

CITY COUNCIL MEETING

Remote Meeting Via Zoom Conference Call

To register in advance for this meeting, click on the link below or copy and paste it into your web browser:

https://zoom.us/webinar/register/WN_sx_7WbXiRk6HHMAJjUJdrA 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 2020-9, 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, JUNE 15, 2020

TIME: 7:00PM

AGENDA

- I. **6:00PM 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**

PRESENTATIONS:

1. *Presentation by Health Officer Kim McNamara regarding COVID-19 Update
2. *Presentation by IT Manager Alan Brady Regarding Information Technology Budget
3. *Presentation by Public Works Director Peter Rice Regarding Islington Street Corridor Project

- VII. **ACCEPTANCE OF MINUTES – MARCH 16, 2020**
- 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. **Reopening of Public Hearing Regarding FY21 Budget (Continuation of Budget Public Hearing held on May 6, 2020)**

Adoption of Proposed Budget Resolutions:

- B. **Adoption of Budget Resolutions for Fiscal Year July 1, 2020 through June 30, 2021 (FY21)**

- Resolution No. 7-2020 – Municipal Fees (***Sample motion – move to adopt Resolution #7-2020 – Municipal Fee***)
- Resolution No. 8-2020 – General Fund Expenditures (***Sample motion – move to adopt Resolution #8-2020 – General Fund Expenditures***)
- Resolution No. 9-2020 – Sewer Fund Expenditures (***Sample motion – move to adopt Resolution #9-2020 – Sewer Fund Expenditures***)
- Resolution No. 10-2020 – Water Fund Expenditures (***Sample motion – move to adopt Resolution #10-2020 – Water Fund Expenditures***)
- Resolution No. 11-2020 – Special Revenues, Debt Service, Fund and Committed Fund Balances for Necessary Expenditures (***Sample motion – move to adopt Resolution #11-2020 – Special Revenues, Debt Service, Fund and Committed Fund Balance for Necessary Expenditures***)
- Resolution No. 12-2020 – Investment Policy (***Sample motion – move to adopt Resolution #12-2020 – Investment Policy***)

XII. MAYOR BECKSTED

1. *City Manager Evaluation
2. *Islington Street Corridor Project

XIII. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR SPLAINE

1. Playing Fields (***Sample motion – move that the City Council requires the City Manager to commission independent third party testing for PFAS of any new playing fields being recommended by city staff or consultants prior to the issuance of a contract. As recommended by independent experts, the testing shall use the total fluorine method to look for the present of PFAS in the synthetic turf, as well as any shock pads if applicable. The results will be provided to the City Council and the public. The cost of testing should be billed to the proposed bidder***)
2. Task Force (*This item is in conjunction with Councilor McEachern*) (***Sample motion – move that the City Council authorizes the Portsmouth Citizen Response Task Force to create a plan and begin implementation for full or partial street closures, and use of street parking areas and other city-owned parking locations for restaurant, retail, and non-profit organization use through October 18th of this year, with the approval of our Police, Fire, Health, and Inspection Departments***)
3. Police Commission (***Sample motion – move that the City Council requests City Attorney Bob Sullivan to prepare the wording for and advise as to the proper process of placing a City Charter change on a referendum ballot that will expand the membership of the Portsmouth Police Commission from 3 (three) to 5 (five) members***)

B. COUNCILOR WHELAN

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the June 4, 2020 meeting (***Sample motion – move to accept and approve the action sheet and minutes of the June 4, 2020 Parking, Traffic & Safety meeting***)

C. COUNCILOR LAZENBY

1. Proposed Resolution – Declare Portsmouth a Racial Justice Municipality

XIV. APPROVAL OF GRANTS/DONATIONS

(There are no Grants/Donations for approval this evening)

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager's Items Which Require Action:

1. Report Back on Bluestone Properties of Rye, LLC Request for 135 Congress Street Parking Lease
2. Request of Jeremy Conte to Unmerge Lots at 1240 Islington Street
3. Request to Sublease Players' Ring
4. Report Back on Parking & Traffic Safety Committee recommendation to City Council to Approve Stay and Pay Parking Rates
5. 46-64 Maplewood Avenue Temporary Construction License
6. Request to Schedule First Reading Re: Omnibus Ordinance Change
7. Friends of Prescott Park "Odyssey" Sculpture

