

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_X7SHHgF0RaOC2BlmAYwvVA

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 2020-20, 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, NOVEMBER 16, 2020

TIME: 6:00PM

6:00PM – ANTICIPATED NON-PUBLIC SESSION

1. **BOYLE AND PUMP STATION – RSA 91-A:3 II (e)**
2. **ASSISTANT FIRE CHIEF EMPLOYMENT AGREEMENT & COLLECTIVE BARGAINING - RSA 91-A:3, II (a)**
https://zoom.us/webinar/register/WN_WxgllxMcQK21K68ykwrTFg

AGENDA

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

First Reading of Ordinances:

- A. **First Reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking – Chase Drive: northerly side, from Michael Succi Drive to a point 30 feet delete on either side and insert west of the driveway located at 355 Chase Drive**

Public Hearing/Second Reading of Ordinances:

- B. ORDINANCE AMENDING CHAPTER 7, ARTICLE IVA, SECTION 7-A.402: - BUS STOPS DESIGNATED – HANOVER STREET: SOUTHERLY SIDE OF HANOVER STREET ~~90 FEET EAST OF~~ FROM FLEET STREET TO A POINT 285 FEET EAST OF FLEET STREET
- **PRESENTATION - PORTSMOUTH & COAST**
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCILOR QUESTIONS AND DELIBERATIONS**
- C. ORDINANCE AMENDING CHAPTER 7, ARTICLE XI, SECTION 7.1100 – SPEED LIMITS E: SPEED LIMIT: 25 MPH BY THE ADDITION OF SOUTH STREET, FROM MIDDLE ROAD TO LAFAYETTE ROAD
- **PRESENTATION**
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCILOR QUESTIONS AND DELIBERATIONS**
- D. ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.330 – NO PARKING BY THE ADDITION OF DEARBORN STREET: EASTERLY SIDE, FROM THE NORTH MILL POND RUNNING NORTHERLY FOR A DISTANCE OF 25 FEET
- **PRESENTATION**
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCILOR QUESTIONS AND DELIBERATIONS**
- E. ORDINANCE AMENDING CHAPTER 11, ARTICLE II – SEWERS, SECTION 11.203 AND SECTION 11.204 – WAIVER FROM CONNECTION TO PUBLIC SEWER
- **PRESENTATION**
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCILOR QUESTIONS AND DELIBERATIONS**

Third and Final Reading of Ordinances:

- F. Third and Final Reading of Ordinance amending Chapter 7, Article VI – Loading Zones, Section 7.601 – Limited Hours Loading Zones – Pleasant Street: easterly side, beginning 94 feet south of the southerly curb line of Daniel Street and running southerly for a distance of 45 feet
- G. Third and Final Reading of Ordinance amending Chapter 7, Article III – Traffic Ordinance, Section 7.336 – One-Way Streets deletion of Parker Street: northerly from Tanner Court to Hanover Street

- H. Third and Final Reading of Ordinance amending Chapter 7, Article III – Traffic Ordinance, Section 7.330 – No Parking – Little Harbor Road: Both sides of the roadway, beginning at the east side of the Wentworth Coolidge Mansion driveway, running easterly for a distance of 155 feet to the gate at the end of the pavement
- I. Third and Final Reading of Ordinance amending Chapter 7, Article III – Traffic Ordinance, Section 7.326 – Limited Parking – 15 Minutes
 - Daniel Street: Southerly side, deletion of first five and insert three metered spaces deletion of east from Market Square and insert running between 102 and 160 feet west of Penhallow Street
 - Hanover Street: deletion of northerly side, first two spaces east from Bridge Street

XII. MAYOR BECKSTED

- 1. Appointments to be Considered:
 - Reappointment of Peter Weeks to the Trustees of the Trust Funds
 - Reappointment of Philip Cohen to the Economic Development Commission
 - Appointment of Devan Quinn to the Peirce Island Committee
 - Appointment of Andrew Samonas to the Conservation Commission
- 2. *Appointments to be Voted:
 - Appointment of Karen Bouffard to the Historic District Commission as an Alternate
 - Reappointment of Robert Marchewka to the Economic Development Commission
- 3. Resignations
 - Mary Morin from the Citizen Response Task Force
 - Jane Wright from the Conservation Commission
- 4. *Holiday House Decorating Contest
- 5. Ordinance Amendment Re: Plastic Bag Ban (***Sample motion – move to hold first reading at the December 7, 2020 City Council meeting***)

XIII. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR SPLAINE

- 1. *Face Covering Requirement (***Sample motion – move that the current Portsmouth Face Covering Ordinance remain applicable through June 1, 2021, but may end sooner by a decision of the city’s Health Officer***)
- 2. *Waste Water Treatment 2050 (***Sample motion – that the City Council ask the City Manager to initiate discussions with area communities for long-term cooperative planning for Waste Water Treatment on a regional basis using evolving technologies***)

B. COUNCILOR McEACHERN

- 1. *Report Back on the Establishment of Ad Hoc Advisory Group Re: Public Art Acquisition
- 2. *Extending outside dining to end of December
- 3. *McEachern Park

