

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, SEPTEMBER 19, 2022 TIME: 5:45PM

Members of the public also have the option to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser:

https://us06web.zoom.us/webinar/register/WN_sRxKPeLWRrC_V1xVITCvZg

5:45PM – ANTICIPATED NON-PUBLIC SESSION IS BEING HELD IN CONFERENCE ROOM A

1. CONSIDERATION OF LEGAL ADVICE – RSA 91-A:3, II (I)

AGENDA

**Regular portion of City Council meeting to begin at 7:00 p.m.*

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

PROCLAMATION

1. Childhood Cancer Awareness Week

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

VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**

- A. Recognition of Camila Sacco 2022 Miss New Hampshire USA
- B. Recognition of Thomas Kozikowski for Athletic Director of the Year
- C. Recognition of Hispanic Heritage Month

IX. **PUBLIC COMMENT SESSION** (*This session shall not exceed 45 minutes*) – (*participation may be in person or via Zoom*)

X. **PUBLIC HEARINGS AND VOTE ON ORDINANCE AND/OR RESOLUTION**

First Reading of Ordinance:

- A. First reading of Ordinance amending Chapter 10, Article 5A, Section 10.5A21B, Amend Map For Building Height Standards, Incentive Overlay Districts Sections 10.5A21.20 – Building Height Standards, Sections 10.5A21.21 & 10.5A21.22, Section 10.5A43.32 – Building and Story Heights, Section 10.1530 – Terms of General Applicability (***Sample motion – move to pass first reading, and schedule a public hearing and second reading at the October 3, 2022 City Council meeting***)

Second Reading of Ordinance:

- B. Second reading of Ordinance amending Chapter 1, Article IV, Section 1.414 – Commissions and Authorities (***Sample motion – move that Chapter 1, Article IV, Section 1.414 of the ordinances of the City be amended as described in the memorandum from the City Attorney to the City Manager on that topic dated September 13, 2022***)

XI. CITY MANAGER’S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager’s Items Which Require Action:

1. Approval of Welfare Guidelines
2. Temporary Construction License for 64 Vaughan Street
3. Approval of Employment Agreement with Fire Chief McQuillen
4. Approval of Agreement with School Custodial Supervisors Union
5. *Request to Schedule a Work Session for Stormwater Utility Feasibility
6. Foundry Place LLC Deed Acceptance for Property Located at 88-99 Foundry Place and 0 Deer Street

XII. CONSENT AGENDA

(Proper Motion for Adoption of Consent Agenda - move to adopt the Consent Agenda)

- A. Request from Lisa DeGloria, Good Dog Gallery, to install a Projecting Sign at 135 Market Street, Unit G (***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 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. Letter from Chris Carragher, Seacoasts Paddleboard Club, requesting permission to hold the 5th Annual Halloween Costume Paddle on Sunday, October 30, 2022 from 10:00 a.m. to 11:30 a.m. at the Peirce Island Boat Ramp (***Anticipated action – move to refer to the City Manager with Authority to Act***)

- C. Pro Portsmouth 2023 Various Events Request (***Anticipated action – move to refer to the City Manager with Authority to Act***)
- D. Eversource Petitions and Pole License Requests:
 - Installation of 4 poles on Pevery Hill Road #63-0696(***Anticipated action – move to refer to the City Manager with Authority to Act***)

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- A. Email Correspondence (***Sample motion – move to accept and place on file***)
- B. Request to Rename the North Mill Pond Park in Honor of Mark Stebbins (***Sample motion – move to schedule a work session to consider this request***)
- C. Request for Paper Street for Joffre Avenue (***Sample motion – move to refer to the Planning Board and Assessor for report back***)
- D. Letter from Peter Weeks regarding Worth Lot (***Sample motion – move to refer to the City Manager for report back***)

XIV. MAYOR McEACHERN

- 1. *City Facilities Update
- 2. *Appointments to be Voted:
 - Appointment of Luis Rodriguez to the Cable Television & Communications Commission
 - Appointment of Torey L. Brooks to the Sustainable Practices Blue Ribbon Committee
 - Reappointment of Patricia Bagley to the Trees and Public Greenery Committee
 - Appointment of Jeffrey Mattson as an Alternate to the Zoning Board of Adjustment

