before the City Council for a vote. A separate two-thirds vote of the City Council following a public hearing will be needed in order to utilize water enterprise fund net position for this purpose.

I recommend that the City Council:

- 1) Move to authorize the City Manager to negotiate and execute a Purchase & Sale Agreement for the purchase of a conservation easement on the subject parcel in a substantially similar form to the attached agreement;*
 - 2) Move to refer the acquisition of the 107-acre conservation easement on the subject parcel to the Portsmouth Planning Board for a recommendation back to the City Council;*
 - 3) Move to authorize the City Manager to enter into a Grant Agreement to accept up to \$287,000 from the State of New Hampshire's Drinking Water and Groundwater Trust Fund's Land Conservation Grant and Loan Program to be used toward this purchase; and*
 - 4) Move to establish a public hearing for June 1, 2020 for the supplemental appropriation to utilize \$574,300 from the water enterprise fund net position with the understanding that up to \$287,000 will be reimbursed by the New Hampshire Drinking Water and Groundwater Trust Fund.*
3. **Planning Board Report Back Regarding Market Street Property Purchase:**

The Department of Public Works staff have been working with the New Hampshire Department of Transportation (NHDOT) to procure a 7,834 sq. ft parcel of land on Market Street (see [attached map](#)) from the State of NH to improve stormwater maintenance associated with a pond bounded by Market Street, Maplewood Avenue, McGee Drive and the Heritage Hill Condominiums. Purchase of this land is necessary to improve access to drainage structures that control the water level in this pond. The need for added control of this pond was identified during the stormwater design of the ongoing Maplewood Avenue Reconstruction Project.

The State has valued the parcel at \$1,100 which would be paid for as part of the Maplewood Avenue project cost.

At the April 6, 2020 City Council meeting, the Council voted to refer this item to the Planning Board for a recommendation. On April 23rd, the Planning Board voted to recommend that the City Council approve this procurement of land.

I recommend that the City Council move to approve the procurement of the 7,834 sq. ft. parcel of land on Market Street by the City from NHDOT.

4. **West End Yards Easements:**

On September 26, 2019, the Planning Board granted site plan review approval and subdivision approval for an application from Cate Street Development LLC for property located at 428 US Route 1 Bypass for a mixed-use development known as West End Yards.

The approval includes a number of easements and licenses to which the City of Portsmouth is a party and therefore require City Council authorization. These easements and licenses are listed below and the draft deeds and license agreements are [enclosed](#) along with an [easement plan](#) showing the location of each.

All of the foregoing has been approved by the Planning Board and is recommended by the Planning and Legal Departments:

- 1) 20' Wide [Sewer Easement](#) for a public sewer line that crosses the property between Route 1 Bypass and the future Cate Street Connector Road (13A on plans).
- 2) [Sight line easement](#) to restrict plantings or other obstructions that would interfere with sight lines at the intersection of the private driveway and the future Cate Street Connector Road (13E&T).
- 3) [Access easement](#) for the City to access private water infrastructure for leak detection and similar infrastructure inspection services and for turning on and shutting off municipal water service (13G,L&Q).
- 4) 5' wide [snow storage easement](#) along the future public right-of-way for storage of snow (13H&R).
- 5) Blanket [emergency access easement](#) to enable City emergency services to travel across private property to access neighboring private properties for emergency purposes (13I,M&S).
- 6) [Sign license agreement](#) to allow West End Yards to locate a sign on City property at the intersection of the Cate Street Connector Road with the Route 1 Bypass (13C).
- 7) [Landscape license agreement](#) to allow West End Yards to install, maintain, and replace landscaping along the City's right-of-way consistent with the plans approved by the Planning Board (13AA).
- 8) [Temporary construction easement](#) to enable the developer to access City land for storage of construction material related to the construction of the Cate Street Connector Road.

I recommend that the City Council move to grant authority for the City Manager to accept and/or execute the easement deeds and enter into the license agreements on behalf of the City in a form similar to those attached.

5. **Request For Release of Any City Interest In Assessor Map 206, Lot 1:**

On November 13, 2019, the City received a [request from Attorney Derek Durbin](#) on behalf of his client, Bryan C. Pappas who is the owner of property located at 2 Brackett Lane to release any City interest in an adjacent property listed as Assessor Map 206, Lot 1 and located between Brackett Lane and Haven Road.

At the December 2, 2019 City Council meeting, the Council voted to refer this request to the Planning Board for a recommendation.

Legal and DPW staff have reviewed this request and have not identified any prior history or current use of the property that serves a public purpose. Staff have also not verified whether the City currently has any ownership rights or other interest in the property.

While the City is being asked to formally release any interest it has in this property, such a vote would not necessarily have any impact, except to clarify the record. Additional title research will be required by Mr. Pappas in order to determine who else, if anyone, may have legal interest and/or ownership of this property.