C. COUNCILOR WHELAN

1. Action Item Needing Approval by City Council:
 - Report Back on traffic calming request on Chevrolet Avenue (***Sample motion – move to respectfully request that the City Council allocate funds to the Planning and Public Works Departments to conduct a comprehensive street network plan for the Chevrolet Avenue, Brewery Lane and Albany Street area***)
2. Parking Traffic & Safety Action Sheet and Minutes of the October 8, 2020 meeting (***Sample motion – move to accept and approve the Parking Traffic & Safety Action Sheet and Minutes of the October 8, 2020***)

D. COUNCILOR LAZENBY

1. Extension of Mask Mandate (***Sample motions – 1) move to pass first reading and hold second reading and public hearing at the December 7, 2020 City Council meeting; - or - 2) move to hold first reading at the December 7, 2020 City Council meeting***)

E. COUNCILOR KENNEDY

1. *Work Session Re: Peirce Island (***Sample motion – move to establish a work session on Peirce Island to include the Peirce Island Committee. During this meeting the following should be included but not limit to: The treatment plant, public art, return of the dog park, Peirce Island Bridge, and vegetation clean up***)

F. COUNCILOR TABOR

1. Ethics Board Observations/Recommendations for the Future

G. COUNCILORS LAZENBY & COUNCILOR TABOR

1. *Diversity and Inclusion Training (***Sample motion – move to request the City Manager to Schedule Diversity and Inclusion Training for Elected Officials and members of Boards and Commissions***)

XIV. APPROVAL OF GRANTS/DONATIONS

- A. *Approval of Moose License Plate Conservation Grant for FY21 (\$9,760.00) (***Sample motion – move to accept this grant from the New Hampshire State Library, as presented***)
- B. Approval of New Hampshire Internet Crimes Against Children Task Force (ICAC) from the Federal FY '20 Forensic Shield-COVID Cares Act Grant - \$1,000,000.00 (***Sample motion – move to accept this grant as presented, and authorize the City Manager to expend these funds subject to the terms of any offer, rules, or regulation pertaining to such funds in cooperation with the Police Department***)
- C. Approval of Bureau of Justice Assistance Patrick Leahy Bulletproof Vest Partnership Grant - \$5,999.88 (***Sample motion – move to accept this grant as presented***)
- D. Approval of Federal Office of Juvenile Justice & Delinquency Prevention Grant (OJJDP) - \$334,969.00 (***Sample motion – move to accept this grant as presented***)

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager's Items Which Require Action:

1. Approval of 2021 Council Meeting Calendar
2. Ratification of Assistant Fire Chief Employment Agreement
3. Request to Name Private Unnamed Street Located Off Gosling Road
4. Parking Agreement for Deer Street Associates
5. Request to Schedule First Reading on Floodplain Overlay District Zoning Maps
6. Temporary Construction License for 111 Maplewood Avenue, LLC for Property Located at 145 Maplewood Avenue
7. Revocable License for 241 South Street
8. Request for Public Hearing for Five Bond Resolution Authorizations
 - General Fund – Police Facility Improvements - \$400,000.00
 - General Fund – School Facility Improvements - \$1,000,000.00
 - General Fund – Outdoor Pool and City Street and Sidewalk Upgrades - \$3,640,000.00
 - Water Fund – FY21 Water Projects - \$3,600,000.00
 - Sewer Fund – FY21 Sewer Projects - \$5,250,000.00
9. 60 Penhallow Street (Brick Market) Amended Temporary Construction License

XVI. CONSENT AGENDA

- A. Request for License to Install a Projecting Sign for owner Helen Marks for Spiritual Reader & Advisor for property located at 90 Fleet Street (***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 no cost 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. Request for License to Install two Projecting Signs for owner John Reece for Fidelity Investments Center for property located at 54 Maplewood Avenue (***Anticipated action - move to approve the aforementioned Projecting Sign Licenses 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 no cost 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***
- C. 89-99 Foundry Place (aka 181 Hill Street, "Lot 6") Easements
- D. 1600 Woodbury Avenue – Sidewalk and Signal Easements
- E. 160 Court Street (Portsmouth Housing Authority) – Community Space Easements

XVII. PRESENTATIONS & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. *Presentation by Health Officer Kim McNamara regarding COVID-19 Update
- B. *Update on the Portsmouth Citizens Response Task Force (*to include recommendation re: extended use of outdoor dining*)
- C. Memo from Citizen Response Task Force Endorsing Extension of Mask Ordinance
- D. Paper Street Request from Glenn Lael re: 45 Cliff Road (***Sample motion – move to refer to the Planning Board for Report Back***)
- E. Email Correspondence (***Sample motion – move to accept and place on file***)
- F. Letter from John Akar, Cava requesting permission to continue the use of space on Commercial Alley for 4 tables through the month of December

XVIII. CITY MANAGER'S INFORMATIONAL ITEMS

1. Update on Draft Great Bay Total Nitrogen General Permit

XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

XX. ADJOURNMENT [at 10:00 p.m. or earlier]

* Indicates verbal report

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



Karen S. Conard
City Manager

CITY OF PORTSMOUTH

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

Date: November 13, 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 November 16, 2020

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

First Reading of an Ordinance Amending a Section of Chapter 7:

In the past, the temporary actions approved by the Parking and Traffic Safety Committee (PTSC) and authorized by the City Council, were brought forward to the Council once a year as part of a "Parking and Traffic Omnibus" package. At that time, all of the temporary actions approved by the PTSC and authorized by the Council in the prior year were presented as one package to the Council for adoption as an ordinance.

