



Karen S. Conard
City Manager

CITY OF PORTSMOUTH

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Date: August 1, 2024

To: Honorable Mayor McEachern and City Council Members

From: Karen S. Conard, City Manager

Re: City Manager's Comments on City Council Agenda of August 5, 2024

X. Public Hearing and Vote on Ordinances and/or Resolutions:

A. Public Hearing and Second Reading of Proposed Ordinance Amending Chapter 10, Article 5A – Character-Based Zoning, Section 10.5A43.33 Regarding Building and Story Heights of the Zoning Ordinance:

At the June 3, 2024 City Council meeting, staff brought [an amendment to Article 5A Character-Based Zoning, Section 10.5A43.33](#), seeking clarification from Council on the original intent of this zoning amendment adopted by Council in August of 2023. The amendment pertains to properties that contain at least one acre in size and are located within CD4, CD4W, and CD5 Character Districts and are not located within an incentive overlay district. These properties, through a Conditional Use Permit, may add a story (up to 15 feet in height), a duplex or house building type or a mixed-use building in exchange for providing 50% community space and workforce housing. As currently written, the language could be interpreted to allow the incentive of an extra story for a mixed-used development without residential units by providing only the community space requirement and no workforce housing.

The Council affirmed its intent that only mix-use buildings with residential units that include both workforce housing and community space are entitled to receive the incentive provided in Section 10.5A43.33 and referred an amendment clarifying its intent to the Planning Board.

The Planning Board held a public hearing on June 20, 2024 and did not receive any public comment on the amendment. The Board approved the amendment that clarified the ordinance consistent with the Council's intent and made additional, minor non-substantive edits to further clarify the ordinance language beyond what was referred by City Council.

The Planning Board also had discussion about the 50% community space requirement in Section 10.5A43.33(a). Some members thought this requirement would deter applicants from using the incentive because of the percentage of community space required. The Board did not make a recommendation to the Council on this issue but wanted the Council to be aware of its concerns and discussion on this matter.

At the July 15, 2024 City Council meeting, the Council held first reading and voted to hold a public hearing and second reading at the August 5, 2024 meeting.

I would recommend that the City Council move to pass second reading of the proposed zoning amendment to Chapter 10, Article 5A, Section 10.5A43.33 and to schedule third and final reading at the August 19, 2024 City Council meeting.

B. Public Hearing and Second Reading of Proposed Parking Omnibus Ordinance Amending Chapter 7, Article III – Traffic Ordinance, Section 7.330 A., No Parking; Article III – Traffic Ordinance, Section 7.341 – Driving on Sidewalk; and Article XI, Section 7.1100 E., Speed Limits: 25 MPH – Middle Street:

Attached please find the annual omnibus set of ordinances recommended by the Parking and Traffic Safety Committee to be presented to the City Council. This year's omnibus changes are detailed on the attached sheets, and address amendments to the parking ordinance regarding no parking, driving on sidewalk, and speed limits.

By way of background, on March 29, 2000, the City Council adopted Ordinance #4-2000 under Chapter 7, Article I, Section 7.103 of the Vehicles, Traffic and Parking Ordinance. This ordinance was adopted in order to be more responsive to the changing parking needs of downtown. Before its adoption, it often took three readings of the City Council to simply change a parking space from a 2-hour time restriction to a 15-minute one. This process would often take 3-4 months to complete.

The current ordinance authorizes the Parking and Traffic Safety Committee to recommend temporary parking and traffic regulations to the City Council for its approval in the form of its monthly meeting minutes. Once the Council approves these minutes, the temporary regulations are in effect for a period not to exceed one year. During that year the Council and the public have the benefit of seeing how a temporary regulation works before adopting it as a permanent change to the parking ordinance. These temporary regulations are presented at one time to the Council for its consideration. If adopted, the following sections of the parking ordinance would be amended: [Chapter 7, Vehicles, Traffic and Parking, Article III, Traffic Ordinance, Section 7.330 A, No Parking; Section 7.341, Driving on Sidewalk](#) and [Chapter 7, Article XI, Speed Limits, Section 7.1100 E, Speed Limit: 25 MPH.](#)

The attached amendments to Chapter 7 for the Council's consideration summarize the temporary regulations implemented by the Parking and Traffic Safety Committee over the past 12 months.

