

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, AUGUST 23, 2021 TIME: 6:00PM

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_oiNBPqt4Q8qWwOv0xfoBvQ

6:00PM – ANTICIPATED NON-PUBLIC SESSION:

1. ACQUISITION OF REAL ESTATE – RSA 91-A:3, I (d)
2. DEER STREET ASSOCIATES (DSA) – RSA 91-A:3, I (d)
3. MCINTYRE – RSA 91-A:3, I (d)
4. CONSENT DECREE & SAGAMORE AREA SEWER PROJECT – RSA 91-A:3, I (d)

AGENDA

- I. WORK SESSION – THERE IS NO WORK SESSION THIS EVENING
- II. PUBLIC DIALOGUE SESSION [when applicable – every other regularly scheduled meeting] – **N/A**
- III. CALL TO ORDER [7:00 p.m. or thereafter]
- IV. ROLL CALL
- V. INVOCATION
- VI. PLEDGE OF ALLEGIANCE
- VII. ACCEPTANCE OF MINUTES – AUGUST 2, 2021; NOVEMBER 16, 2020 & NOVEMBER 23, 2020 (*Sample motion – move to accept and approve the minutes of the August 2, 2021; November 16, 2020 and November 23, 2020 City Council meetings*)
- VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS
 - A. *Recognition of Finance Director and Finance Department for GFOA Triple Crown Medallion
- IX. PUBLIC COMMENT SESSION – (*participation may be in person or via Zoom*)
- X. PUBLIC DIALOGUE SUMMARY [when applicable] – **N/A**
- XI. PUBLIC HEARING AND VOTE ON ORDINANCE AND/OR RESOLUTIONS

First Reading of Ordinance:

- A. First Reading of Proposed Ordinance Amendments to Chapter 7, Article IX, Section 7.901 – Penalties, Forfeitures and Separability (*Sample motion – move to pass first reading, and to schedule a public hearing and second reading of these ordinance amendments at the September 7, 2021 City Council meeting*)

Public Hearings of Ordinance and Resolutions with Adoption:

- B. ORDINANCE AMENDING CHAPTER 1, ARTICLE IV – COMMISSIONS AND AUTHORITIES, SECTION 1.414 AUDIT COMMITTEE *(Continued from the August 2, 2021 City Council meeting)*

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

(Sample motion – move that the City Council continue the public hearing and second reading at the September 7, 2021 City Council meeting)

- C. RESOLUTION AUTHORIZING A BOND ISSUE AND/OR NOTES OF THE CITY UNDER THE MUNICIPAL FINANCE ACT AND/OR PARTICIPATION IN THE STATE REVOLVING FUND (SRF) LOAN OF UP TO THIRTEEN MILLION NINE HUNDRED THOUSAND DOLLARS (\$13,900,000.00) RELATED TO WATER LINE UPGRADES, WATER TRANSMISSION MAIN REPLACEMENT, ISLINGTON STREET IMPROVEMENTS PHASE 2, WILLARD AVENUE UPGRADES AND UNION STREET RECONSTRUCTION *(Rescheduled Public Hearing at the August 2, 2021 City Council meeting with new amount)*

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

(Sample motion – move to adopt the Resolution to be bonded as presented)

XII. MAYOR BECKSTED

1. Appointments to be Considered:
 - Marylou McElwain reappointment to the Parking and Traffic Safety Committee
 - Stephen Pesci reappointment to the Parking and Traffic Safety Committee
 - Harold Whitehouse reappointment to the Parking and Traffic Safety Committee
 - Mark Syracuse appointment to the Parking and Traffic Safety Committee
2. *Appointments to be Voted:
 - Jason Brewster to the Peirce Island Committee
 - Deborah Chag to the Trees and Public Greenery Committee

XIII. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR SPLAINE

1. *What Initiatives and Approaches can the City of Portsmouth take to encourage vaccinations and other responses to reduce the spread of COVID-19 and Variants?

B. COUNCILOR WHELAN

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the July 8, 2021 meeting (*Sample motion – move to accept and approve the Action Sheet and Minutes of the July 8, 2021 Parking & Traffic Safety Committee meeting*)

C. COUNCILOR LAZENBY & COUNCILOR TABOR

1. Creation of Energy Advisory Committee (*Sample motion – move to approve the creation of the Portsmouth Energy Advisory Committee (PEAC) in the form of a Mayor’s Blue Ribbon Committee (BRC) with appointments by September 20. The PEAC mission will be to research the risks and opportunities of a Community Power program for Portsmouth under RSA 53-E, which allows towns and cities to aggregate their customer demand and purchase electricity in bulk for savings and a more rapid shift to renewables. PEAC will report back to the City Council with an assessment and recommendations, including whether to join the Community Power Coalition of New Hampshire (CPCNH). If the Council votes to proceed, PEAC will guide creation of a Community Power Plan per RSA 53-E, with input from at least two public hearings, for final approval by City Council vote*)

D. COUNCILOR KENNEDY

1. *Portsmouth Cemeteries (*Sample motions: 1) move to set up a blue ribbon committee for cemeteries with six citizens and one Councilor. 2) move to have the City Manager set up a site walk of the North Cemetery for Council and staff*)
2. *Skate Board Park (*Sample motion – move to have the City Manager and staff work with the skate board park committee on a fund raising event for October 20, 2021. Given, the committee would like to use Portsmouth city property for part of the event*)
3. *Law Suits (*Sample motion – move to have an update on every lawsuit that is currently filed against the city. With a date of a report back by September 7, 2021*)