This year, pursuant to City Council vote of August 18, 2020, the Council voted to have the temporary actions come forward for first readings in groups based on their expiration date and the following ordinance is coming forward for first reading at this evening's meeting: Chapter 7, Article III, Section 7.330: No Parking regarding Chase Drive.

Eric Eby, Parking and Transportation Engineer, will be presenting the proposed amendments to the ordinance at this evening's meeting.

- A. **First Reading of Ordinance Amending Chapter 7, Article III, Section 7.330 – No Parking – by the addition of Chase Drive: northerly side, from Michael Succi Drive to a point 30 feet ~~on either side~~ west of the driveway located at 355 Chase Drive:**

[Attached is the diagram](#) and [the proposed amendment](#) to this ordinance.

I recommend that the City Council move to pass first reading and to schedule a public hearing and second reading at the December 7, 2020 City Council meeting.

Public Hearing and Second Reading of Three Ordinances Amending Various Sections of Chapter 7:

At the October 19, 2020 City Council meeting, the Council voted to schedule public hearings and second reading of amendments to the following three ordinances, which were the third group of temporary actions approved by the PTSC that the Council voted to come forward separately based on their expiration date.

- B. **Public Hearing and Second Reading of Ordinance Amending Chapter 7, Article IVA, Section 7-A.402 – Bus Stops Designated - Hanover Street: southerly side of Hanover Street 90 feet east of from Fleet Street to a point 285 feet east of Fleet Street:**

Attached is the [diagram](#) and the [proposed amendment](#) to this ordinance.

Additionally, Rad Nichols, Executive Director of COAST, has also provided a [brief presentation](#) to explain why that space is needed for the COAST bus system. Mr. Nichols is available at this evening's meeting to answer any questions related to the materials he provided.

I recommend that the City Council move to pass second reading and to schedule a third and final reading at the December 7, 2020 City Council meeting.

- C. **Public Hearing and Second Reading of Ordinance Amending Chapter 7, Article XI, Section 7.1100 – Speed Limits, E: Speed Limit: 25 MPH by the addition of South Street, from Middle Road to Lafayette Road:**

Attached is the [diagram](#) and the [proposed amendment](#) to this ordinance.

I recommend that the City Council move to pass second reading and to schedule a third and final reading at the December 7, 2020 City Council meeting.

- D. **Public Hearing and Second Reading of Ordinance Amending Chapter 7, Article III, Section 7.330 – No Parking by the addition of Dearborn Street: easterly side, from the North Mill Pond running northerly for a distance of 25 feet:**

Attached is the [diagram](#) and the [proposed amendment](#) to this ordinance.

I recommend that the City Council move to pass second reading and to schedule a third and final reading at the December 7, 2020 City Council meeting.

- E. **Public Hearing and Second Reading of Ordinance Amending Chapter 11, Article II – Sewers, Sections 11.203 and Section 11.204 – Waiver from Connection to Public Sewer:**

At its meeting of October 5, 2020, the City Council agreed to bring forward for first reading an [amendment to the Sewer Ordinance](#) to codify the City's practice of allowing property owners to defer tying-in to a new sewer line when their existing septic system is functional. State law, which requires residents to tie into a public sewer main if within 100 feet of that line, allows municipalities to waive the requirement of tie-in to the new sewer main or to set

the distance beyond 100 feet. Portsmouth has historically, as a matter of practice, allowed such deferral to tie-in as part of sewer extension projects. Residents tie in when they are ready to do so as long as their existing septic system is functioning. Portsmouth has never codified this waiver practice in its sewer ordinance.

I recommend that the City Council move to pass second reading on this amendment to Chapter 11, Article II-Sewers, Sections 11.203 and Section 11.204 to codify the waiver of sewer connection and to schedule a third and final reading at the City Council's December 7, 2020 meeting.

Third and Final Reading of Four Ordinances Amending Various Sections of Chapter 7:

At the October 19, 2020 City Council meeting, the Council voted to schedule third and final readings of amendments to the following ordinances, which were the second group of temporary actions approved by the PTSC that the Council voted to come forward separately based on their expiration date.

- F. **Third and Final Reading of Ordinance Amending Chapter 7, Article VI, Section 7.601 – Limited Hours Loading Zones (Mondays through Saturdays between the hours of 6:00 a.m. and 7:00 p.m.) by the addition of Pleasant Street: easterly side, beginning 94 feet south of the southerly curb line of Daniel Street and running southerly for a distance of 45 feet:**

[Attached is the diagram](#) and [the proposed amendment](#) to this ordinance.

