

CITY COUNCIL MEETING

Remote Meeting Via Zoom Conference Call

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https://zoom.us/webinar/register/WN_SvDfLerQR5mrtfDRW14xDg

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 2020-16, 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, AUGUST 31, 2020

TIME: 7:00PM

- **6:30PM – ANTICIPATED NON-PUBLIC SESSION RE: PERSONNEL MATTERS – RSA: 91-A:3**
II (c) https://zoom.us/webinar/register/WN_PPmGzXuMQEiZZtebrhnSLQ

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** (*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 III, Section 7.326 – Limited Parking – 15 Minutes
 - B. First Reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking
 - C. First Reading of Ordinance amending Chapter 7, Article VI, Section 7.601 – Limited Hours Loading Zones
 - D. Third and Final Reading of Ordinance amending Chapter 3 – Public Health, Article XI – Face Coverings during the COVID-19 Pandemic, Section 3.1101 – Face Coverings Required

XII. MAYOR BECKSTED

1. *City Manager Contract Amendment
2. Appointments to be Considered:
 - Appointment of Margot Doering to the Historic District Commission as a Regular Member
 - Appointment of Paul Reardon to the Historic District Commission as a Regular Member replacing the unexpired term of Cyrus Beer
3. *Appointment to be Voted:
 - Appointment of Thaddeus Jankowski to the Conservation Commission
 - Appointment of Adam Webster to the Conservation Commission
 - Appointment of Jane Wright as an Alternate to the Conservation Commission

XIII. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR SPLAINE

1. Face Covering Exceptions

B. COUNCILOR HUDA

1. Middle Street Bike Lanes (*Sample motion – move the parking of vehicles back to the curb in Middle Street Bike Lanes immediately for safety of all in lieu of the recent accident*)

C. COUNCILOR TABOR

1. Middle Street Long-Term Task Force (*Sample motion – move to approve the creation of a citizen task force to answer the question: “How can we make Middle Street a bicycle-pedestrian-vehicle boulevard that works for everyone and enchances the city?”*)

XIV. APPROVAL OF GRANTS/DONATIONS

- A. *Acceptance of Police Department Grant - \$24,759.00 from the NH Department of Justice

XV. CITY MANAGER’S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager’s Items Which Require Action:

1. *Request to Establish a Work Session Regarding Annual Assessments
2. Request for Approval of Portsmouth School Cafeteria Contract
3. Request for Approval of Portsmouth School Custodial Contract
4. Request for Approval of Portsmouth School Paraprofessionals Contract

5. Request for Approval of Portsmouth AFSCME 1386B Contract
6. Sagamore Avenue Sewer Extension Project
7. Construction License for 99 Hanover Street
8. 46-64 Maplewood Avenue Temporary Construction License Extension
9. Request to Waive Prescott Park Arts Festival Annual Consideration Fee
10. Request to Waive Gundalow Company Annual Consideration Fee

XVI. CONSENT AGENDA

- A. Request for License to Install a Projecting Sign for owner Samuel Habib, The Hub Smoke and Vape for property located at 222 State Street (***Anticipated action - move to approve the aforementioned Projecting Sign Licenses 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. Acceptance of Sidewalk and Drainage Easement for 95 Brewster Street (***Sample motion – move to accept a sidewalk easement and a drainage easement for 95 Brewster Street as presented***)
- C. Letter from Melissa Walden, American Lung Association, requesting permission to hold the Cycle the Seacoast on May 2, 2021

XVII. PRESENTATIONS & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. *Presentation by Health Officer Kim McNamara regarding COVID-19 Update
- B. *Update on the Portsmouth Citizens Response Task Force
- C. Email Correspondence (***Sample motion – move to accept and place on file***)
- D. Letter from Erik Newman, EverSource, requesting to Name an Unnamed Private Road and Assign 911 Numbering to the Improvements Accessed Therefrom (***Sample motion – move to refer to the Planning Board for report back***)

- E. Report Back on Request of Restoration of Involuntary Merged Lot – 1240 Islington Street (*Tabled from the August 18, 2020 City Council meeting*)

