

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: TUESDAY, SEPTEMBER 5, 2023 TIME: 6:30PM

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_kyGuxva_RmqHN6WsueZkNg

6:30PM - 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**

PROCLAMATIONS:

1. Childhood Cancer Awareness Month
2. National Library Card Month

- VII. **ACCEPTANCE OF MINUTES – AUGUST 21, 2023**
- VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**
- IX. **PUBLIC COMMENT SESSION (This session shall not exceed 45 minutes) – (participation may be in person or via Zoom)**
- X. **PUBLIC HEARING AND VOTE ON ORDINANCES AND/OR RESOLUTIONS**

Public Hearing/Adoption of Resolution:

- A. **PUBLIC HEARING/SECOND READING of Ordinance amending Chapter 1, Article IV, addition of new section – Section 1.413 – ARTS AND CULTURAL COMMISSION (Sample motion – move to pass second reading and hold third and final reading at the September 18, 2023 City Council meeting)**
 - **PRESENTATION**
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

- B. PUBLIC HEARING/SECOND READING of Ordinance amending Chapter 1, Article IV, Section 1.402 – ECONOMIC DEVELOPMENT COMMISSION – Subsections A, B and C (*Sample motion – move to pass second reading and hold third and final reading at the September 18, 2023 City Council meeting*)
- PRESENTATION
 - CITY COUNCIL QUESTIONS
 - PUBLIC HEARING SPEAKERS
 - ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS

- C. PUBLIC HEARING/SECOND READING of Ordinance amending Chapter 1, Article VIII – CODE OF ETHICS – Preliminary, Section 1.801 – Definitions, and Section 1.802 – Conflicts of Interest (*Sample motion – move to pass second reading and hold third and final reading at the September 18, 2023 City Council meeting*)

(Amendment #1 – move that the definition of the term Direct Personal Interest contained at Section 1.801 K of the proposed ordinance be amended by the addition at the end of the definition of the words “or loss”)

(Amendment #2 – move that a new section J (e) be added to section 1.802 to read as follows: J (e) A City employee or official acting in a quasi-judicial capacity shall not vote or participate in the discussion of any matter which would place the official in contravention of any Code of Ethics provision contained in this ordinance)

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

- D. PUBLIC HEARING/ADOPTION of Resolution Authorizing a Supplemental Appropriation from Unassigned Fund Balance for necessary expenditures related to Contractual Obligations. The City Council has determined that the sum of the Eight Hundred Ninety Thousand (\$890,000.00) Dollars is to be appropriated from Unassigned Fund Balance to defray the expenditures related to contractual obligations for the Fiscal Year ending in June 30, 2024 (*Sample motion – move to adopt the Resolution as presented*)
- PRESENTATION
 - CITY COUNCIL QUESTIONS
 - PUBLIC HEARING SPEAKERS
 - ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS

XI. CITY MANAGER’S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager’s Items Which Require Action:

1. Approval of Tentative Agreement with the Firefighters Association of Portsmouth
2. Approval of Tentative Agreement with the Portsmouth Professional Fire Officers Association

3. Approval of Tentative Agreement with the Portsmouth Police Patrolman's Union, NEPBA Local #11
4. Approval of Tentative Agreement with the Portsmouth Police Ranking Officers Association, NEPBA Local #220
5. Approval of Tentative Agreement with the Portsmouth Police Civilian Employees Association, NEPBA Local #111
6. Request for First Reading to Amend Various Sections Regarding Chapter 7, Snow Announcements
7. New Hampshire Public Works Mutual Aid and Assistance Agreement
8. Disposition of Used DPW Vehicles

XII. CONSENT AGENDA

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

- A. Letter from The Music Hall requesting the closure of Chestnut Street on Friday, September 15th through Sunday, September 17th for The Music Hall's annual Telluride by the Sea Film Festival – 2nd Request – Request for the closure of Chestnut Street on Thursday, October 12th through Sunday, October 15th for the annual New Hampshire Film Festival ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Letter from Freddy Petrone, I Got Bridged Team, requesting permission to hold the I Got Bridged 3rd annual walkathon on Sunday, September 10, 2023 ***(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. Letter from Paul and Alison Dunne, requesting permission to build a floating access dock near existing stairs located on Peirce Island ***(Sample motion – move to refer to the Legal Department and the Public Works Department for report back)***
- C. Memorandum from Greater Portsmouth Recovery Coalition summarizing the progress of the coalition ***(Sample motion – move to accept and place on file)***