I recommend that the City Council move to adopt the third and final reading.

- G. **Third and Final Reading of Ordinance Amending Chapter 7, Article III, Section 7.336 – One-Way Streets by the deletion of Parker Street northerly from Tanner Court to Hanover Street:**

[Attached is the diagram](#) and [the proposed amendment](#) to this ordinance.

I recommend that the City Council move to adopt the third and final reading.

- H. **Third and Final Reading of Ordinance Amending Chapter 7, Article VI, Section 7.330 – No Parking by the addition of Little Harbor Road: Both sides of the roadway beginning at the east side of the Wentworth Coolidge Mansion driveway, running easterly for a distance of 155 feet to the gate at the end of the pavement:**

[Attached is the diagram](#) and [the proposed amendment](#) to this ordinance.

I recommend that the City Council move to adopt the third and final reading.

- I. **Third and Final Reading of Ordinance Amending Chapter 7, Article III, Section 7.326 – Limited Parking – 15 Minutes – Daniel Street: southerly side, ~~first five three metered spaces east from Market Square running between 102 and 160 feet west of Penhallow Street; and Hanover Street delete northerly side, first two spaces east from Bridge Street:~~**

Attached are the diagrams and the proposed amendment to this ordinance.

I recommend that the City Council move to adopt the third and final reading.

XIV. Approval of Grants/Donations:

- A. **Moose License Plate Conservation Grant for FY21 – \$9,760.00:**

The City of Portsmouth has been awarded one of the FY2020/2021 Moose License Plate Conservation Grants in the amount of \$9,760 for the conservation project, “Preservation, Microfilming and Digitization of Nine Portsmouth Pauper-Aid Documents Dated 1853-1895.” The New Hampshire State Library's (NHSL) FY2020/2021 Conservation License Plate Grant Program is designed to help municipalities as well as other public organizations preserve their historic documents. These monies will help preserve legally required and historically significant documents held by the Finance Department that initially were intended to be financed through the City's Capital Improvement Program.

The NHSL Grant awards up to \$10,000 to applicants to conserve publicly owned documents. The program aims to assist in the preservation of New Hampshire's historic manuscripts as well as increase their availability to the public. The grant requires that these documents not only be professionally preserved, but also scanned to preservation microfilm as well as digitized. This is the fourth Moose License Plate Conservation Grant the City has been awarded, totaling \$36,946 received from this program since FY18.

I recommend that the City Council move to accept this grant from the New Hampshire State Library, as presented.

- B. **New Hampshire Internet Crimes Against Children Task Force (NHICAC) from the Federal FY20 Forensic Shield-COVID Cares Act – \$1,000,000.00:**

The above mentioned grant award in the amount of \$1 million was awarded directly to the New Hampshire Internet Crimes Against Children Task Force (NHICAC). The Portsmouth Police Department is the fiscal agent for the NHICAC and for this grant.

The Portsmouth Police Commission voted to accept and expend this \$1 million NHICAC grant at a public hearing on October 27, 2020.

In their May 18, 2020 vote, the City Council authorized the City Manager to apply for, accept, and expend any funds received by gift, grant or loan from the state, federal, and other governmental units that become available to the City through the CARES Act Flex Funds and related COVID Cares Act funding.

These grant award funds must be used for a very narrow and specific purpose and must be expended by the end of this year. Under the authorization given by vote of the Council to the City Manager cited above, the Police Department is requesting the City Manager authorize the expenditure of these funds as identified in the grant, beginning immediately so that the NHICAC Task Force is able to expend the grant award within the allocated time frame.

I recommend that the City Council accept this grant as presented, and authorize the City Manager to expend these funds subject to the terms of any offer, rule, or regulation pertaining to such funds in cooperation with the Police Department.

C. Bureau of Justice Assistance Patrick Leahy Bulletproof Vest Partnership – \$5,999.88:

At the October 27, 2020 Police Commission meeting, the Board of Police Commissioners accepted a grant in the amount of \$5,999.88 from the Bureau of Justice Assistance Patrick Leahy Bulletproof Vest Partnership.

I recommend that the City Council move to accept this grant as presented.

D. Federal Office of Juvenile Justice & Delinquency Prevention (OJJDP) – \$334,969.00:

At the October 27, 2020 Police Commission meeting, the Board of Police Commissioners accepted a grant in the amount of \$334,969 from the Federal Office of Juvenile Justice and Delinquency Prevention. This grant provides for the annual funding of the New Hampshire Internet Crimes Against Children Task Force statewide for FY20, and is separate from the Forensic Shield-COVID Cares Act mentioned earlier.

I recommend that the City Council move to accept this grant as presented.

XV. City Manager's Items which Require Action:

1. Approval of 2021 Council Meeting Calendar:

[Attached](#) please find a draft 2021 City Council meeting calendar.

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

2. Ratification of Assistant Fire Chief Employment Agreement:

The City Council reviewed an employment agreement for Assistant Fire Chief, William McQuillen, in a Non-Public Session earlier this evening. [Attached is the proposed agreement.](#)

I recommend that the City Council move to ratify the agreement with Assistant Fire Chief, William McQuillen, as presented.