XVIII. CITY MANAGER’S INFORMATIONAL ITEMS

1. Report Back on Middle Street Bike Lanes as Requested at the August 18, 2020 Council meeting
2. Fleet Street Public Information Meeting
3. Report Back on Lease Agreements and Licenses for Non-Profits
4. Report Back from Sewer and Water on Large Rain Events and Combined Sewer Overflows as Requested at the July 13, 2020 City Council meeting
5. Report Back and Update on CARES Act Fund Allotment as Requested at the August 18, 2020 City Council meeting

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

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

Date: August 27, 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 August 31, 2020

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

First Reading of Three Ordinances Amending Various Sections of Chapter 7:

In the past the temporary parking and traffic regulations, approved by the Parking and Traffic Safety Committee (PTSC) and authorized by the City Council, were brought forward to the Council once a year as part of a "Parking and Traffic Omnibus" package. At that time, all of the temporary parking and traffic regulations approved by the PTSC and authorized by the Council in the prior year were presented as one package to the Council for adoption as an ordinance change.

At the July 13, 2020 Council meeting, the Council failed to approve a motion to request a first reading for the Omnibus package. Therefore, the individual temporary regulations have been separated based on their expiration date and will be presented individually to the Council. A table of the individual temporary regulations, along with the original Council temporary authorization date, the date of expiration of that temporary approval, and a proposed first reading date, was provided by the City Manager to the Council at their August 3rd meeting. The August 3rd meeting was continued to August 18th, at which time the Council, by Consent Agenda, voted to schedule first readings of amendments to the following ordinances which include Chapter 7, Article III, Section 7.326, Limited Parking, Fifteen Minutes; Chapter 7, Article III, Section 7.330, No Parking and Chapter 7, Article VI, Section 7.601, Limited Hours Loading Zones. A [diagram](#) and [the proposed amendment to each ordinance](#) are also included for information.

A. First Reading of Ordinance amending Chapter 7, Article III, Section 7.326, Limited Parking - Fifteen Minutes:

[Attached is the diagram](#) and [the proposed amendment](#) to the ordinance amending Chapter 7, Article III, Section 7.326, Limited Parking – Fifteen Minutes.

I recommend that the City Council move to pass first reading of Chapter 7, Article III, Section 7.326, Limited Parking - Fifteen Minutes, and to schedule a public hearing and second reading at the September 14, 2020 City Council meeting.

B. First Reading of Ordinance Amending Chapter 7, Article III, Section 7.330, No Parking:

Attached is the diagram and the proposed amendment to the ordinance amending Chapter 7, Article III, Section 7.330, No Parking.

I recommend that the City Council move to pass first reading of Chapter 7, Article III, Section 7.330, No Parking, and to schedule a public hearing and second reading at the September 14, 2020 City Council meeting.

C. First Reading of Ordinance Amending Chapter 7, Article VI, Section 7.601, Limited Hours Loading Zones:

Attached is the diagram and the proposed amendment to the ordinance amending Chapter 7, Article VI, Section 7.601, Limited Hours Loading Zones.

I recommend that the City Council move to pass first reading of Chapter 7, Article VI, Section 7.601, Limited Hours Loading Zones, and to schedule a public hearing and second reading at the September 14, 2020 City Council meeting.

D. Third and Final Reading of Ordinance Amending Chapter 3 – Public Health, Article XI – Face Coverings during the COVID-19 Pandemic, Section 3.1101 – Face Coverings Required:

A proposed ordinance entitled “Face Coverings during the COVID-19 Pandemic” is being presented for a third and final reading at this evening’s meeting. As amended at second reading on August 18, 2020, the ordinance would require all persons in the City to wear face coverings whenever they are in an indoor or outdoor space which is accessible to the public in which a physical distancing of six feet between people who are not members of the same household is not maintained. A permissible face covering would be any product that covers the nose and mouth of the person wearing it. Exceptions exist for persons with health issues, who are under the age of six, or who are actually engaged in the act of eating or drinking at a licensed establishment. The ordinance may be further amended by suspension of the rules. One such amendment which will be required is the addition of a date upon which the ordinance would take effect.