I recommend that the City Council move to pass second reading and schedule third and final reading at the August 19, 2024 City Council meeting.

XI. City Manager's Items Which Require Action:

1. **Request to Schedule Work Session on Revaluation:**

I would like to request a work session on Thursday, September 5, 2024 at 4:30 p.m. on the topic of Revaluation. City Assessor Rosann Lentz expects to have data available to brief the City Council by that date and she intends to schedule an additional meeting for the public. She will also make available informational resources online to help taxpayers understand and evaluate their new assessments when they receive them later in August.

I recommend that the City Council move to schedule a work session on the topic of Revaluation on Thursday, September 5, 2024 at 4:30 p.m.

2. **Request to Adopt Local Emergency Operations Plan:**

I am requesting that the City Council adopt [the attached Local Emergency Operations Plan](#).

The Local Emergency Operations Plan (EOP) establishes a framework for the City and its partners to provide assistance in an expeditious manner in the event of a perceived, potential or actual disaster or emergency. The main body of this plan is a general guide for preparedness, response and recovery that may be applied to a variety of situations.

The purpose of the EOP is to provide strategic and operational guidance aimed at facilitating the delivery of all types of local emergency management assistance to the residents and visitors of Portsmouth and others with whom there are mutual aid agreements/compacts in place, and to help reduce the consequences of disasters and emergencies.

This Plan is the product of a collaboration between multiple City Departments, staff and area service agencies following NH Homeland Security and Emergency Management guidance, and Federal Emergency Management Agency (FEMA) recommendations. The Plan is regularly updated by the Emergency Management Team and State to ensure adequate preparedness and a formal review and update is done every five years. The format of the Plan is consistent with the State of New Hampshire Emergency Operations Plan and the National Response Framework (NRF), using the ESF (Emergency Support Functions) concept and approach.

Upon being implemented by the City, this Plan will provide the basis for coordinating protective actions before, during, and after any disaster. Additionally, this Plan will help coordinate the necessary actions to respond to an emergency and organize the links between local governments, neighboring states, and federal response, and to unify the efforts of government, volunteers, and the private sector for a comprehensive approach to reducing the impacts of emergencies and disasters. The Plan will be reviewed and updated annually, and maintained by the Emergency Management Team for accuracy and to ensure it is still serving the City's planning needs, until its formal review period begins again. This plan needs to be adopted and executed by the City prior to August 31st to comply with the Grant Agreement with NH Department of Safety for funding.

I recommend that the City Council move to adopt the proposed Local Emergency Operations Plan as presented.

3. **Request to Appoint a Motor Vehicle Agent:**

A Municipal Registration Agent is an appointed Municipal Official who serves as an agent of the State of New Hampshire authorized to process registration and title transactions on behalf of the NH Division of Motor Vehicles (DMV).

Since the departure of former Tax Collector Nancy Bates from the City, Deputy Tax Collector Ed Gioioso has served as the de facto Agent. The DMV has requested that Portsmouth formalize our appointment of this Agent. This is an important step in ensuring our continued service to residents with motor vehicle registrations and title transactions.

We have compiled the required documentation to support the Municipal Registration Agent Application. The final element is for the City Council to approve the appointment of our applicant. Proof of such will complete the requirements of the DMV.

I recommend that the City Council move to approve the appointment of Deputy Tax Collector Edward Gioioso as the Municipal Registration Agent for Motor Vehicles in the City of Portsmouth.

4. **RFQ #52-24 Municipal Property at 35 Sherburne Road Status Update - Recommendations for Next Steps and Policy Decision Guidance Sought:**

In May 2024, the City issued a Request for Letters of Interest and Statements of Qualifications from real estate developers and other entities regarding their capacity to design and construct permanent, below-market rate housing on municipally owned property at 35 Sherburne Road. An internal selection committee was created to support the review and evaluation process consisting of the following staff: Joe Almeida, Peter Britz, Sean Clancy, Jillian Harris, Peter Rice, Howard Snyder, Peter Stith and Shanti Wolph, with legal assistance from Jennifer Smith and Trevor McCourt.