3. Request to Name Private Unnamed Street Located Off Gosling Road:

[At the September 14, 2020 Council meeting, the Council reviewed a request from Eversource and GSP Schiller](#) to name a currently unnamed private road that accesses their properties. The parcels all presently have an address of Gosling Road. This creates challenges for emergency response. The parties requested that the private road be named Jacona Road.

While this is not a public road, the subdivision regulations and City Ordinances reference the Planning Board’s role in road naming. While the regulations do not stipulate that this has to be done as a public hearing, it has been the Planning Board’s policy to notify abutting properties and to allow for a public hearing prior to approving the name.

This process is also consistent with state laws governing the naming of streets. Therefore, the City Council referred this request to the Planning Board.

At the October 15, 2020 meeting after a public hearing, the Planning Board voted to recommend that the City Council approve the renaming of the private road to Jacona Road.

When public roads are requested to be named or renamed, the Planning Board and City Council would typically consult a list of potential road names developed by the City in 2007/2008. When private roads are considered, the naming of the road is typically left up to the applicant, subject to final approval by the Council. The primary purpose for the Council to approve the naming of private roads is to ensure there is no conflict with existing road names in the city that would present a challenge for emergency responders.

I recommend that the City Council move to approve the request for naming of the previously unnamed private road to Jacona Road.

4. **Parking Agreement for Deer Street Associates:**

When the City purchased the land upon which the Foundry Garage is now constructed, the City Council approved entering into a Post Closing Obligations Agreement (PCOA) with Deer Street Associates (DSA). The PCOA required, among other things, that the City provide DSA with 68 parking passes in the Foundry Garage. The PCOA permits DSA to use these paid parking passes to obtain zoning relief under Ordinance Section 10.1113.11-111, which reads as follows:

All required off-street parking spaces shall be located on the same lot as the principal use they are required to serve except as follows: Required parking spaces may be located on a separate lot from the principal use which they serve where a municipally owned or operated covered parking facility is constructed as part of the overall development.

The Foundry Garage was constructed as a part of this overall development, as indicated on the [attached plan](#), therefore DSA qualifies for zoning relief under this section.

The [attached Parking Agreement](#) provides the details for how those parking passes shall be administered. It is based upon a draft version which was attached to the PCOA, which has been amended in light of how the Parking Garage was constructed. Among other things, the Parking Agreement fulfils the following terms of the PCOA:

- DSA will receive 68 parking passes in the Foundry Garage, which are assignable to any of the four parcels which are a part of the DSA development on Foundry Way;
- DSA may assign some parking passes to certain properties to meeting zoning ordinance requirements;

- DSA must pay the generally applicable rate subject to the generally applicable policies and procedures for parking passes in the Foundry Garage;
- DSA must begin payment on parking passes either when spaces are assigned to a parcel and the parcel receives a certificate of occupancy, or when DSA requests parking passes, whichever comes first, and;
- This Agreement lasts for as long as the City owns the Foundry Garage and uses it for parking.

DSA and its affiliates presently own five lots in the vicinity of the Foundry Garage, as indicated on the attached plan as Lots 2 through 6. Two of these lots, Lot 3 and Lot 6, have active Planning Board approvals which rely upon zoning relief under Ordinance Section 10.1113.10, and which DSA is entitled to under the PCOA. Under the current Planning Board approvals, Lot 3 is using 33 PCOA parking passes, and Lot 6 is using 35 parking passes. Therefore, under the current Planning Board approvals and the terms of the attached Parking Agreement, DSA would be required to assign all 68 parking passes to these two properties, and would be entitled to no additional zoning relief on lots 4 and 5 under Section 10.1113.10.

I recommend that the City Council authorize the City Manager to execute a parking agreement with Deer Street Associates in a form substantially similar to the document presented.

5. Request to Schedule First Reading on Floodplain Overlay District Zoning Maps:

In July 2020, FEMA issued a [Letter of Final Determination](#) (LFD) notifying the City that the preliminary coastal Rockingham County Flood Insurance Rate Maps (FIRMs) and Flood Insurance Study (FIS) report that were originally issued in 2014 had been finalized. The FIRMs and FIS report will become effective on January 29, 2021.

Following that letter, the staff at the NH State Floodplain Management Program reached out to the City with additional guidance on the process for final adoption of the FIRMs and FIS ([see attached email from Jennifer Gilbert dated September 25, 2020](#)). Although the City had already amended the City’s Floodplain Overlay District zoning in 2019 with input from the state’s floodplain office, the staff at the state office (with guidance from FEMA) have identified additional minor amendments that are required.

These amendments will apply to properties located in the Floodplain District and are required by FEMA to keep the City in compliance with the National Flood Insurance Program (NFIP). The NFIP requires that the City maintain an up-to-date floodplain ordinance to ensure that federal flood insurance policy holders are covered in the event of a flood.

