

# 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\\_B4\\_7jZGKTVSPRvRBtj5Lsg](https://zoom.us/webinar/register/WN_B4_7jZGKTVSPRvRBtj5Lsg)

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 2020-25, 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 3, 2021**

**TIME: 7:00PM**

An anticipated Non-Public Session will be held at the end of the City Council meeting regarding RSA-91-A:3 II (d) - Consideration of the Acquisition, Sale or Lease of Real or Personal Property

## AGENDA

- I. **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**
- VII. **ACCEPTANCE OF MINUTES – MARCH 22, 2021; APRIL 5, 2021 AND AUGUST 3, 2020**
- VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**
- IX. **PUBLIC COMMENT SESSION – (Via Zoom)**
- X. **PUBLIC DIALOGUE SUMMARY [when applicable] - POSTPONED**
- XI. **PUBLIC HEARING AND VOTES ON ORDINANCES AND/OR RESOLUTIONS**

### Public Hearing & Second Reading:

- A. Public Hearing/Second Reading of Ordinance amending Chapter 7, Article IX, Section 7.901 – PENALTIES, FORFEITURES AND SEPARABILITY

## XII. MAYOR BECKSTED

1. Appointments to be Considered:
  - Daniel Brown to the Historic District Commission as a regular member
2. \*Mayor's Blue Ribbon Audit Committee
  - Chris White
  - David McDonald
  - Council Representative Petra Huda

## XIII. CITY COUNCIL MEMBERS

**A. ASSISTANT MAYOR SPLAINE**

1. Neighborhood Committee Year-End Report – February 6, 1995 (*Informational*)

**B. COUNCILOR WHELAN**

1. **Action Items Needing Approval by City Council:**
  - Request to prohibit truck traffic on Bartlett Street once Hodgdon Way (Cate Street connector) is fully open to traffic in July (***Sample motion – move to prohibit truck traffic on Bartlett Street as expeditiously as possible***)
2. Parking and Traffic Safety Action Sheet and Minutes of the April 8, 2021 meeting (***Sample motion – move to accept and approve the April 8, 2021 Parking and Traffic Safety Committee actions and minutes***)

**C. COUNCILOR KENNEDY**

1. \*Request for Site Walk at Pannaway Manor (***Sample motion – move that the City Manager schedule a site walk at Pannaway Manor to look at the sound barrier and include those residents, any interested parties and the State with a date to be scheduled on a Saturday***)

**D. COUNCILOR HUDA**

1. March 2021 Monthly Report (***Sample motion – move for a report back from the City Manager to the residents and City Council on the following questions on the March 2021 Monthly Report:***

**1) On page 4**

**General Government**

**Overtime is at 127% of Budget – (At 75% of the Fiscal Year)**

**Please identify which Departments this is in and why?**

**On page 5**

**If this capped at \$2,412,305, why is this overage showing here in general fund after revenue cap reached?**

**(Estimated revenues that are transferred to the general fund for the full year are \$2,412,305 YTD received is \$2,726,634 or 113%)**

**On page 6**

**Why are there 14 categories over 100% of estimated revenues when we are only 75% thru FY21?**

**(Same categories as March 2020) Why does this keep happening?**

**On page 7**

**Please correct the following % errors**

**Municipal Aid EST \$205,234 YTD Rec \$194,479 95%**

**Use of Fund Balance EST \$150,000 YTD Rec \$150,000 100%**

**2) What is the balance of the cash & short term investments at April 30, 2021**

## **E. COUNCILOR TRACE**

1. \*Proposed Development Projects Near North Mill Pond (***Sample motion – move that the City Manager and Planning Department report back on all the currently proposed development projects bordering/near North Mill Pond. Which development projects have proposed buildings and/or parking that fall within the fifty foot buffer zone of North Mill Pond and what is percentage/footage of building. And again to report on, of proposed projects bordering/near North Mill Pond, which projects have buildings/parking that fall within the 100 foot buffer zone of North Mill Pond. How much of the buildings/project falls there for each development project and location***)
2. \*Endangered Species of the North Mill Pond (***Sample motion – move that City Manager Conard and Department of Public Works report on any endangered species that use and or make North Mill Pond home***)
3. \*Fireworks Display (***Sample motion – move to have City Manager Conard reach out to appropriate past supporters/sponsors and report back on having a City of Portsmouth fireworks display on this July 3, 2021 in celebration of Fourth of July and further, approve the holding of the Annual City of Portsmouth Fireworks Display in Celebration of The Fourth of July on July 3, 2021 with appropriate rain date***)