XVI. CONSENT AGENDA

- A. Letter from Samantha Boland, National Multiple Sclerosis Society, requesting permission to hold the 2020 Bike MS: New Hampshire Seacoast Escape cycling event on Saturday, August 22, 2020 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Letter from JerriAnne Boggis, Black Heritage Trail of New Hampshire, requesting permission to the Akwaaba Ensemble drumming, dancing and singing perform traditional spirituals on Friday, June 19, 2020 at 1:00 p.m. at the African Burying Ground Memorial ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- C. Water Services Access Easement for 3110 Lafayette Road ***(Anticipated action – moved to grant authority for the City Manager to accept the Easement Deed in a form similar to that attached)***
- D. Letter from Tina Sawtelle, The Music Hall, requesting permission for the closure of Chestnut Street on Saturday, July 11, 2020 for an outdoor dining and concert event in the evening ***(Anticipated action – move to refer to the City Manager with Authority to Act)***

XVII. PRESENTATIONS & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence (*Sample motion – move to accept and place on file*)
- B. Letter from Attorney Derek Durbin, Durbin Law, on behalf of James Gould, requesting the Restoration of Involuntarily Merged Lots at 246 Thornton Street (*Sample motion – move to refer to the Assessor for report back*)
- C. Letter from Ted Jankowski regarding PFAS free playing fields

XVIII. CITY MANAGER’S INFORMATIONAL ITEMS

- 1. Report back from Parking, Traffic and Safety Committee regarding “Recommended Modifications to Middle Street/Lafayette Bike Lanes
- 2. *Update on the Portsmouth Citizen Response Task Force

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
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(603) 610-7201

Date: June 11, 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 June 15, 2020

Presentations:

1. **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.

2. **Presentation by IT Manager Alan Brady Regarding Information Technology Budget:**

Alan Brady, IT Manager, will give a presentation on the City's Information Technology Budget.

3. **Presentation by Public Works Director Peter Rice Regarding Islington Street Corridor Project:**

Peter Rice, Director of Public Works, has prepared a presentation on the Islington Street Corridor Project.

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

B. **Adoption of Proposed Budget Resolutions:**

- 1.1 **Adoption of Budget Resolutions for Fiscal Year July 1, 2020 through June 30, 2021 (FY21)** I am requesting that the City Council adopt the proposed FY21 Budget (July 1, 2020 through June 30, 2021). For your review and action, there are six proposed Resolutions relative to the annual budget adoption:

- **Resolution No. 7-2020 - Municipal Fees** adopts Municipal Fees that have been recommended by the Fee Committee. The total revenue generated from these fees is estimated at \$1,536,600 or 1% of the total FY21 General Fund Revenues.

- **Resolution No. 8-2020 – General Fund Expenditures** for the General Government, Police, Fire, School, Collective Bargaining, Indoor Pool, and Prescott Park as well as Non-Operating appropriations as presented on May 21, 2020 for a total appropriation of \$119,233,916 resulting in an estimated tax decrease of \$.012 or -.5% from FY20.
- **Resolution No. 9-2020 – Sewer Fund Expenditures** establishes the annual appropriation, cash requirements and user rates for the Sewer Fund. This resolution reflects no increase in Sewer user rates. Sewer charges are based on water consumption. The adoption of this resolution includes a two-step, inclining block rate structure.
- **Resolution No. 10-2020 – Water Fund Expenditures** establishes the annual appropriation, cash requirements and user rates for the Water Fund. Similar to Sewer, the adoption of this resolution will include a two-step, inclining block rate structure for water usage. Also included is a three-step, inclining block rate structure for metered irrigation water usage. This resolution reflects no increase in water user rates. The irrigation water usage is not subject to sewer charges.
- **Resolution No. 11-2020 – Special Revenues, Debt Service Fund and Committed Fund Balances for Necessary Expenditures** allows for the expenditure of Special Revenues, Debt Service Fund, and Committed Fund Balance. This allows the City to expend from donations, State and Federal Grants as they are accepted and received, pay principal and interest associated with Betterment Assessments, from a Debt Service Fund, and expend from Committed Fund Balance.
- **Resolution No. 12-2020 – Investment Policy** deals with the adoption of an annual investment policy. State law requires the annual adoption of such a policy by every city and town.

