

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, MARCH 4, 2024 TIME: 7:00PM

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_RCsNdOL3RxGrbX_WikUNAw

AGENDA

- I. **WORK SESSION**
- 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**

MAYOR'S AWARDS

1. Portsmouth High School Boys Ski Team Division II State Champions
2. Elijah Josey 190 lbs. Wrestling Division II State Champion

VII. **ACCEPTANCE OF MINUTES – JANUARY 2, 2024 AND JANUARY 16, 2024**

VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**

1. Written Progress Report of the Cemetery Committee (no verbal presentation)

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 ORDINANCES AND/OR RESOLUTIONS**

Continued Public Hearing – Capital Improvement Plan (CIP) / Adoption of CIP: (*Continued Public Hearing that was held open per action of the City Council at the February 5, 2024 meeting*)

- A. *CAPITAL IMPROVEMENT PLAN (CIP) FY 2025-2030
 - **PRESENTATION** (*Presentation was held at the January 17, 2024 Work Session*)
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

First Reading of Ordinance:

- B. First reading of Ordinance amending Chapter 7, Vehicles, Traffic and Parking, Article I – Parking Meters, Section 7.102 – Parking Meter Zones and Parking Meter Rates (***Sample motion – move to pass first reading and schedule a public hearing and second reading at the March 18, 2024 City Council meeting to amend Chapter 7, Vehicles, Traffic and Parking, Article I – Parking Meters, Section 7.102 – Parking Meter Zones and Parking Meter Rates***)

XI. CITY MANAGER’S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager’s Items Which Require Action:

- 1. *Amendments to Capital Improvement Plan FY2025-2030
- 2. Sewerline and Grading and Sightline Easements for Property Located at 375 Banfield Road
- 3. Drainage Easements for Property at Shearwater Drive
- 4. Waterline License Agreement for Property Located at 569 Submarine Way and 214 Leslie Drive
- 5. *Request to Postpone Public Necessity Hearing for Property Located at 90 Maplewood Avenue

XII. CONSENT AGENDA

- A. Letter from Heidi Carrington Heath, Seacoast Outright, requesting permission to hold the 10th Portsmouth PRIDE Celebration on Saturday, June 22, 2024 (***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 Chet Schrader, Lithermans Brewing Company, requesting permission to hold a one-time special event with Andrew North performing on their outdoor patio Saturday, July 20, 2024 from 4:00 p.m. – 7:00 p.m.
- C. Planning Board recommendations for Rockingham Planning Commission Transportation Advisory Committee representatives (***Sample motion – move to appoint Eric Eby to the Rockingham Planning Commission Transportation Advisory Committee as the Portsmouth representative and Jillian Harris, as an alternate***)

- D. Letter from Josh Denton, Commander and Jonathan Day, Senior Vice Commander, VFW, regarding Meeting House License Agreement Letter of Intent (***Sample motion – move to the City Manager to report back on a process by which the City would consider lease or sale of the property***)

XIV. MAYOR McEACHERN

1. *Appointments to be Voted:
- Appointment of Chuck Raye to the Citywide Neighborhood Committee
 - Appointment of Elisabeth “Betsy” Blaisdell to the Energy Advisory Committee
 - Appointment of Tracey Cameron to the Energy Advisory Committee
 - Appointment of Herb Lloyd to the Energy Advisory Committee
 - Appointment of Thomas Nies to the Zoning Board of Adjustment

XV. CITY COUNCIL MEMBERS

A. COUNCILOR TABOR

1. *Thank you to Study Circle Participants

B. COUNCILOR COOK

1. Governance Report Back and Further Actions (***Sample motions – 1) move to approve the draft explanatory note to be placed on the cover page of the City Charter and 2) move to request the Governance Committee work with the staff to review current training processes for City volunteers and develop a more robust training program targeted towards all City volunteers including elected officials***)
2. Cultural Plan (***Sample motion – move to approve and adopt the 2023 City of Portsmouth Cultural Plan presented in your packet***)