## **XIV. APPROVAL OF GRANTS/DONATIONS**

- A. \*Wellness Reward - \$150.00 (***Sample motion – move to approve and accept the reward of \$150.00 from HealthTrust***)
- B. Acceptance of Grant from the NH Department of Safety for Night Vision Equipment - \$15,392.26 (***Sample motion – move to approve and accept the grant for the Police Department from the NH Department of Safety in the amount of \$15,392.26 as presented***)
- C. Acceptance of Grant from the NH Department of Justice for expenses incurred and service provided for direct victim services – \$24,759.00 (***Sample motion – move to approve and accept the pending grant funds for the Police Department from the NH Department of Justice in the amount of \$24,759.00 as presented***)
- D. \*Acceptance of Donation of Two Animal Carriers from Port City Veterinary Referral Hospital for the Police Department (***Sample motion – move to approve and accept the donation of two animal carriers for the Police Department and Animal Control Officer***)

## **XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION**

### **A. CITY MANAGER CONARD**

#### **City Manager's Items Which Require Action:**

1. Portsmouth Waterfront, LLC's Temporary Construction License Request for 10 State Street

2. Chevrolet Avenue Sidewalk Easements
3. Request to Schedule Public Hearing Regarding Indigenous Peoples' Day
4. One-Year Extension of Operating and Lease Agreement with SIPP

**XVI. CONSENT AGENDA**

- A. Letter from Monte Bohanan, Portsmouth Halloween Parade, requesting permission to hold the Halloween Parade on Sunday, October 31, 2021 at 7:00 p.m. ***(Sample motion – move to refer to the City Manager with Authority to Act)***

**XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. Email Correspondence ***(Sample motion – move to accept and place on file)***
- B. Request of Restoration of Involuntary Merged Lot – 635 Lincoln Avenue ***(Sample motion – move to refer to the Planning Board and City Assessor for report back)***
- C. Request of Restoration of Involuntarily Merged Lots – 344 Aldrich Road ***(Sample motion – move to refer to the Planning Board and City Assessor for report back)***

**XVIII. CITY MANAGER'S INFORMATIONAL ITEMS**

1. Vaccination Update from Fire Chief Todd Germain

**XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING**

1. Citywide Neighborhood Committee Ward 1 Zoom Forum – March 31, 2021 Minutes
2. Citywide Neighborhood Committee Meeting – April 21, 2021 Minutes

**XX. ADJOURNMENT [at 10:30 p.m. or earlier]**

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

*\*Indicates verbal report*



Karen S. Conard  
City Manager

## CITY OF PORTSMOUTH

City Hall, One Junkins Avenue  
Portsmouth, New Hampshire 03801  
kconard@cityofportsmouth.com  
(603) 610-7201

**Date:** April 29, 2021

**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 3, 2021

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

#### **A. Public Hearing and Second Reading of Ordinance Amending Chapter 7, Article IX, Section 7.901 – Penalties, Forfeitures and Separability:**

In its ongoing effort to ensure compliance with applicable City Ordinances, the Parking Division deploys a citation protocol with a view to encouraging residents and visitors to pay the meter system for the use of City-managed parking inventory. This protocol includes patrolling the City's parking spaces to ensure payment, and to issue parking citations when payment is not made, or a driver has allowed their session to expire without renewal. The current fine structure was last revisited in 2013.

The Parking Division recognizes that the City's fine structure no longer encourages the desired behavior, particularly as it pertains to the new daily maximum rates under the Stay and Pay system. Out-of-town guests who find a \$15 citation on their vehicle are now more prone than before to simply skip payment for the remainder of the day, rather than be encouraged to either vacate the space or continue their parking session. Additionally, research of surrounding towns shows that Portsmouth lags behind peer averages in several violation categories.

To address this ongoing issue, the Parking Division initially recommended revisiting the fine structure in March 2020 to modify the four most-utilized citation categories. Those recommendations were brought before the Parking and Traffic Safety Committee (PTSC) on March 5, 2020, resulting in a unanimous vote to forward to the City Council for first reading on March 16<sup>th</sup> prior to the COVID-19 outbreak, which put this item on hold.

The request to update the fine structure was scheduled for first reading at the February 8, 2021 City Council meeting through an amendment to Chapter 7, Article IX, Section 7.901, Penalties, Forfeitures and Separability.

The proposed amendment recommended changes to the four most utilized citation categories of parking fines: session expired; parking in no parking area; emergency snow ban and commercial loading zone.

The amendment proposed increasing those fines to \$50, and after 30 days, to \$75 or \$100. The proposed amendment to Chapter 7, Article IX, Section 7.901 did not pass first reading on February 8, 2021. Council members noted they received comments from citizens concerned about the amount of the proposed increase to these parking fines and voted unanimously to refer the proposed parking fine schedule to the PTSC for a report back.