I am requesting that the City Council vote on each Resolution separately.

XV. City Manager's Items Which Require Action:

1. **Report Back on Bluestone Properties of Rye, LLC Request for 135 Congress Street Parking Lease:**

The City Council has three options available to them regarding the request from Bluestone Properties of Rye, LLC for parking at 135 Congress Street, which are outlined in the [attached memorandum](#).

2. **Request of Jeremy Conte to Unmerge Lots at 1240 Islington Street:**

The Mayor and City Council have received a [letter dated April 21, 2020 from Attorney Bernard Pelech on behalf of Jeremy Conte](#). Mr. Conte is requesting the Council to unmerge two lots which are said to have been involuntarily merged by the City. The applicable law is RSA 674:39 aa.

RSA 674:39 aa does not provide the process to be followed by a municipality in considering a lot unmerger request. On a statewide basis, municipalities have adopted different procedures. In the past it was the practice in Portsmouth to refer such requests to the Planning Board. However, recent experience has shown that referrals to the Planning Board have proven unworkable, due primarily to the vague and uncertain appeal process described by the statute. Nonetheless, in order for the City Council to make an informed decision on an unmerger request, the Council needs to be provided with certain basic information such as whether the lots were actually involuntarily merged and whether the lot owner has ever taken action which would suggest a voluntary merger.

For the foregoing reasons, the City Administration has determined to recommend a new process for the City Council.

Since the information which the Council needs is the type of information which is available in the Assessing Office, the new recommended process is that the Council refer unmerger requests to the City Assessor for report. The City Assessor is aware of this recommendation and is willing to accept the responsibility.

I recommend that the City Council move to refer the unmerger request of Jeremy Conte to the City Assessor for a report back.

3. **Request to Sublease Players' Ring:**

The Players' Ring is interested in allowing Upside Arts to host its summer day camp for six weeks (three 2-week sessions) from late June to early August of 2020 (see [attached request](#)). The City leases 105 Marcy Street to the Players' Ring for theatrical performances, and the lease ([attached](#)) prohibits sub-leasing. In addition, the camp would like to use the lawn area behind the Player's Ring (approx. 91'x79' – see [attached picture](#)) bounded by brick sidewalks, to enable outdoor activities. The camp would run from 8:00 a.m. to 4:00 p.m. Monday through Friday, and would be in accordance with all health and safety guidelines pursuant to COVID-19. In order for the Players' Ring to allow the camp to operate there, the City would need to assent to a lease modification for this temporary use, and proper insurance protecting the City's interests (including coverage for outdoor activities within Prescott Park) would need to be provided.

I recommend that the City Council move to authorize the City Manager to assent to a temporary lease amendment to allow the Players' Ring to host Upside Arts summer day camp for the 2020 season, and allow Upside Arts to conduct camp activities in Prescott Park.

4. **Report Back on Parking and Traffic Safety Committee Recommendation to City Council to Approve Stay and Pay Parking Rates:**

On May 4, 2020, the City Council referred a ‘Stay and Pay’ parking rate proposal to the Parking and Traffic Safety Committee. ‘Stay and Pay’ is a pricing program that restructures parking fees by creating a graduated price structure increasing parking rates at the third hour to encourage turnover of the parking space. The idea is to use price to turn over the space instead of enforcement. The proposed program provides a reduced resident rate through the use of the ParkMobile app.

[Attached](#) are the proposed amendments to Chapter 7 of the Vehicles, Traffic and Parking Ordinance. At its June 4, 2020 meeting, the Parking and Traffic Safety Committee reviewed the proposed ‘Stay and Pay’ program, and unanimously voted to recommend City Council approve the new rate structure. Parking Director, Ben Fletcher, will be available to report back to the City Council on the Parking and Traffic Safety Committee’s recommendation.