C. COUNCILOR COOK & COUNCILOR DENTON

1. Israel and Gaza Resolution (***Sample motion – move to adopt the draft resolution on Israel and Gaza***)

D. COUNCILOR DENTON & COUNCILOR BLALOCK

1. Solar Energy Panel Amendments (***Sample motion – move to hold First Reading on April 1, 2024, to amend Chapter 10, Article 6, Section 10.633.20 by adding a new numbered paragraph 28 “Solar Energy Panels flush mounted to rooftops of existing structures which do not require other alternations to existing structures” and by adding a new numbered paragraph 29 “Accessory Elements to Solar Energy Panels which do not require other alternations to existing structures”***)

E. COUNCILOR MOREAU

1. Chairman Chellman and Chairwoman Ruedig, plan to give a brief update to council on the joint meeting and be available to answer any questions the council might have about the plan moving forward

F. COUNCILOR COOK, COUNCILOR BAGLEY & COUNCILOR MOREAU

1. *Verbal Report out on our tour of the Dover NH Police Department
2. *Motion to amend BI-15-PD-14: New Police Department Facility FY25 \$25,000,000.00

XVI. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation from Service Credit Union to Support Refreshments at Veterans Coffee Afternoons - \$1,500.00

XVII. CITY MANAGER'S INFORMATIONAL ITEMS

1. Report Back on State Street Two-Way Redesign
2. Coalition Communities 2.0 Update on Rand Decision Regarding Excess Swept
3. Community Policing Facility – Update and Responses to Questions

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: February 29, 2024

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 March 4, 2024

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

A. Continued Public Hearing – Capital Improvement Plan (CIP) / Adoption of CIP:

In accordance with Section 7.7 of the City Charter, the City Council is continuing the public hearing, initiated at the February 5, 2024 City Council Meeting, at this evening's City Council meeting regarding [the proposed Capital Improvement Plan for FY 2025 – FY 2030](#). As you recall, the City Council held a work session on January 17, 2024. At the work session, a presentation of the proposed CIP was made by City staff. [The proposed CIP and presentation are available on the City's website](#). The City Council is required, in accordance with Section 7.8 of the City Charter, to adopt the Capital Plan subsequent to the public hearing and before the City Manager submits the budget to the City Council.

I recommend that the City Council move to amend the proposed CIP with the recommended reductions as presented under my name as Action Item #1 and adopt as amended.

B. First Reading of Ordinance Amending Chapter 7, Vehicles, Traffic, and Parking, Article I – Parking Meters, Section 7.102 – Parking Meter Zones and Parking Meter Rates:

For first reading is an ordinance amending [Chapter 7, Vehicles, Traffic and Parking, Article I - Parking Meters, Section 7.102 - Parking Meter Zones and Parking Meter Rates](#). The current ordinance established two different parking zones with two different rates. The first is Zone A, the Downtown High Occupancy Zone, which is defined in the ordinance by a list of streets in the downtown area. The second is Zone B, the Standard Occupancy Zone, which includes all on street parking on streets outside the Downtown High Occupancy Zone and metered off-street parking areas (Worth Lot, Bridge Street Lot and the Memorial Bridge Lot). Both of these zones provide for a resident discount hourly rate for residents using the ParkMobile App.

It is the intent of this ordinance amendment to create one parking rate for all metered parking in the City, including all off-street parking areas with metered parking (Worth Lot, Bridge Street Lot and Memorial Bridge Lots).

The amendment to Section 7.102 removes Zone B, the Standard Occupancy Zone, which currently charges nonresidents \$1.50 per hour for the first three hours and \$3.00 per hour for hours 4-11 and residents using the ParkMobile App \$1.00 per hour for the first three hours and \$2.00 per hour for hours 4-11. The parking rate proposed in this amendment is what is currently charged for Zone A, which for nonresidents is \$2.00 per hour for the first three hours and \$5.00 per hour for hours 4 - 11. The amendment also proposes an additional discount of \$.25 for residents using the ParkMobile App, reducing the parking rate for the first three hours from \$1.50 per hour to \$1.25 and reducing the rate for hours 4 - 11 from \$2.50 per hour to \$2.25.