The Planning Board has reviewed the amendments at a work session and is scheduled to hold a public hearing on the Zoning Amendments on November 19, 2020. [All property owners with properties in the flood plain overlay district have been notified by mail](#) of the upcoming meetings on these amendments.

The proposed Zoning Ordinance amendments required by FEMA are summarized below and [attached](#).

The City’s entire Zoning Ordinance can be viewed online at www.cityofportsmouth.com/planportsmouth/land-use-and-zoning-regulations#zoning. Refer to Section 10.620 Floodplain District:

- a) In Section 10.613.10 (a), update the study and map reference dates by deleting May 17, 2005 and adding January 29, 2021.
- b) In Section 10.622.20 – “Terms Defined for the Flood Plain District”, delete the current definition of New Construction and update as follows:

New construction

A structure for which the start of construction commenced on or after the effective date of this flood plain management regulation and includes any subsequent improvements to such structure.

- c) In Section 10.628 – Construction Standards in Special Flood Hazard Areas amend paragraph 10.628.10 as follows by adding the text shown in italics below:

10.628.10: In Zones A and AE, any new construction or substantial improvement shall be reasonably safe from flooding...

As noted in the email from Jennifer Gilbert, these amendments will need to be adopted by Council and submitted to the state office for confirmation by January 15, 2021. This means that the Council will need to complete the three required readings before that time. The anticipated schedule is as follows:

- November 16 – request to City Council to schedule first reading
- November 19 – Planning Board public hearing and vote to recommend to Council
- December 7 – City Council first reading
- December 21 – City Council second reading and public hearing
- January 4, 2021 (or first Council meeting in January) – City Council third and final reading

I recommend that the City Council move to schedule first reading on the proposed amendments to the Floodplain Overlay District for the December 7, 2020 City Council meeting.

6. Temporary Construction License for 111 Maplewood Ave., LLC for Property Located at 145 Maplewood Avenue:

The Construction Mitigation and Management Plan (CMMP) for this project finalized on October 4, 2019 identified temporary encumbrances of the public right of way for [project-related work along Maplewood Avenue, Vaughan Street and Raynes Avenue](#). The City granted a license to 111 Maplewood Ave., LLC (“Applicant”) to encumbrance City sidewalks along these streets on August 3, 2020. The construction project is progressing and 111 Maplewood Ave., LLC requests permission to encumber parking spaces on Maplewood Avenue, Raynes Avenue, and Vaughan Street in order to complete the next phase of construction.

Encumbrances for a duration longer than 30 consecutive working days require a license approved by the City Council. In addition, all licenses are subject to the “License Fee for Encumbrance of City Property” policy, which provides a fee of \$35 per space per day to encumber parking space along the requested streets.

The applicant is requesting that seven parking spaces on Maplewood Avenue be encumbered from November 12, 2020 through December 23, 2020 for a total of 42 days. The fee for the Maplewood Avenues spaces are seven spaces x \$35 per day x 42 days, which equals \$10,290.

The applicant is also requesting that eight parking spaces on Rayne Avenue and three parking spaces on Vaughan Street be encumbered from November 2, 2020 through December 23, 2020 for a total of 52 days. The fee for these 11 parking spaces (8 on Raynes, 3 on Vaughan) x \$35 per day x 52 days equals \$20,020. The total fee for all 18 parking spaces during the term of the proposed license is \$30,310.

The [proposed license agreement](#) provides that, if any of the parking spaces in the license area are 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 111 Maplewood Ave., LLC as submitted.

7. **Revocable License for 241 South Street:**

3A Trust, Guy D. Spiers and Elizabeth R. Spiers, Trustees, are owners of property located at 241 South Street, Tax Map 111, Lot 036. The property has existing granite steps that are in the City’s right of way. The owner seeks to replace the existing granite steps with new granite steps on the front façade of the property.

The owner recently repaired its existing front door and upon installation learned that the existing steps do not comply with the City’s Building Code. The owner sought and received approval from the Historic District Commission (HDC) to replace the existing granite steps with new granite steps which will raise and widen the landing in order to improve safety and comply with the City’s Building Code. Please find [attached a diagram of the proposed improvements](#).

The Planning, Public Works and Legal Departments have reviewed the owner’s request and would support the granting of a revocable license allowing the owner to replace the granite steps consistent with the proposed improvements and the HDC’s letter of decision. [Attached is a proposed Revocable License](#) which will allow the owner to replace the existing steps with new granite steps in the City’s right of way, be responsible for any liability associated with the new steps, and to remove the steps if required by the City.

I recommend that the City Council move to authorize the City Manager to execute and deliver a Revocable License allowing the owner of 241 South Street to replace granite steps on City property consistent with the decision of the Historic District Commission as described in Land Use Application LU- 20-185.

8. Request for Public Hearing for Five Bond Resolution Authorizations:

I am requesting that the City Council establish a public hearing on each of the proposed Bonding Resolutions for the December 7, 2020 City Council meeting for projects identified to begin in FY21 ([respective Resolutions and element sheets are attached](#)).