XV. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR KELLEY

- 1. Legislative Subcommittee's recommendations on the NHMA 2023-2024 Proposed Legislative Policy Positions and Principles
- 2. * Removal of taxi only parking spots downtown and across the city as the taxi commission has been dissolved (***Sample motion – move to refer to the Parking and Traffic Safety Committee for report back at the October 24, 2022 City Council meeting***)
- 3. Request for a Report back from Recreation and Department of Public Works on creating a disc golf course at Community Campus

B. COUNCILOR DENTON

- 1. The 3rd Annual Portsmouth EV Show

C. COUNCILOR BAGLEY

1. Parking and Traffic Safety Committee Action Sheet and Minutes of September 1, 2022 ***(Sample motion – move to accept and approve the action sheet and minutes of the September 1, 2022 Parking and Traffic Safety Committee meeting)***

Action Item Needing Approval by City Council:

- Portwalk Place, request for renewal of valet license agreements, by business owner ***(Sample motion – move to approve renewal of valet license agreement for Parade Residence Hotel, LLC for a term of 1 year and to approve renewal of valet license agreement for Portsmouth HI, LLC for a term of 1 year)***

D. COUNCILOR LOMBARDI

1. Archive Historical Documents ***(Sample motion – move to establish a Blue Ribbon Task Force to Study the Establishment of a Private/Public partnership to Properly Archive Historical Documents relating to the City of Portsmouth. The details related to the need for the work of the Task Force are outlined in the attached document)***

XVI. APPROVAL OF GRANTS/DONATIONS

- A. Approval of Critical Flood Risk Infrastructure Grant from NHDES - \$275,000.00 ***(Sample motion – move to accept the grant in the amount of \$275,000.00 as presented)***

XVII. CITY MANAGER’S INFORMATIONAL ITEMS

1. *Reminder to Public for CIP Deadline
2. *Recycling Center Card Reader Update
3. Report Back on Outdoor Pool
4. Report Back from the Legal Department on Prescott Park Public Forum Area
5. Response regarding Unexpended Bond Proceeds
6. *McIntyre Update

XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

1. Citywide Neighborhood Committee Meeting – August 17, 2022

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

**Indicates verbal report*

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



CITY OF PORTSMOUTH

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

Karen S. Conard
City Manager

Date: September 15, 2022

To: Honorable Mayor McEachern and City Council Members

From: Karen S. Conard, City Manager *KSC*

Re: City Manager's Comments on City Council Agenda of September 19, 2022

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

A. First Reading Regarding Phase 1 Zoning Amendments:

Attached please find a memorandum from the City's Planning Director, Beverly Mesa-Zendt regarding proposed amendments to Chapter 10, Zoning Ordinance.

I recommend that the City Council move to pass first reading, and schedule a public hearing and second reading at the October 3, 2022 City Council meeting.

B. Second Reading of Ordinance Amending Chapter 1, Article IV Commissions and Authorities, Section 1.414 Audit Committee:

Attached please find a memorandum from Attorney Sullivan regarding a proposed ordinance amendment to Chapter 1, Article IV – Commissions and Authorities, Section 1.414 Audit Committee.

If the Council is in agreement with this recommendation, a motion which might be made to accomplish that result would be as follows:

Move that Chapter 1, Article IV, Section 1.414 of the ordinances of the City be amended as described in the memorandum from the City Attorney to the City Manager on that topic dated September 13, 2022.

XI. City Manager's Items Which Require Action:

1. Approval of Welfare Guidelines:

Per RSA 165:1, "The local governing body, as defined in RSA 672:6, of every town and city in the state shall adopt written guidelines relative to general assistance."

The City of Portsmouth Welfare Guidelines were most recently updated in 2015. In 2021, the NH Local Welfare Administrators Board of Directors, worked with attorneys from the NH Municipal Association to update the NHLWAA Model Guidelines. These Model Guidelines are provided to cities and towns to use as their own or to modify them as they see fit.

Working in conjunction with City Attorney Sullivan, [the City has recently revised the Welfare Guidelines, which are attached for your consideration](#). The changes are primarily additional definitions and other language that clarify the City's policies with the intention of making the document more user friendly for clients and their advocates. Welfare Officer Ellen Tully will be present at this evening's meeting to answer any questions.