XIV. Approval of Grants/Donations:

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

At the July 28, 2020 Police Commission meeting, the Board of Police Commissioners accepted the following grant:

- a. A grant in the amount of \$24,759 from the New Hampshire Department of Justice for the Victims of Crime Act Grant Program, SFY '21 Subgrant Award.

I recommend that the City Council move to accept the grant to the Portsmouth Police Department as presented.

XV. City Manager's Items which Require Action:

1. Request to Establish a Work Session Regarding Annual Assessments:

I request a work session with the City Council on September 14, 2020 at 6:00 p.m. to review the results of the 2020 Partial Update which was completed by the City of Portsmouth Assessor's Office and Vision Government Solutions. This work session will review and explain what a partial revaluation is, along with the research involved in the collection of sales data and various other information required to conduct the partial update. Additionally, this work session will also review the analysis conducted and the results. Mike Tarella of Vision Government Solutions will be present for the work session.

I recommend that the City Council move to establish a work session for the purpose of reviewing the results of the 2020 Partial Update on September 14, 2020 at 6:00 p.m.

2. Request for Approval of Portsmouth School Cafeteria Contract:

The City Council reviewed a one year collective bargaining agreement with the School District Cafeteria Employees in a Non-Public Session on August 3, 2020. [Attached](#) is the proposed agreement.

I recommend that the City Council move to ratify the one year agreement as presented with the School District Cafeteria Employees.

3. Request for Approval of Portsmouth School Custodial Contract:

The City Council reviewed a one year collective bargaining agreement with the School District Custodial Employees in a Non-Public Session on August 3, 2020. [Attached](#) is the proposed agreement.

I recommend that the City Council move to ratify the one year agreement as presented with the School District Custodial Employees.

4. **Request for Approval of Portsmouth School Paraprofessionals Contract:**

The City Council reviewed a one year collective bargaining agreement with the School District Paraprofessionals in a Non-Public Session on August 3, 2020. [Attached](#) is the proposed agreement.

I recommend that the City Council move to ratify the one year agreement as presented with the School District Paraprofessionals.

5. **Request for Approval of Portsmouth AFSCME 1386-B Contract:**

The City Council reviewed a one year collective bargaining agreement with the City/ AFSCME 1386-B Employees in a Non-Public Session on August 3, 2020. [Attached](#) is the proposed agreement.

I recommend that the City Council move to ratify the one year agreement as presented with City/AFSCME 1386-B Employees.

6. **Sagamore Avenue Sewer Extension Project:**

Over the last two months, City staff, engineers and the E/One pump system equipment supplier have provided the City Council and residents with additional information requested on the Sagamore Avenue Area Sewer Extension project. I am requesting that the City Council vote on an approach this evening to move this project forward. The [August 20, 2020 memorandum summarizing approach options](#) has been provided for convenience and was previously distributed to City Council and residents in the project area. The City has [drafted proposed motions](#) for the City Council's consideration and staff are available this evening to answer any additional questions on this topic.

I recommend that the City Council move to endorse Approach #3 as outlined in the August 20, 2020 memorandum to move forward on the Sagamore Avenue Sewer Extension project. Motions 1A and 2A on the [proposed motion worksheet](#) would implement this approach. No additional motions would be required at this time.

7. **Construction License for 99 Hanover Street:**

On July 22, 2020, the Inspection Department issued an Encumbrance Permit (ENCM 20-50) to Republic Building Contractors, Inc., applicant on behalf of Portwalk Residential, LLC/Cathartes Private Investment to place a dumpster on [three parking spaces on Hanover Street](#) adjacent to property located at the corner of Portwalk Place and 99 Hanover Street, City Tax Map 125, Lot 023, for the purposes of renovating a restaurant. The encumbrance permit is set to expire on September 1, 2020.

Encumbrances for a duration longer than 30 consecutive working days require a license approved by the City Council. In addition, all licenses are subject to the "License Fee for Encumbrance of City Property" policy, which provides a fee of \$50 per encumbered parking space per day. Per the City policy, the fee for the temporary license is calculated at \$50 per

day for three parking spaces which equals \$150 a day for 94 days (September 2, 2020 through December 4, 2020) for a total license fee of \$14,100. The [proposed license agreement](#) provides that, if any of the parking spaces in the license area are returned to the City prior to the end of the License Term, the City will refund the applicant the portion of the license fee already paid to the City. All of the foregoing has been reviewed by the Planning and Legal Departments and is recommended for approval.