GENERAL FUND:

Police Facility Improvements - \$400,000

- a. Parking lot security improvements
- b. Continued upgrades to the heating, cooling and ventilation system
- c. Office space renovations

School Facility Improvements - \$1,000,000

- a. High School: Security upgrade match, roof replacement, recommissioning and assessment of mechanical infrastructure, and flooring replacement
- b. District Wide: paving and playground work

Outdoor Pool and City Street and Sidewalk Upgrades - \$3,640,000

- a. Outdoor Pool Filter building, liner, and gutter system - \$2,000,000
- b. Islington Street Phases 1&2 - \$1,640,000

WATER FUND:

FY 21 Water Projects - \$3,600,000

- a. New Groundwater Source - \$500,000
- b. Water Transmission Main Replacement - \$600,000
- c. Water Storage Tanks Painting - \$850,000
- d. Islington Street Phase 1B - \$1,650,000

SEWER FUND:

FY21 Sewer Projects - \$5,250,000

- a. Mechanic Street Force main - \$3,600,000
- b. Islington Street Phase 1B&2 - \$1,650,000

I recommend the City Council move to authorize the City Manager to bring back for public hearing and adoption the various proposed CIP projects to be bonded, as presented, for the December 7, 2020 City Council meeting.

9. **60 Penhallow Street (Brick Market) Amended Temporary Construction License:**

On January 16, 2020, the Planning Board granted site plan review approval for an application from Dagny Taggart, LLC for property located at 60 Penhallow Street for the second part of the proposed Brick Market development to construct a new four-story commercial building.

The Construction Mitigation and Management Plan (CMMP), signed in April 2020, identified temporary encumbrances of the public sidewalks and parking spaces on Penhallow Street and Daniel Street 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. In addition, the licenses are subject to the "License Fee for Encumbrance of City Property" policy.

The Council previously approved a temporary construction license for this project that included the following (the previously approved license areas are shown [on the plan labeled "CMMP Encumbrance Plan" enclosed as Exhibit A](#)):

- License Area 1 for 1,740 square feet of the sidewalk area along the Daniel Street and Penhallow Street as well as three parking spaces located on Daniel Street. The duration for the encumbrance of License Area 1 is 184 days, starting on August 1, 2020.
- License Area 2 was for the four parking spaces located on Penhallow Street. The original duration for the encumbrance of License Area 2 was 123 days, originally proposed to start on October 1, 2020. The applicant has delayed the start of the encumbrance of License Area 2, which has enabled the Ristorante Massimo and Ceres Street Bakery to continue to use a portion of the road for outdoor dining.

In late October, the applicant requested that the temporary construction license area for the Penhallow Street portion be modified to a partial road closure with a proposed start date of December 1, 2020 and proposed end date of January 31, 2021 (reducing the total term for License Area 2 to 62 days). The proposal would close off Penhallow Street on the Daniel Street end, block off 740 square feet of public roadway along with the sidewalk on one side of the street and four parking spaces as originally proposed, and convert Penhallow Street between Custom House Lane and State Street to two-way traffic flow. In addition, all of the on-street parking on Penhallow Street (an additional 6 parking spaces) would be temporarily removed in order to accommodate the two-way traffic pattern. The additional area is described as License Area 3 in the amended agreement.

The additional fee for the roadway is \$2,294 and the fee for the 6 additional parking spaces is \$18,600. The reduction in the number of days for License Area 2 reduces that fee from \$24,600 to \$12,400. The applicant previously paid a fee of \$68,208 and the new fee would be \$76,902, so the applicant would owe a total of \$8,694. The [proposed license agreement](#) provides that, if any of the license areas are 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, Legal, Public Safety, and Public Works Departments and is recommended for approval.

I recommend that the City Manager be authorized to execute and accept the amended temporary construction license regarding 60 Penhallow Street as submitted.

XVI. Consent Agenda:

A. Projecting Sign License – 90 Fleet Street:

Permission is being sought to install a projecting sign at [90 Fleet Street](#) that extends over the public right of way, as follows:

Sign dimensions: 48” x 36”

Sign area: 12 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.*

B. Projecting Sign License – 54 Maplewood Avenue:

Permission is being sought to install two projecting signs at [54 Maplewood Avenue](#) that extend over the public right of way, as follows:

Sign dimensions: 13” x 32” per sign

Sign area: 2.88 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.

C. 89-99 Foundry Place (aka 181 Hill St., “Lot 6”) Easements:

On November 16, 2017 the Planning Board granted site plan review approval for an application from Deer Street Associates for the construction of a four-story mixed use building with retail and office space on the first floor, an interior parking garage, and residential units on the upper floors. On August 23, 2018, the Planning Board granted a one-year extension of the approval and on September 19, 2019 the Planning Board granted an additional one-year extension. At the time of these approvals, the property had an address of 181 Hill Street. Subsequent to the completion of Foundry Place, the property was assigned an address of 89-99 Foundry Place.