After receiving public comment, the PTSC reviewed the proposed fines for session expired, parking in no parking area, emergency snow ban and commercial loading zone at its March 8, 2021 meeting. After discussion, the PTSC voted unanimously to recommend that the parking fines for session expired, parking in no parking area, emergency snow ban and commercial loading zone be increased to \$35, and if not paid in 30 days, increased to \$55. The PTSC also acknowledged the need to review additional parking violations including safety related violations and enhanced penalties for frequent offenders at a future meeting.

The Fee Committee reviewed the PTSC's recommendations to increase parking fines as set forth above at its March 29, 2021 meeting. The Fee Committee voted unanimously to endorse these recommendations to the City Council to increase the parking fines as described in the [attached schedule](#).

The [attached amendment to Chapter 7, Article IX](#) has been changed since presented at the April 5<sup>th</sup> Council meeting. Some housekeeping amendments have been removed because the ordinance is going back to PTSC for review of the ordinance as a whole in order to simplify the ordinance, delete obsolete sections and recommend penalties for safety violations and repeat offenders. The [attached amendment](#) includes the proposed fine increases and updates the current section numbers and titles, lists the amount each penalty will increase after 30 days and references parking violations that were in other sections of Chapter 7 but were not included in the penalty section.

On April 19<sup>th</sup> the City Council moved to schedule a public hearing and second reading at this evening's meeting.

*I recommend that the City Council move to schedule a third and final reading at the May 17, 2021 City Council meeting.*

#### ***XIV. Approval of Grants/Donations:***

##### **A. Wellness Reward - \$150:**

HealthTrust has sent the City of Portsmouth \$150 as a reward for increasing our participation in the Slice of Life Wellness program by 2% in 2020.

The goal of the HealthTrust Wellness program, Slice of Life, is to reduce health risk factors and promote a healthier lifestyle of our employees. To realize this goal, the City, through its Wellness program, will provide health and safety initiatives, as well as education to its employees in an effort to improve the quality of their lives. This money will be used to promote wellness activities throughout the City.

*I recommend that the City Council move to approve and accept the reward of \$150 from HealthTrust.*

**B. Acceptance of Grant from the NH Department of Safety for the Police Department - \$15,392.26:**

A grant in the amount of \$15,392.26 has been awarded to the Police Department from the NH Department of Safety for night vision equipment. The Board of Police Commissioners approved and accepted this grant at its April 22, 2021 Commission meeting.

*I recommend that the City Council move to approve and accept the grant for the Police Department from the NH Department of Safety in the amount of \$15,392.26 as presented.*

**C. Acceptance of Grant from the NH Department of Justice for the Police Department - \$24,759:**

A grant in the amount of \$24,759 from the NH Department of Justice through the “Victims of Crime Act” (VOCA grant) is in the pipeline. This grant is for expenses incurred and services provided for direct victim services, to include expenses for personnel. Based on the tight deadlines of the grant, the Police Department is looking for approval “pending funding.”

The Board of Police Commissioners approved and accepted this pending grant funding at its April 22, 2021 Commission meeting.

*I recommend that the City Council move to approve and accept the pending grant funds for the Police Department from the NH Department of Justice in the amount of \$24,759 as presented.*

**D. Acceptance of Donation of Two Animal Carriers from Port City Veterinary Referral Hospital for the Police Department:**

A donation of two (2) animal carriers from Port City Veterinary Referral Hospital by Ethos has been made to the Police Department to be used by the Animal Control Officer. The Board of Police Commissioners approved and accepted this donation at its April 22, 2021 Commission meeting.

*I recommend that the City Council move to approve and accept the donation of two animal carriers for the Police Department and Animal Control Officer.*

***XV. City Manager’s Items which Require Action:***

**1. Portsmouth Waterfront, LLC’s Temporary Construction License Request for 10 State Street:**

The City has received the attached request from Portsmouth Waterfront, LLC for a temporary construction license to use the dead end area at the end of State Street/alley between 10 State Street and Prescott Park for work associated with improvements to Unit B at 10 State Street.



Portsmouth Waterfront, LLC currently has an encumbrance permit, but the encumbrance will go beyond 30 days so a license is required under City Council Policy No. 2018-02, “License Fee for Encumbrance of City Property.” The license area is shown on the [attached plan](#).

The total license area is 1,000 square feet. Per City policy, the license fee to encumber City property is \$.05 per square feet. The term of the license is from May 15, 2021 through December 31, 2021, for a total of 231 days. The total cost for encumbering City land during the term of the license is \$11,550.