I recommend that the City Council move to authorize the City Manager to execute and accept the temporary construction license for Portwalk Residential, LLC/Cathartes Private Investment as submitted.

8. 46-64 Maplewood Avenue Temporary Construction License Extension:

On May 17, 2018, the Planning Board granted site plan review approval to Steve Kelm (30 Maplewood, LLC) for property located at 46-64 Maplewood Avenue to construct a five-story, mixed use building.

The Construction Mitigation and Management Plan (CMMP), signed in August 2018, identified temporary encumbrances of the public right-of-way for project-related work along Bridge Street, Deer Street, and Maplewood Avenue for different periods of time during the project's construction. Encumbrances for a duration longer than 30 consecutive working days require a license approved by the City Council. In addition, the license are subject to the "License Fee for encumbrance of City Property" policy.

The License Areas are show on the [plan labeled "License Plan"](#) prepared for 30 Maplewood, LLC. License Area 1 is 630 square feet of the sidewalk area along the south side of Deer Street. License Area 2 is 322 square feet of the sidewalk area located at the corner of the intersection of Deer Street and Maplewood Avenue. License Area 3 is 1,140 square feet of the sidewalk area on the west side of Maplewood Avenue.

In November 2018, the City Council approved a temporary construction license for the project, which after two subsequent extensions, expires August 31, 2020 of this year. Mr. Kelm is requesting another extension through the end of November 2020.

Per the City policy, the total fee for the temporary license is calculated at \$0.05 per square foot per day for a total of 122 days which comes to a total license fee of \$12,761.20. The [proposed license agreement](#) provides that, if any of the license areas are returned to the City prior to the end of the License Term, the City will refund the applicant the portion of the license fee already paid to the City. All of the foregoing has been reviewed by the Planning and Legal Departments and is recommended for approval.

I recommend that the City Council move to authorize the City Manager to enter into an extension of a license with 30 Maplewood, LLC, and to execute and accept the temporary construction license for 46-64 Maplewood Avenue as submitted.

9. Request to Waive Prescott Park Arts Festival Annual Consideration Fee:

This item comes back for the City Council's consideration following an initial discussion among Council members at the meeting of August 3, 2020. Due to the unprecedented nature of the pandemic caused by COVID-19, the Prescott Park Arts Festival (PPAF) has cancelled its 2020 season. As a result, [PPAF is requesting that the City waive its annual consideration fee for the 2020 season](#). Schedule D of the [Prescott Park License Agreement between PPAF and the City](#) indicates that in the event of unforeseen circumstances, the City Manager is authorized to negotiate a lower figure for the affected year.

During the initial discussion on August 3, 2020, there was a question with regard to whether PPAF was current in its obligations under its license. PPAF will be current as of August 31, 2020.

The second question that arose during the Council meeting of August 3, 2020 related to the precedent that might be set if the PPAF waiver request were granted. The City has [leases, licenses and agreements with other non-profit entities and a list of those are set forth in the informational items section of the City Manager's report](#) (excluded from the lists are parking agreements, dock licenses and the like with individual residents or for-profit entities.) The majority of the leases do not call for annual payments, but do require maintenance and upkeep obligations, commitments to public use, and investments in capital projects.

Other than some adjustments that have been made to the obligations between the City and Save the Indoor Portsmouth Pool (SIPP) due to the closure of the indoor pool due because of the pandemic, no other entity (except for the Gundalow as referenced immediately below) has yet come forward to request adjustment to their obligations under any other lease or license. While there are some common terms among the leases and licenses, the City Council is well within its discretion to examine any request for waiver or adjustment of any fee or obligation on a case-by-case basis. The uses and commitments by the non-profits vary and some entities have had greater use of leased facilities than others during the pandemic.