XIV. MAYOR McEACHERN

1. Appointments to be Considered:
 - Jen Scumaci to the Economic Development Commission
 - Erica Wygonik as a Regular Member to the Parking & Traffic Safety Committee
 - David Allen as an Alternate to the Parking & Traffic Safety Committee
 - Larry Booz to the Historic District Commission

XV. CITY COUNCIL MEMBERS

A. COUNCILOR DENTON & COUNCILOR COOK

1. Sustainability Committee Draft Ordinance (*Sample motion – move to schedule a first reading on September 18, 2023 of the draft ordinance establishing a Sustainability Committee*)

B. COUNCILOR COOK

1. Proposed Ethics Ordinance

XVI. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of The Forensic Shield Grant for the Police Department NH Internet Crimes Against Children (ICAC) Task Force - \$1,300,000.00 (*Sample motion – move to approve and accept the grant as presented*)

XVII. CITY MANAGER’S INFORMATIONAL ITEMS

1. *Wastewater 101
2. Household Hazardous Waste Collection Day
3. *Update on FlashVote

XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

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: August 31, 2023

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 5, 2023

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

A. Public Hearing and Second Reading of Ordinance Amending Chapter 1, Article IV, Addition of New Section – Section 1.413 – Arts and Cultural Commission:

Attached please find an ordinance amendment to Chapter 1, Article IV, Addition of New Section – Section 1.413 – Arts and Cultural Commission.

I recommend that the City Council move to pass second reading and hold a third and final reading at the September 18th City Council meeting.

B. Public Hearing and Second Reading of Ordinance Amending Chapter 1, Article IV, Section 1.402 – Economic Development Commission – Subsections A, B, and C:

Attached please find an ordinance amendment to Chapter 1, Article IV, Section 1.402 – Economic Development Commission – Subsections A, B, and C.

I recommend that the City Council move to pass second reading and hold a third and final reading at the September 18th City Council meeting.

C. Public Hearing and Second Reading of Ordinance Amending Chapter 1, Article VIII – Code of Ethics – Preliminary Section 1.801 – Definitions and Section 1.802 – Conflicts of Interest:

Attached please find an ordinance amendment to Chapter 1, Article VIII – Code of Ethics – Preliminary Section 1.801 – Definitions, and Section 1.802 – Conflicts of Interest.

I recommend that the City Council move to pass second reading and hold a third and final reading at the September 18th City Council meeting.

D. Public Hearing and Adoption of Resolution Authorizing a Supplemental Appropriation from Unassigned Fund Balance for necessary expenditures related to Contractual Obligations. The City Council has determined that the sum of the Eight Hundred and Ninety Thousand (\$890,000) Dollars is to be appropriated from Unassigned Fund Balance to defray the expenditures related to contractual obligations for the Fiscal Year ending June 30, 2024:

Finance Director Judie Belanger has calculated the total first year cost for the five tentative Agreements (outlined below under my name for action this evening) at \$1,464,660. As you know, collective bargaining contingency funds were included in the FY24 adopted City budget. However, the amount budgeted was insufficient to cover the total cost and therefore I recommend the use of \$890,000 from Unassigned Fund Balance.

[Attached please find a resolution in the amount of \\$890,000](#) for expenditures related to these proposed contractual obligations.

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

XI. City Manager's Items Which Require Action:

Police and Fire Tentative Agreements:

I am pleased to report that negotiating teams for the Portsmouth Fire Commission and the Portsmouth Police Commission have reached Tentative Agreements (TA) on five (5) collective bargaining agreements, for which I am requesting approval at this evening's meeting. [Attached please find a memorandum from Tom Closson, the City's Labor Negotiator](#), providing more information about the agreements, [along with a memorandum from Judie Belanger, the City's Director of Finance and Administration](#) relative to total cost estimates over the life of all 5 TAs.

1. Approval of Tentative Agreement with the Firefighters Association of Portsmouth:

[Attached please find a tentative agreement with the Firefighters Association of Portsmouth.](#)

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

2. Approval of Tentative Agreement with the Portsmouth Professional Fire Officers Association:

[Attached please find a tentative agreement with the Portsmouth Professional Fire Officers Association.](#)

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

3. **Approval of Tentative Agreement with the Portsmouth Police Patrolman’s Union, NEPBA Local #11:**

Attached please find a tentative agreement with the Portsmouth Police Patrolman’s Union, NEPBA Local #11.