I recommend that the City Council vote to pass first reading and schedule a public hearing and second reading at the March 18, 2024 City Council meeting to amend Chapter 7, Vehicles, Traffic and Parking, Article I - Parking Meters, Section 7.102 - Parking Meter Zones and Parking Meter Rates, to remove the standard Occupancy Zone (Zone B) and increase the parking rate discount for residents using the ParkMobile App.

XI. City Manager’s Items Which Require Action:

1. Amendments to Capital Improvement Plan FY2025-2030:

I would like to suggest the following reductions in the requested Capital Outlay and Information Systems request for FY25.

Suggested Changes to Capital Improvement Plan FY25-FY30

CIP Page	FY25 Capital Outlay	Planning Board Adopted 12/21/2023	Suggested Reductions for FY25 Budget	Suggested Use Of ARPA	Proposed FY25 Budget
78	Permanent Records Storage Facilities	\$25,000	(25,000)		-
83	Sheltering and Public Health Resources	\$250,000		(250,000)	-
87	City of Portsmouth Master Plan Update	\$150,000	(150,000)		-
90	Existing Outdoor Recreation Field and Facility Improvements	\$75,000	(25,000)		50,000.00
95	Pierce Island Recreation Improvements	\$150,000	(150,000)		-
102	City Hall HVAC Improvements	\$200,000	(200,000)		-
107	Sound Barriers in Residential Area Along I-95	\$50,000	(50,000)		-
Total Capital Outlay suggested reductions or use of ARPA Funding			(600,000)	(250,000)	
	FY25 Information Systems	Planning Board Adopted 12/21/2023	Suggested Reductions for FY25 Budget	Suggested Use Of ARPA	Proposed FY25 Budget
116	Citywide Information Technology Upgrades & Equipment Replacements	\$829,038	(261,858)		567,180
Total Information Systems suggested reductions or use of ARPA Funding			(261,858)		-
Total suggested reductions to Planning Board Adopted CIP FY25-FY30			(861,858.00)	(250,000.00)	
Total Combined Reduction			(1,111,858.00)		
		Budget FY24	After Reduction Proposed FY25	\$\$ Change from FY24	% Change from FY24
	Capital Outlay	\$1,820,000	\$1,638,000	(\$182,000)	-10%
	Information Systems	\$1,172,336	\$992,180	(\$180,156)	-15%

With these reductions and use of ARPA funding totaling \$1,111,858, the FY25 Budget for Capital Outlay and Information Systems will be \$362,156 less than the FY24 Budget.

In addition, funding for the ambulance replacement will be changed from cash rolling stock to bond/lease rolling stock.

I recommend that the City Council move to amend the CIP with the reductions as presented.

2. **Sewer line and Grading and Sightline Easements for Property Located at 375 Banfield Road:**

On October 19, 2023, the Planning Board granted subdivision approval to Robert Graham of Banfield Realty, LLC, for the creation of two new parcels and the development of a new industrial warehouse with office space. As a part of that approval, the Planning Board recommended the City accept a grading and sightline easement, intending to support an existing right of way easement crossing the parcel. The Planning Board also recommended the City grant a sewer line easement to the property owner so it may connect the new building to the existing sewer line crossing the Community Campus parcel. The two easement areas are depicted in [the attached drawing](#).

The Public Works and Planning Departments recommend accepting the grading and sightline easement and granting the sewer line easement. The Legal Department has reviewed [the attached easements](#) for form.

I recommend that the City Council move to authorize the City Manager to accept and record a grading and sightline easement, and to grant and record a sewer line easement in substantially similar form to the easement deeds from Banfield Realty, LLC contained in the agenda packet.

3. **Drainage Easements for Property Located at Shearwater Drive:**

On October 26, 2023, the Planning Board granted subdivision and site plan approval for the creation of nine new parcels, to be improved by single family homes with related infrastructure, on Shearwater Drive to John Madden of Bantry Bay Associates, LLC. As a part of that approval, the Planning Board recommended the City accept drainage easements to support drainage infrastructure which will be relocated as a part of this project. The drainage infrastructure crosses two proposed parcels, and the area is depicted in [the attached drawing](#).

Since receiving approval, Chinburg Development, LLC has emerged as the party likely to complete the approved development. Therefore, Chinburg Development, LLC is the entity which now seeks to grant the City said drainage easements.