The Planning Board considered this request at the March 19, 2020 meeting and voted to recommend that the City Council release any City interest in land identified as Assessor Map 206, Lot 1.

I recommend that the City Council move to authorize that the City release any interest it may have in land identified as Assessor Map 206, Lot 1.

XVI. Consent Agenda:

A. **Projecting Sign License – 99 Hanover Street:**

Permission is being sought to install a projecting sign at [99 Hanover Street](#) that extends over the public right of way, as follows:

Sign dimensions: 17” x 32”

Sign area: 3.7 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. *Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:*

- 1) *The license shall be approved by the Legal Department as to content and form;*

- 2) *Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and*
- 3) *Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the signs, 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.*

B. Projecting Sign License – 92 Pleasant Street:

Permission is being sought to install a projecting sign at [92 Pleasant Street](#) that extends over the public right of way, as follows:

Sign dimensions: 24” x 24”

Sign area: 4 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. *Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:*

- 1) *The license shall be approved by the Legal Department as to content and form;*
- 2) *Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and*
- 3) *Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the signs, 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.*

XVII. Presentations and Consideration of Written Communications and Petitions:

A. Presentation by Health Officer Kim McNamara Regarding COVID-19 Update:

City Health Officer, Kim McNamara, will provide a verbal update to City Councilors and the public on COVID-19.

B. Update on the Governor’s Office for Emergency Relief & Recovery (GOFERR) by Assistant City Attorney Jane Ferrini:

Assistant City Attorney, Jane Ferrini, will provide an update on the State of New Hampshire Governor’s Office for Emergency Relief and Recovery (GOFERR).

Please find attached her [memorandum](#) outlining the GOFERR's work thus far, along with [Coronavirus Relief Fund Guidance for State, Territorial, Local, and Tribal Governments](#), [Federal Funding Opportunities Related to COVID-19](#), and [Guidelines for Written Comments to the GOFERR Stakeholder Advisory Board](#).

XVIII. City Manager's Informational Items:

1. **Peirce Island Road Improvements:**

As part of the restoration work to be conducted for the Peirce Island Wastewater Treatment Facility (WWTF) construction, City staff have developed a plan to raise the grade of the roadway to reduce the potential for flooding affecting access to the WWTF. The project is planned for the section of Peirce Island Road adjacent to the area previously used as a snow dump. Due to the land surface elevation this area was identified in the Climate Change Vulnerability Assessment and Adaptation Plan (April 2013) as an area that may be subject to flooding due to sea level rise and storm surge. The planned work will increase the grade of the roadway from a low point of approximately elevation 8.0 feet up to an elevation of 11.0 feet. The work would include a rip rap slope adjacent to the existing walking trail (approximately 275 linear feet) on the river side of the roadway. By making this adjustment, it is predicted that this area would be protected from sea level rise and storm surge during storm events through and likely beyond the year 2050.

As a result of raising the elevation of the roadway, the area previously used as a snow dump will need to be regraded. The plan shows this area being converted to an improved parking area with a permeable concrete paver primary driving path and reinforced grass for the parking areas. The area will be defined with a new single rail wood fence separating the parking area from the vegetated area that extends to the water. This will convert the existing gravel parking area to a primarily pervious surface and also allow improved stormwater management of runoff from the parking area.

City staff have been coordinating this work with the Peirce Island Committee. The [attached preliminary plans](#) provide details of the proposed work. The next phase of work is to submit the plans as part of an application to the New Hampshire Department of Environmental Services for wetland permitting.

2. **May 6, 2020 Budget Public Hearing Agenda:**

A public hearing on the proposed FY21 Budget will occur on May 6, 2020 at 6:30 p.m. via Zoom. Please reference the [attached public notice](#) for additional information.

3. **Election and Security Grant Funding:**

The State of New Hampshire has received \$3,262,422 in Election Security Grant Funds through the CARE Act Emergency Relief Funds. The Election Security Grant Fund money is to be used to protect New Hampshire citizens' right to vote and to ensure that elections are fair and safe given the challenges posed by COVID-19.

Secretary of State Gardner and Attorney General MacDonald addressed that challenge in their April 10, 2020 memorandum by opening up the criteria for obtaining absentee ballots due to COVID-19. The increase in the use of absentee ballots and steps needed to protect the health of voters and poll workers will have a financial impact on local government. The Election Security Grant Funds may be used to offset those costs.

The Secretary of State announced the formation of the [Committee on 2020 Emergency Election Support](#) chaired by the State Ballot Law Commission to establish guidelines and recommendations on how the Election Security Grant Funds will be used to offset the financial impact COVID-19 will have on elections. The Committee has its first [public meeting](#) via Zoom on Thursday, April 30, 2020 at 2:00 p.m. Further information on the Committee's guidelines and recommendations will be provided once they are established.