The [attached proposed agreement](#) provides that, if the license area is returned to the City prior to the expiration of the license term, the City will return to the applicant the portion of the license fee already paid to the City.

The Planning and Legal Departments have reviewed and approved the proposed temporary construction license.

*I recommend that the City Council move that the City Manager be authorized to execute and accept the temporary construction license regarding 10 State Street as submitted.*

## 2. **Chevrolet Avenue Sidewalk Easements:**

In response to resident requests and referral from the Parking and Traffic Safety Committee, the Department of Public Works is designing a new sidewalk on Chevrolet Avenue between Cass Street and the apartments recently completed by Chinburg Properties. This sidewalk is critical to address pedestrian safety concerns. In order to construct the sidewalk the City needs to secure rights to a section of land that is currently owned by the Malt House Exchange. Based on a recent boundary survey, the City determined that a section of the City’s original road right-of-way includes the Malt House Exchange parking lot. On February 24, 2021 a meeting was held with Gary Dziama, the property owner, and his property manager, Sandy Dewing, to discuss the possibility of a land swap. Based on that meeting, the property owner preliminarily agreed to an easement swap that will enable the City to construct the sidewalk. In exchange for roughly 2,547 square feet of area to be granted by the City, the City would acquire access to roughly 3,002 square feet of area.

The [attached construction plan](#) shows the location of the proposed sidewalk. [Also attached is the easement plan](#) depicting the proposed release of easement and acquisition of easement from Malt House Exchange.

At the April 5, 2021 City Council meeting, the Council voted to refer the proposed easements to the Planning Board for a recommendation. At the April 22, 2021 Planning Board meeting, the Board voted to recommend that the City Council approve the proposed easements.

Therefore, the Planning Department, Public Works Department, and Legal Department propose the following motion:

*I recommend that the City Council authorize the City Manager to convey and acquire interests in land necessary to construct a sidewalk in substantially similar form to the sidewalk depicted on the attached construction plan.*



3. **Request to Schedule Public Hearing Regarding Indigenous Peoples' Day:**

In a letter to the City Council dated January 22, 2021, WE Speak NH Listens, a student group at Portsmouth High School, requested a public hearing for the City Council to consider their proposal for the City to change Columbus Day to Indigenous Peoples' Day.

At the April 17, 2021 City Council meeting, the City Council unanimously voted to hold a public hearing for the City of Portsmouth to recognize Indigenous Peoples' Day each year instead of what has been typically designated by the State of New Hampshire as Columbus Day.

As shared by School Board Chair Kristin Jeffrey, the ideal date for the public hearing would be May 17<sup>th</sup>, as it is the last regular meeting of the City Council before the festivities involving the Senior Class and graduation week.

*I recommend that the City Council move to schedule a public hearing at the May 17, 2021 City Council meeting.*

4. **One-Year Extension of Operating and Lease Agreement with SIPP:**

For consideration is a one-year extension of the current agreement between the City and Save the Indoor Portsmouth Pool (SIPP) relative to the lease and operation of the Portsmouth Indoor Pool. A copy of that [proposed one-year extension is attached](#). A one-year extension is recommended in order to facilitate both the scheduled repairs and the reopening of the pool in the early fall of 2021. The SIPP board has unanimously approved this draft of the one-year extension.

By way of background, the City first entered into a Consolidated Lease and Operations Agreement to Maintain the Portsmouth Public Pool in 2011. That five-year agreement was renewed in 2016. Both the initial [Agreement and the Renewal instrument are also attached](#). SIPP has met its obligations over the last ten years and helped make over half a million dollars in investments.

City staff has been communicating regularly with SIPP representatives since Covid-19 forced the closure of the Portsmouth Indoor Pool. The City staff spent the fall of 2020 investigating a leak in the Portsmouth Indoor Pool, a situation that was difficult to diagnosis. In consultation with SIPP, and recognizing the value of doing a more comprehensive needs assessment while the pool was closed, the City late last year engaged a consultant to do a complete review of the short-term and long-term needs of the Portsmouth Indoor Pool. In short, there is a lot of life in the building and infrastructure, but there are some updates and code improvements that should be made over time.

A one-year extension of the current agreement will allow SIPP and the City an opportunity to get the pool up and running again and then time to evaluate the longer term recommended improvements to the building and the needs of the community. City staff is available to answer questions.

*I recommend that the City Council move to authorize the City Manager to enter into the one-year extension of the agreement between the City and SIPP as presented.*

### ***XVIII. City Manager's Informational Items:***

1. **Vaccination Update from Fire Chief Todd Germain:**

Please [find attached a memorandum provided by Chief Germain](#) regarding the City of Portsmouth's vaccination efforts.