Eight development firms responded to this Request. The submittals were scored using the criteria established in the RFQ which included, among other criteria, experience with below market rate housing and professional qualifications. The four highest scoring firms listed below were invited to participate in interviews held during the second week of July:

- Avesta Housing
- Pennrose
- Portsmouth Housing Authority
- Preservation of Affordable Housing

The purpose of the interviews was to both better understand the capabilities of the four development entities and inform a potential Request for Proposal which would provide greater conceptual consideration for this unique site. The four teams were given questions in advance for consideration and inclusion in their presentation which included:

- Would it be more advantageous for the City to sell the site with housing covenants rather than convey the necessary rights through a long-term lease?
- Would the opportunities for housing at this site be improved if the City allowed the existing building to be demolished or is there a reasonable reuse potential for the existing building?
- What is the optimal range, mix and/or type of below-market housing to best build community, create financial stability and ensure a long-term successful project?
- If the existing ballfield is impacted, what are other opportunities at this site for recreation and community space?
- Are there any site/utility/transportation or other challenges you identify as important to explore or address early in the process?
- What special considerations in site design and construction do you anticipate due to the proximity to the highway?
- What are potential funding opportunities for projects of this type?

Provided below is housing data from New Hampshire Housing for your consideration as you consider the recommendations which follow and to provide staff with input and guidance moving forward. This data outlines household incomes, income limits and rent limits for housing programs based upon US Department of Housing and Urban Development (HUD) guidelines, all of which are used as guidelines for any federal tax subsidy housing program.

HUD considers the City of Portsmouth in the Portsmouth-Rochester, NH statistical area, and has determined the area median family income (AMI) to be \$131,200. It is noted that the median family income in New Hampshire is \$119,900, with the national AMI at \$97,800. The first table outlines HUD’S income limits by household size based upon the \$131,200 AMI.

Portsmouth-Rochester, NH				
2024 AREA PROGRAM INCOME LIMITS				
INCOME LIMIT	1 PERSON	2 PERSON	3 PERSON	4 PERSON
80% of AMI (LOW INCOME)	\$68,500	\$78,250	\$88,050	\$97,800
60% of AMI	\$55,140	\$63,000	\$70,860	\$78,720
50% of AMI (VERY LOW INCOME)	\$45,950	\$52,500	\$59,050	\$65,600
30% of AMI	\$27,550	\$31,500	\$35,450	\$39,350

The second table outlines HUD’s fair market and rental program limits by household size based upon the same \$131,200 AMI:

Portsmouth-Rochester, NH					
2024 AREA PROGRAM RENT LIMITS					
RENT LIMIT	EFFICIENCY/STUDIO	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
FAIR MARKET	\$1,481	\$1,582	\$2,003	\$2,557	\$2,999
80%	\$1,712	\$1,834	\$2,201	\$2,543	\$2,836
60%	\$1,378	\$1,476	\$1,771	\$2,046	\$2,283
50%	\$1,148	\$1,230	\$1,476	\$1,705	\$1,902

The interviews yielded purposeful content and dialogue. Insights gained by the selection committee are provided below as recommendations to, with input and guidance requested from, the City Council at this juncture in the process:

- A Request for Proposals (RFP) is issued to the four interviewed entities.
- The RFP would include a specific request for two conceptual redevelopment options – one showing adaptive reuse of the existing building and another showing the redevelopment of the entire site without the existing building. Both options must show potential opportunities which are sensitive to the context of the site and the neighborhood.
- A public outreach and engagement program with area residents will be a critical component of any redevelopment effort for the site. A clearly articulated community engagement plan shall be a required element in submittals.
- Green building/passive house design shall be a desired element in the evaluation of submittals.
- The proposal should clearly describe the mix of housing types to be included (for sale, rental (including mix of bedrooms), mixed income, etc.).
- The City will contract with a third-party consultant with specialized professional services pertaining to the analysis of subsidized housing development proformas.

In preparation of an RFP, and based upon feedback received from the four interviewed teams, we need input and guidance from the City Council on the following:

Disposition of the existing building: Better overall master planning of all components of a new neighborhood could be achieved if the existing building is removed. It would be valuable to review proposals that include removal. Alternatively, there may be grants, tax credit programs, and other funding mechanisms available that could support adaptive reuse of the existing building if it were redeveloped into housing. However, it is not clear if the former school qualifies for these programs. If the building were to remain, how should it be repurposed: for additional housing units, or for neighborhood and community-based uses accessible to the general public?