I recommend that the City Council move to schedule first reading of the necessary revisions to Chapter 7 to implement the ‘Stay and Pay’ parking rate at the July 13, 2020 City Council meeting.

5. **46-64 Maplewood Avenue Temporary Construction License:**

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 of 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 licenses are subject to the “License Fee for Encumbrance of City Property” policy.

The License Areas are shown 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 subsequent extensions, expired in May of this year. [Mr. Kelm is requesting another extension](#) through the end of August.

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 103 days which comes to a total of \$10,773.80. The [proposed license agreement](#) provides that, if any of the license areas 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 46-64 Maplewood Avenue as submitted.

6. Request to Schedule First Reading Regarding Omnibus Ordinance Change:

[Attached](#) please find the annual omnibus set of ordinances recommended by the Parking and Traffic Safety Committee. This year’s omnibus changes are detailed on the [attached sheets](#), and address changes to 15-minute parking spaces, bus stops, loading zones, no parking spaces, speed limits and one-way streets.

On March 29, 2000, the City Council adopted Ordinance #4-2000 under Chapter 7, Article 1, 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 the downtown. Before its adoption, it often took three readings of the City Council to simply change a parking space from a two-hour time restriction to a 15-minute one. This process would often take 4-6 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.

The [attached amendments](#) to Chapter 7, Vehicles, Traffic and Parking for the Council's consideration summarize the temporary parking regulations implemented by the Parking and Traffic Safety Committee last year.

I recommend that the City Council move to schedule first reading of the Annual Omnibus Ordinance at the July 13, 2020 City Council meeting.

7. Friends of Prescott Park “Odyssey” Sculpture:

Attached please find a [draft letter](#) from the City Manager to Phyllis Eldridge, President of the Friends of Prescott Park. It relates to the “Odyssey” sculpture by Richard Erdman, which is being gifted from the Friends of Prescott Park to honor Michael Warhurst.

I recommend that the City Council authorize the City Manager to execute the attached letter proposing the terms and conditions under which the City of Portsmouth would accept the sculpture entitled “Odyssey” from Richard Erdman as a gift from the Friends of Prescott Park (FoPP) to be placed in Prescott Park in honor of Michael Warhurst.

XVI. Consent Agenda:

C. Water Services Access Easement for 3110 Lafayette Road:

On February 20, 2020, the Planning Board granted Site Plan Review approval for the construction of 18 residential townhomes in five buildings for property located at 3110 Lafayette Road.

As approved, the Site Plan Approval required that the applicant provide a [water services access easement](#) to the City for the purpose of maintenance and inspection of water infrastructure.

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 grant authority for the City Manager to accept the Easement Deed in a form similar to that attached.

XVIII. City Manager's Informational Items:

1. Report Back from Parking and Traffic Safety Committee Regarding Recommended Modifications to Middle Street/Lafayette Road Bike Lanes:

At the request of the City Council, on June 4th, the Parking and Traffic Safety Committee reviewed the staff recommendations related to the Middle Street/Lafayette Road Bicycle Lanes provided in a staff memo to the City Manager dated May 5, 2020, and voted 8 to 1 to support the recommendations. The [minutes of the meeting](#) are included in the Council's packet.

At the request of a few Council members, Juliet Walker, Director of Planning, also reached out to NHDOT staff at the Bureau of Planning and Community Assistance to confirm whether modifications to substantially change the design of this project that was completed with federal Safe Routes to School funds would require that the City forfeit (i.e. return) those previously awarded federal funds. The question was specifically asked about adjusting the design to move the bike lanes to the outside of the parking spaces. Mrs. Walker subsequently received [confirmation from the NHDOT staff](#), who also consulted with Federal Highway Administration staff, and they have confirmed that the City should expect to have to return that funding should such a change be made. They also indicated that they do not recommend that the City make this change due to safety concerns.

2. Update on the Portsmouth Citizen Response Task Force:

I will be providing an update on the newly established Portsmouth Citizen Response Task Force at this evening's meeting.