The Public Works and Planning Departments recommend accepting the drainage easements. The Legal Department has reviewed [the attached easements](#) for form.

I recommend that the City Council move to authorize the City Manager to accept and record drain line easements in substantially similar form to the easement deed from Chinburg Development, LLC contained in the agenda packet.

4. **Waterline License Agreement for Property Located at 569 Submarine Way and 214 Leslie Drive:**

On January 23, 2024, the Planning Board granted amended site plan approval to the Portsmouth Submarine Memorial Association, granting permission to construct an addition to the visitor center at the Albacore Museum. As a part of that approval, the Planning Board recommended the City accept and record a license agreement memorializing the City's right to utilize a water line easement crossing 214 Leslie Drive. The license area is depicted on [the attached drawing](#).

This license agreement memorializes an agreement between the Portsmouth Submarine Memorial Association, transferring ownership to the City of the water line over and across 569 Submarine Way, 214 Leslie Drive, and the adjacent rights of way. Although the City is the owner of the water line and has improved the water line in recent years, the property owners at 214 Leslie Drive have requested the City purchase an easement directly from them. It is the opinion of the City Legal Department that, pursuant to the New Hampshire Supreme Court's decision in *Arcidi v. Town of Rye*, 150 N.H. 694 (2004), a license from the Portsmouth Submarine Association to the City for use of the existing water line easement would provide the City appropriate legal interest in the area.

The Legal Department has [reviewed the attached license](#) for form and recommends acceptance.

I recommend that the City Council move to authorize the City Manager to accept and record a license agreement in substantially similar form to the license agreement from the Portsmouth Submarine Memorial Association contained in the agenda packet.

5. **Request to Postpone Public Necessity Hearing for Property Located at 90 Maplewood Avenue:**

On February 5, 2024, the City Council voted to hold a public necessity hearing on March 25, 2024. The purpose of that public necessity hearing is to determine whether public necessity exists to acquire easements for the installation of a new drain line over land of CSX, Inc. and 90 Maplewood, LLC. The proposed project would advance the sewer separation project, which is the subject of an Environmental Protection Agency consent decree.

Since the scheduling of the public necessity hearing, Deputy City Attorney McCourt has been in good faith negotiations with both CSX and 90 Maplewood, LLC regarding the needed easements. He has gained some momentum in recent weeks, and as a show of good faith CSX, Inc., has requested postponing the public necessity hearing to provide more time to negotiate before entering eminent domain proceedings. Although City staff would continue to negotiate conveyance of easement following the public necessity hearing, it is the desire of CSX to complete negotiations prior to commencing eminent domain proceedings.

Therefore, as a show of good faith, I recommend postponing the public necessity hearing to April 29, 2024 to allow further negotiations. The Department of Public Works and Regulatory Counsel for the City agree this brief delay would not materially impact the City's obligations pursuant to the consent decree.

I recommend that the City Council move to postpone the public necessity hearing to 5:00 p.m. on Monday, April 29, 2024 in Eileen Dondero Foley City Council Chambers.

XVI. Approval of Grants/Donations:

A. Acceptance of Donation from Service Credit Union to Support Refreshments at Veterans Coffee Afternoons - \$1,500:

Attached please find a [donation form](#) for a donation in the amount of \$1,500 for the Senior Activity Center.

I recommend that the City Council move to approve and accept the donation in the amount of \$1,500.

XVII. City Manager's Informational Items:

1. Report Back on State Street Two-Way Redesign:

Per the request made by Councilors Cook and Moreau at the February 20, 2024 City Council meeting, [please find attached the proposed element sheet for the State Street Two-Way Redesign.](#)

2. Coalition Communities 2.0 Update on Rand Decision Regarding Excess SWEPT:

[Attached please find a memorandum from Senior Assistant City Attorney Jane Ferrini](#) regarding an update on the Rand Decision and excess Statewide Education Property Tax (SWEPT).

3. Community Policing Facility – Update and Responses to Questions:

[Attached please find a memorandum from staff regarding the proposed Community Policing Facility.](#)