Mix and Type of Housing: Submittals should include a recommendation regarding the mix and type of housing to meet the community's need for below market housing. Staff recommends that the focus be on rental units only with a mix of income levels with a mix of 1,2 and 3 bedrooms. It would be helpful for proposers to know if there is acceptance for fair market rate housing in the mix that might be required to support/offset housing units at or below 60% AMI.

Additional Municipal Support: Submittals should identify if their proposal is dependent upon financial support from the City.

Ground Lease or Other Ownership Model: Based on the interviews, staff recommends that submittals be limited to proposals which envision a long-term ground lease (a lease over 70 years and typically as long as 99 years is considered as fee simple by financing entities).

Impact on the Softball Field and alternative open or recreational space: Are there any criteria or programming needs for open space that should be suggested or required as part of this redevelopment project? Of note: the second athletic field currently in design with construction set for spring of 2025 will include a softball field.

Staff is prepared to issue an RFP in August should this be the desired path forward.

I recommend that the City Council move to authorize the City Manager to prepare and issue a Request for Proposals to the four entities interviewed which encompasses the feedback received this evening.

5. **South Meeting House Next Steps:**

The City received a single proposal in response to RFP 58-24 - South Meeting House Reuse. That proposal is from the Schleyer Foundation (Foundation) and includes Chinburg Builders, ARCoVe Architects, and the Portsmouth Music and Arts Center (PMAC). [Please see the attached proposal](#). The City did not receive a proposal from the VFW. Instead, they provided a letter indicating their decision not to propose on the project.

City staff views the Schleyer Foundation proposal as responsive and strong. The Foundation proposes a significant investment in the historic structure along with an ongoing maintenance program. The proposed re-use supports the City Council's ongoing support of the arts community and includes a well-established partner in PMAC. The proposal team has a history of success, the most recent example of which is the Carey Cottage restoration. City staff conducted an initial interview with the Foundation and team on July 30, 2024 as part of the City's initial due diligence. At this juncture, City staff is looking for confirmation that the City Council will support this proposal in concept.

If the City Council views this proposal favorably, staff will work with the Foundation to develop the legal documents necessary to bring this reuse forward for further consideration by the City Council. Staff further recommends scheduling a public meeting for the Foundation to present its proposal to the community and to gather public input.

I recommend that the City Council move to authorize the City Manager to begin the negotiation of documents necessary to implement the proposal and to schedule a public meeting for the Schleyer Foundation to share its concept with the public and gather input.

6. **Request to Schedule a Public Hearing Regarding Supplemental Appropriation for the Hanover Street Garage Project:**

I would like to request that the City Council hold a public hearing for approval of a supplemental appropriation for the Hanover Garage project at the August 19, 2024 City Council meeting. The Hanover Garage is in year three of a three-year construction project which is scheduled to be complete in August of 2025. An additional \$1 million in funding is needed to complete the project, due to material and labor prices which per contract are adjusted annually, unforeseen conditions encountered during construction, and additional work in support of pedestrian access and traffic flow improvements requested by the City.

Original Contract Sum: \$6,298,192

Change Orders to Date: \$167,052

Current Contract Sum: \$6,465,244

It is anticipated that an additional \$1 million is be needed to complete the renovations. The proposed funding source is the Parking Division's fund balance, which was established to offset the loss of revenue due to construction and to provide contingency funding for project costs. Staff will provide supporting documentation as part of the City Council packet for the August 19th City Council meeting.

Currently Parking Fund balance net of FY24 and FY25 budget appropriations is \$3.3 million. The use of an additional \$1 million would leave a balance of \$2.3 million.

I recommend that the City Council move to schedule a public hearing and vote to authorize a supplemental appropriation of \$1 million from the Parking Division fund balance.

7. **Request to Establish Polling Hours for State Primary and Presidential General Elections:**

[Attached please find a memorandum from City Clerk Barnaby regarding polling hours](#) for the State Primary on September 10, 2024 and the Presidential Election on November 5, 2024.