I recommend that the City Council move to adopt the Welfare Guidelines as presented.

2. **Temporary Construction License for 64 Vaughan Street:**

On August 19, 2021, the Planning Board granted site plan approval for renovation of the Margeson building and construction of an addition for property located at [64 Vaughan Street](#) ("Property"). The original site plan included retail and office space with underground parking, as well as sidewalks and improvements to the Worth Lot. The property was conveyed in December 2021 to Novocure Inc., which will use the 42,000 square foot building for their corporate headquarters. The site plan was amended to exclude retail use of the premises.

The Construction Mitigation and Management Plan (CMMP), signed on November 16, 2021, identified temporary encumbrances for project-related work during the project's construction. Encumbrances for a duration longer than 30 consecutive working days require a license approved by the City Council. All licenses are subject to the "License Fee for Encumbrance of City Property" policy.

On February 22, 2022, the City Council granted a license for this project for the use of 35 square feet of city property in the Vaughan Mall and 14 parking spaces in the Worth Lot from March 5, 2022 through June 3, 2022. [Owner Novocure's agent, Hampshire Development Corp., Licensee, is now requesting a license](#) to use 650 square feet of the alley that abuts the Property and connects Hanover Street to the Worth Lot to set a crane for 104 days (September 20, 2022 through January 1, 2023) and ten (10) parking spaces in the Worth Lot to create a safe work area for steel erection, façade and roof installation for 93 days (October 1, 2022 through January 1, 2023).

The License Fee for the use of 650 square feet of City property in the alley that connects Hanover Street to the Worth Lot is \$3,380 (650 sq. ft X \$0.05 = \$32.50 x 104 days). The License Fee for the ten (10) parking spaces in the Worth Lot is \$32,550 (\$35 per space x 10 = \$350 a day x 93 days). The total License Fee for both License Areas is \$35,930.

During the term of this License, the Owner will work with the Director of Public Works to create a pilot for the reconfiguration of the Worth Lot before finalizing the permanent improvements as set forth in a separate Development Agreement approved by the City Council on November 15, 2021.

The Legal and Planning Departments have reviewed and approved the form of [the attached License](#).

If the Council agrees to grant the temporary construction license to encumber 650 square feet of the alley that abuts the Property and connects Hanover Street to the Worth Lot and the use of ten (10) parking spaces in the Worth Lot, an appropriate motion would be:

Move that the City Manager be authorized to execute and accept the temporary construction license to encumber 650 square feet of the alley that abuts the Property and connects Hanover Street to the Worth Lot for a term of 104 days and for the use of ten (10) parking spaces in the Worth Lot for a term of 93 days as requested.

3. **Approval of Employment Agreement with Fire Chief McQuillen:**

[Attached please find a memorandum from the City’s Labor Negotiator, Tom Closson, along with a proposed employment agreement with Fire Chief William McQuillen.](#)

I recommend that the City Council move to approve the proposed agreement as presented.

4. **Approval of School Custodial Supervisors Union Agreement:**

[Attached please find a memorandum from the City’s Labor Negotiator, Tom Closson, along with a proposed employment agreement with the School Custodial Supervisors Union.](#)

I recommend that the City Council move to approve the proposed agreement as presented.

5. **Request to Schedule a Work Session for Stormwater Utility Feasibility:**

The City of Portsmouth created a Special Revenue Fund for our stormwater program starting in FY19. The intent of this fund was to better track the costs related to meeting the ongoing operational, staffing and expenses needed to comply with the 2018 stormwater municipal separate storm sewer system (MS4) permit.

Municipalities in New Hampshire have legal authority to form stormwater utilities under RSA 149-I. Stormwater utilities can be created to address flood and erosion control, water quality management, ecological preservation, and annual pollutant loads contained in stormwater discharges.