I recommend that the City Council move to waive the Prescott Park Arts Festival's annual consideration fee of \$20,424 for the Festival's 2020 season.

10. Request to Waive Gundalow Company Annual Consideration Fee:

[The Gundalow Company is requesting a reduction in its annual consideration fee for the 2020 season due to the effects of COVID-19 on its regularly scheduled programming](#). This fee is required by the [Prescott Park License Agreement between the Gundalow Company and the City](#) for use of the Sheafe Dock and Sheafe Warehouse. As outlined in Schedule D of this agreement, in the event of unforeseen circumstances the City Manager is authorized to negotiate a lower figure for the affected year. The Gundalow made its initial payment due under the license agreement earlier this year, but is requesting waiver of the remaining amount due.

I recommend that the City Council move to waive the remaining balance of the Gundalow Company's annual consideration fee in the amount of \$3,318 for the 2020 season.

XVI. Consent Agenda:

A. Projecting Sign License - 222 State Street:

Permission is being sought to install a projecting sign at [222 State Street](#) that extends over the public right of way, as follows:

Sign dimensions: 32" x 32"

Sign area: 7.11 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. Acceptance of Sidewalk and Drainage Easements for 95 Brewster Street:

On April 30, 2020, the Planning Board approved an application to merge two lots and construct three dwelling units in two structures on property located at [95 Brewster Street](#) and 49 Sudbury Street.

As approved, the proposal required that the applicant provide an [easement for the City for the sidewalk](#) that is located on a portion of the property. In addition, the applicant must provide a [drainage easement](#) for the swale behind Unit 1 to drain onto public property.

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

I recommend that the City Council move to accept a sidewalk and drainage easements for 95 Brewster Street as presented.

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 Portsmouth Citizen Response Task Force:

I will be providing an update on the Portsmouth Citizen Response Task Force at this evening's meeting, along with Co-Chairs James Petersen and Mark Stebbins.

XVIII. City Manager's Informational Items:

1. **Report Back on Middle Street Bike Lanes as Requested at the August 18, 2020 Council meeting:**

Please find attached a [report back](#) on the Middle Street Bike Lanes as requested at the August 18, 2020 City Council meeting.

2. **Fleet Street Public Information Meeting:**

The City has hired Portsmouth-based firm Underwood Engineers to complete preliminary field work and design services for the Fleet Street Reconstruction project. This project is one of seven sewer separation projects required by the Supplemental Compliance Plan in the City's Consent Decree with the EPA.

As part of the public outreach effort, the City will be mailing the [attached letter](#) to owners of property on Fleet Street and within the larger study area, who are likely to be affected by work at their property. This letter:

- Provides a brief description of the project
- Notifies the property owner of the upcoming Public Project Meeting #1
- Encourages participation in the meeting
- Provides the address for the project web page (<https://www.cityofportsmouth.com/publicworks/fleet-street>)
- Requests appropriate contact information be provided for future project correspondence

The first public meeting will held remotely via Zoom on Wednesday, September 9, 2020 at 6:30 p.m. This meeting will present the project goals, summarize the engineering and field work process, and further discuss details of the project with stakeholders. A press release will be issued to advertise the meeting to the general public.

Following the public meeting, City staff and Underwood Engineers will begin coordinating field work with individual property owners. This work will include geotechnical borings, smoke testing, and plumbing inspections. Special considerations will be made to prevent field work from having further negative impacts on downtown businesses during the ongoing COVID-19 pandemic.

3. **Report Back on Lease Agreements and Licenses for Non-Profits:**

A list of the [City's lease agreements](#) and [licenses for non-profits](#), as referenced earlier in the City Manager's report, is attached for informational purposes.

4. **Report Back from Sewer and Water on Large Rain Events and Combined Sewer Overflows as Requested at the July 13, 2020 City Council meeting:**

Please [find attached a memorandum](#) on the large rainfall event that occurred on June 30, 2020 and combined sewer overflows.

5. **Report Back and Update on CARES Act Fund Allotment as Requested at the August 18, 2020 City Council meeting:**

A [report back on CARES Act Fund allotment is attached](#) for information as requested at the August 18, 2020 City Council meeting.