I recommend that the City Council move to approve the polling hours as presented below:

- *Polling hours for September 10, 2024, State Primary Election be established from 8:00 a.m. - 7:00 p.m.; and*
- *Polling hours be expanded for the Presidential General Election on November 5, 2024, from 8:00 a.m. – 8:00 p.m.*

XII. Consent Agenda:

A. Projecting Sign Request at 48 Maplewood Avenue:

Permission is being sought to install two projecting signs at [48 Maplewood Avenue](#) that extend over the public right of way, as follows:

Two signs as follows:

Sign dimensions: 32” x 13”

Sign area: 2.8 sq. ft. per sign

The proposed signs comply 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 signs, 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 Great Bay Resource Protection Partnership Stewardship Grant - \$10,000:

The Planning and Sustainability Department is pleased to announce that the City has been awarded a FY2025/2026 land stewardship grant from the Great Bay Resource Protection Partnership in the amount of \$10,000 for the revitalization and continued stewardship of a freshwater wetland and wetland buffer in Portsmouth. These monies will help restore, maintain, and raise awareness for the importance of vegetated freshwater wetland buffers.

The Great Bay Resource Protection Partnership is a collaboration of conservation organizations in coastal New Hampshire that promotes landscape-scale land conservation and stewardship.

The project titled “Buffer Revival: Enhancing Freshwater Wetland Health and Community Awareness” will establish a 25’ vegetated buffer along a freshwater wetland at 850 Banfield Road in Portsmouth. This grant will fund site preparation needed to remove invasive plant species from the existing buffer and prepare the site for new plantings, the purchase of buffer plantings for a section of impaired wetland buffer, and a permanent educational sign. The City has committed to providing \$4,099 in match funds using staff time for planning, labor expenses and outreach efforts. In addition to a revitalized wetland buffer, this area will serve as a

demonstration project for the public to highlight proper wetland buffer stewardship and provide buffer stewardship educational tools.

I recommend that the City Council move to authorize the City Manager to enter into a grant agreement to accept and expend funds in the amount of \$10,000 from the Great Bay Resource Protection Partnership to conduct the Buffer Revival: Enhancing Freshwater Wetland Health and Community Awareness project.

B. Acceptance of NHDES Coastal Program Coastal Resilience Grant - \$9,486:

The Planning and Sustainability Department is pleased to announce that the City of Portsmouth has been awarded a FY2025/2026 Coastal Resilience Grant from the New Hampshire Department of Environmental Services (NHDES) Coastal Program in the amount of \$9,486 for the revitalization and continued stewardship of a coastal wetland buffer and a freshwater wetland buffer in Portsmouth. These monies will help restore, maintain, and raise awareness for the importance of vegetated wetland buffers.

The New Hampshire Coastal Program administers the Coastal Resilience Grants (CRG) Program, which provides funding for coastal community and habitat resilience projects. For the purposes of the CRG funding opportunity, coastal resilience is the capacity of a coastal community or coastal system to adapt in a changing climate – not only measured by the capacity to “bounce back” quickly from shocks and stresses like storms, but also, and perhaps more importantly, measured by the capacity to “leap forward” by fostering sustained and equitable achievement of community goals and ensuring the social, economic, environmental and cultural well-being of all peoples and habitats over the long-term.

The project titled “Resilient Wetlands: Enhancing Coastal Protection and Water Quality” will develop professional invasive management, planting, and long-term maintenance plans for the establishment of a 25’ vegetated buffer along a coastal wetland at Peirce Island and for a 25’ vegetated freshwater wetland buffer at 850 Banfield Road in Portsmouth. This project will directly fund a contract for a qualified landscape and ecological services company for the planning efforts, the design and construction services of two permanent educational signs describing the projects (one for each site), and postcard orders and mailings to all property owners with a wetland or 100’ wetland buffer on their property.

In addition to the grant funding, the City has committed to providing \$5,264 using staff time for planning, labor expenses and outreach efforts. These areas will serve as demonstration projects for the public to highlight proper wetland buffer stewardship and provide buffer stewardship educational tools.

I recommend that the City Council move to authorize the City Manager to enter into a grant agreement to accept and expend funds in the amount of \$9,486 from the NHDES Coastal Program to conduct the Resilient Wetlands: Enhancing Coastal Protection and Water Quality project.

XVII. City Manager's Informational Items:

1. **Community Policing Facility Update:**

City staff are prepared to share a verbal update regarding the proposed Community Policing Facility project.