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

4. **Approval of Tentative Agreement with the Portsmouth Police Ranking Officers Association, NEPBA Local #220:**

Attached please find a tentative agreement with the Portsmouth Police Ranking Officers Association, NEPBA Local #220.

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

5. **Approval of Tentative Agreement with the Portsmouth Police Civilian Employees Association, NEPBA Local #111:**

Attached please find a tentative agreement with the Portsmouth Police Civilian Employees Association, NEPBA Local #111.

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

6. **Request for First Reading to Amend Various Sections Regarding Chapter 7, Snow Announcements:**

The Parking Division has reviewed and recommended updates to the City’s Snow Emergency Messaging Program as more fully explained in [Parking Division Director Ben Fletcher’s memorandum](#). In order to implement these changes to the Messaging Program, two sections of Chapter 7 should be consolidated and amended as set forth in the attached amendments to [Chapter 7, Article III, Section 7.321 \(Snow Emergency Parking Ban\)](#) and [Article X, Section 7.1002 \(Snow Removal Operations\)](#). These amendments have been reviewed and approved by the Parking Division, Public Works and Legal Departments and have been referred to the Parking and Traffic Safety Committee for consideration at their September 7, 2023 meeting.

I recommend that the City Council move to schedule first reading for amendments to Chapter 7, Article III, Section 7.321, Snow Emergency Parking Ban, and Article X, Section 7.1002, Snow Removal Operations, at the September 18, 2023 City Council meeting.

7. **New Hampshire Public Works Mutual Aid and Assistance Agreement:**

New Hampshire was one of the first states in the country to organize a mutual aid public works assistance program. If the City Council approves the New Hampshire Public Works Mutual Aid and Assistance Agreement included in your packet, Portsmouth will be added to the list of communities that can request and provide public works mutual aid to respond to unforeseen emergencies.

Participants may access a Mutual Aid Resource List maintained by the UNH Technology Transfer Center that names all participating municipalities and lists their available equipment and personnel. The current annual cost to join is \$25 a year and the decision to provide aid is always voluntary. The community receiving the aid is responsible for reimbursing the community providing the aid for costs and expenses incurred for personnel and equipment. The receiving and providing communities each retain their obligation to maintain insurance for their employees and pay any amounts due for personal injury or workers' compensation.

The Legal Department and Director of Public Works have reviewed and approved [the attached Agreement](#).

I recommend that the City Council move to adopt the New Hampshire Public Works Mutual Aid and Assistance Agreement as presented and authorize the City Manager to name the Director of Public Works as the Authorized Representative to execute the Agreement.

8. Disposition of Used DPW Vehicles:

[Attached please find a memorandum from the Department of Public Works](#) seeking to dispose of used vehicles. The Department recommends and requests that these used vehicles be traded-in as part of the new vehicle acquisition process.

I recommend that the Department of Public Works be authorized to dispose of the used vehicles identified through the trade-in process as described in the memorandum.

XVI. Approval of Grants/Donations:

A. Acceptance of Grant for the Police Department - \$1,300,000:

At the August 29, 2023 Police Commission meeting, [the Board of Police Commissioners approved and accepted a Forensic Shield Grant in the amount of \\$1,300,000](#) from the New Hampshire Department of Justice for the New Hampshire Internet Crimes Against Children (ICAC) Task Force.

I recommend that the City Council move to approve and accept the grant for the Police Department as presented.

XVII. City Manager's Informational Items:

1. Wastewater 101:

City staff are planning a "Wastewater 101" presentation to the community on Wednesday, September 13th at 6:30 p.m. at the Levenson Room of the Public Library, which will include an overview of basic wastewater concepts and definitions, the City's current wastewater system, status of current regulations, system performance, current challenges and upcoming projects.

2. **Household Hazardous Waste Collection Day:**

Attached please find a press release announcing [Household Hazardous Waste Collection Day on September 23rd](#). Residents of Portsmouth, Greenland and Newington are encouraged to bring household chemicals as outlined for safe disposal between 8:00 a.m. and 12 noon. Proof of residency is required.

3. **Update on FlashVote:**

The second of our six FlashVote surveys on the topic of parking will be sent out in mid-September. We are currently working with Parking staff and the Parking Utilization Study consultant to craft questions related to residents' utilization of the parking systems downtown. The next FlashVote survey, due out in October, will be on the topic of the Climate Action Plan and we are in the early planning stages for that survey based on the two previously held public input sessions.