On October 15, 2020, the Planning Board considered a third request from the applicant for another one-year extension of the approval, but that request was denied. The current site plan review approval will expire on November 16, 2020 unless the applicant is able to receive a building permit for the project by that time. At the October 15, 2020 meeting, the Planning Board also considered amendments to the original plan that included a revised residential unit count from 43 to 55, elimination of some of the commercial space, revised parking layout and entrance to the parking garage and a reduction in building height and footprint. The Planning Board approved these amendments and the applicant is working on completing the required steps for issuance of a building permit.

Per Section 10.5A46 of the Zoning Ordinance, a development that is located in the North End Incentive Overlay District shall be allowed an increase in maximum building height by 1-story and up to 10 feet if community space is provided that is equal to at least 20% of the project area. In addition, the sidewalk along any public façade must be at least 10 feet wide plus 2 feet for each additional story above three-stories. The base building height requirement in this zoning district is four-stories and 5 feet so the project is technically allowed to increase to five-stories and 60 feet. The project as approved by the Planning Board has a building height of 53’9”, but is still four-stories. Section 10.5A46.22 allows the community space to be provided on a different lot than the project. In this case, the community space for the project is being provided both on the project property in the form of a wide sidewalk along the Foundry Place frontage as well as a portion of the property owned by the application that is known as “Lot 2” (Map 125, Lot 17-1) which is located across the street.

The plan enclosed shows the community space areas that are located on both properties. As allowed by the Ordinance, 3,374 square feet of the required community space will be located on Lot 2, which, pursuant to Planning Board stipulations, must be conveyed to the City prior to the issuance of a Certificate of Occupancy for this project and for which the applicant is required to provide a financial contribution of \$145,000 for improvements to that lot for use as a public park.

The remaining 1,134 square feet will be located on the subject property (89-99 Foundry Place “Lot 6”) and is the purpose of the easement in front of Council for approval this evening.

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 deeds and plans for community space in a form similar to those attached.

D. 1600 Woodbury Avenue – Sidewalk and Signal Easements:

On April 30, 2020, the Planning Board granted amended site plan approval to demolish an existing building and upgrade the existing shopping center with new and additional signage, a new driveway entrance off of Woodbury Avenue, and repurposing of the former supermarket space to a separate retail space and new grocery store with accessory café/food court at 1600 Woodbury Avenue.

As approved, the proposal required that the applicant provide an easement for the City for sidewalks and traffic signal equipment that are located on the property represented as Area 1 and Area 2 on the [attached plan](#).

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 authorize the City Manager to accept a signal and sidewalk easement over land at 1600 Woodbury Avenue from DPF 1600 Woodbury Ave., LLC in a form similar to the attached.

E. 160 Court Street (Portsmouth Housing Authority) – Community Space Easements:

On August 16, 2018 the Planning Board granted site plan review approval for an application from Portsmouth Housing Authority for the construction of a four-story, 64-unit residential housing complex at 160 Court Street.

Per Section 10.5A43.33 of the Zoning Ordinance a development that is not located in an incentive overlay district and that is at least one acre in size shall be allowed to increase building height by one story and up to 10 feet if community space is provided that is equal to at least 20% of the project area. The maximum allowed building height for this zoning district is two stories (short 3rd) and 35 feet. With the zoning provision, the allowed height would be increased to three stories (short 4th) and 45 feet. In addition, the project received a variance from the Zoning Board of Adjustment to exceed the three story / 45 foot maximum and, as approved by the Planning Board has a building height of 54 feet and is four stories tall.

The [plan enclosed](#) shows the community space areas that are part of this project. Each of these spaces has to meet the criteria for community space types as defined by the Ordinance and all have to have permanent public access that is deeded to the City.

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 deeds and plans for community space in a form similar to those attached.

XVII. Presentations and Consideration of Written Communications and Petitions:

A. 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.

B. Update on the Portsmouth Citizen Response Task Force:

I will be providing an update on the Portsmouth Citizen Response Task Force at this evening's meeting, along with Co-Chairs James Petersen and Mark Stebbins.

XVIII. City Manager's Informational Items:

1. Update on draft Great Bay Total Nitrogen General Permit:

The below information provides an update on the Draft Great Bay Total Nitrogen General Permit (Draft Permit) that was published for comment in January 2020. The Draft Permit proposed new nitrogen limits on the 13 wastewater treatment facilities that discharge to the Great Bay Estuary and additional requirements for the reduction of nitrogen from stormwater discharges. The City of Portsmouth, along with other communities and the Conservation Law Foundation (CLF), submitted comments in May 2020. Since that time, the cities of Rochester and Dover spearheaded an effort to further evolve the discussion around permitting approaches. Portsmouth participated in some of those conversations and was generally in accord with their efforts. Dover and Rochester followed up with both state and federal regulators as well as CLF to share their views on the permitting approach and to encourage a continuing dialogue.

Last month the communities received word that the Environmental Protection Agency (EPA) Region One had completed its reply to comments and had prepared a final version of the permit. EPA Region One explained that the next step was for EPA headquarters to review its work along with other federal agencies. Both EPA Region One and the New Hampshire Department of Environmental Services suggested that the communities write to indicate that the Draft Permit should be given expedited review so that its issuance would not be delayed due to the review process. To that end, the City of Portsmouth sent the [attached letter](#).