The benefits of a Utility include:

- Creating a dedicated funding source
 - Current funding is 50% General Fund and 50% Sewer
 - Revenue generated by a stormwater utility based on user fees provides a more sustainable and equitable funding source
- Improved Watershed Stewardship
 - Through incentive programs that provide rebates or reduce user fees, a stormwater utility encourages better stormwater management, such as the use of low impact development practices

The City, together with our engineering consultants, VHB and Stantec, have been studying the feasibility of developing a stormwater utility enterprise fund, similar to the current water and sewer enterprise funds.

I recommend that the City Council move to schedule a work session on October 17, 2022 at 6:00 p.m. to present the preliminary findings and recommendations of this study and discuss steps the City may take to implement a stormwater utility enterprise fund.

6. **Foundry Place LLC Deed Acceptance for Property Located at 88-99 Foundry Place and 0 Deer Street:**

Attached please find a memorandum from Staff Attorney, Trevor P. McCourt, outlining a request for two deeds for property located at 88-99 Foundry Place and 0 Deer Street.

I recommend that the City Council move to authorize the City Manager to accept and record a community space deed over 88-99 Foundry Place and a Warranty Deed for Lot 2 in substantially similar form to the deeds from Foundry Place LLC contained in the agenda packet.

XII. Consent Agenda:

A. **Projecting Sign Request for 135 Market Street:**

Permission is being sought to install a projecting sign at 135 Market Street that extends over the public right of way, as follows:

Sign dimensions: 42” diameter

Sign area: 9.6 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.*

XVI. Approval of Grants/Donations:

A. Acceptance of Critical Flood Infrastructure Grant in the Amount of \$275,000 from NHDES:

The City was awarded a \$275,000 grant from NHDES. This funding is available through the American Rescue Plan Act of 2021 (ARPA) and must be expended no later than December 31, 2026. In order to receive this funding, the City Council needs to accept and approve the funds.

This funding will be used to implement construction of improvements to a section of Peirce Island Road and an adjacent parking area. The low-lying section of Peirce Island Road drains poorly under current conditions and is at risk of wave wash-over from the north side, which has the potential to cause erosion and undermine the existing road. The proposed improvements will elevate this section of the roadway and an adjacent parking area above the existing 100-year floodplain and account for projected sea level rise. Improvements also include an overall reduction in impervious surfaces within portions of the 100-year floodplain by replacing the existing packed gravel parking area with grass pavers and vegetation, which will improve stormwater management.

I recommend that the City Council move to accept the grant in the amount of \$275,000 as presented.

XVII. City Manager's Informational Items:

1. Reminder to Public for CIP Deadline:

The deadline for citizen submissions to be considered for the upcoming Fiscal Year's Capital Improvement Plan is September 30, 2022. [Please use this online form to submit requests](#) or you can [download the CIP project suggestion form as a PDF](#) and email directly to CIP@cityofportsmouth.com.

The Capital Improvement Plan (CIP) sets forth a six-year schedule and financing strategy to accomplish necessary public improvements and meet infrastructure needs. The Planning Board oversees the development of the Capital Improvement Plan, which supports the Board's responsibilities to prepare and amend the City's Master Plan. More information in the CIP can be found [on the City's website](#).

2. Recycling Center Card Reader Update:

The Department of Public Works is pleased to announce the installation of a credit/debit card system at the City's Recycling Center. The Center will now be able to take credit/debit cards instead of the previous "checks only" policy for disposal of items. The card readers work like every other "over the counter" card/chip reader and accept all major credit cards. There is a \$1.50 credit card service charge on each transaction.

For a detailed list of all the items accepted at the Recycling Center, [please visit the Public Works website](#).

3. **Report Back on Outdoor Pool:**

At the August 22, 2022 City Council meeting, a report back regarding the outdoor pool was requested in response to the Conversation Commission's request made via letter dated August 11, 2022. [Please find attached that report back](#) as requested.

4. **Report Back from the Legal Department on Prescott Park Public Forum Area:**

As requested at the August 22, 2022 City Council meeting, please find attached [a report back from the Legal Department regarding the Prescott Park Public Forum Area](#).

5. **Response Regarding Unexpected Bond Proceeds:**

Attached please find [a memorandum from the City's Finance Director, Judie Belanger](#), in response to comments made at the August 22, 2022 City Council meeting.

6. **McIntyre Update:**

I will be providing a verbal update on the McIntyre Redevelopment Project at this evening's meeting.