E. COUNCILOR TRACE

1. *Work Session Re: Zoning (*Sample motion – move to have a work session with Planning Department on the same topics proposed for a work session at Planning Board Meeting this week to include Wetland Buffer Zone; types of Zoning currently within the downtown; types of Gateway Zoning; and zoning affecting perimeter residential areas in Portsmouth. The work session also to include types of necessary zoning to facilitate affordable and workforce housing*)
2. *Traffic Calming (*Sample motion – move to have a report back as soon as possible from appropriate City Departments on what can be done to create safer and slower streets for residents in the Echo Avenue area. Specifically traffic calming with Woodbury Avenue in the same manner as was achieved with Maplewood Avenue*)

XIV. APPROVAL OF GRANTS/DONATIONS

- A. *Acceptance of Memorial Bench Donation in Memory of Pat Bertrand - \$2,200.00 (*Sample motion – move to accept and approve the Memorial Bench Donation in memory of Pat Bertrand, as presented*)

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager's Items Which Require Action:

1. Approval of School Paraeducators Collective Bargaining Agreement
2. Approval of School Cafeteria Collective Bargaining Agreement
3. Temporary Construction License for 409 Franklin Pierce Highway, LLC, 205 Market Street

XVI. CONSENT AGENDA

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

- A. Letter from Melissa Walden, American Lung Association, requesting permission to hold the 13th annual American Lung Association Cycle the Seacoast ride on Sunday, May 1, 2022 *(Anticipated action – move to refer to the City Manager with Authority to Act)*
- B. Letter from Hershey Hirschkop, Seacoast Outright, requesting permission to hold Portsmouth PRIDE on Sunday, October 10, 2021 *(Anticipated action – move to refer to the City Manager with Authority to Act)*
- C. Request for License to Install Projecting Sign for owner David Ronka of Closette for property located at 72A Congress 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*
- D. Request for License to Install Projecting Sign for owner Gretchen DesAutels of A Pleasant Shoppe, LLC for property located at 79 Congress 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***

XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence (***Sample motion – move to accept and place on file***)
- B. Letter from the Coakley Landfill Group (CLG) requesting the City Council join the CLG to allow the public to access meetings remotely
- C. Letter from Steven Smith, Chairman, Board of Selectman, Town of Greenland, requesting the City Council join the Town of Greenland to allow the public to access Coakley Landfill meetings remotely
- D. Letter from Tricia Donohue, Portsmouth Community Garden, requesting support to fund the water installation in proposed community garden
- E. Letter from Tom Morgan regarding bicycle infrastructure designs

XVIII. CITY MANAGER’S INFORMATIONAL ITEMS

- 1. Update on Development of Audit Committee Ordinance
- 2. Report Back on Status of Mosquito Spraying
- 3. *Update of NH HB 220
- 4. Report Back on Rainbow Crosswalks
- 5. Report Back from the Legal Department on Knights of Columbus Boot Drive
- 6. *Status Update on Cate Street and Bartlett Street Intersection
- 7. Response to Comments Regarding City Finances

XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

XX. ADJOURNMENT [at 10:30 p.m. or earlier]

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

**Indicates verbal report*



CITY OF PORTSMOUTH

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

Karen S. Conard
City Manager

Date: August 19, 2021

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 August 23, 2021

VIII. Recognitions and Volunteer Committee Reports:

A. Recognition of Finance Director and Finance Department for GFOA Triple Crown Medallion:

I am proud to report that the City has earned the Government Finance Officers Association (GFOA) Triple Crown Medallion for Excellence in Financial Reporting for FY21. Portsmouth is the only municipality in New Hampshire to receive the Triple Crown Medallion and one of just four municipalities in New England, and this recognition is one of the highest achievements in governmental accounting and financial reporting.

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

A. First Reading of Proposed Ordinance Amendments to Chapter 7, Article IX, Section 7.901 – Penalties, Forfeitures, and Separability:

In its ongoing effort to ensure compliance with applicable City Ordinances, the Parking Division deploys a citation protocol with a view to encouraging residents and visitors to pay the meter system for the use of City-managed parking inventory. The citation protocol includes patrolling the City's parking spaces to ensure payment, and to issue parking citations when payment is not made, or a driver has allowed their session to expire without renewal. The four most common citations were updated via City Council passing of third reading on May 17, 2021.

During discussions regarding the four most common citations, it was further discussed that a number of additional violation categories were similarly in need of an update. Research of surrounding towns shows that Portsmouth lagged behind peer averages in several violation categories. To address the issue of modernizing the fine structure for safety violations, the Parking Division presented the **attached fine schedule** and **proposed ordinance amendments** to the Parking and Traffic Safety Committee on June 3, 2021, resulting in a unanimous vote to forward to the City Council for first reading.

I recommend that the City Council move to pass first reading, and to schedule a public hearing and second reading regarding these ordinance amendments at the September 7, 2021 City Council meeting.

B. Continued Public Hearing and Second Reading of Ordinance Amending Chapter 1, Article IV – Commissions and Authorities, Section 1.414 Audit Committee:

A memorandum from the Acting Deputy City Manager/Deputy City Attorney Woodland on the status of the ordinance drafting is included under **Informational Items in this report**. It includes a proposed revised draft of the ordinance, which the Mayor’s Blue Ribbon Audit Committee has not yet had an opportunity to review, along with additional information on other NH communities as well as recommendations from the Government Finance Accounting Organization.

I recommend that the City Council move to continue the public hearing and second reading at the September 7, 2021 City Council meeting.

C. Public Hearing for Resolution Authorizing a Bond Issue and/or Notes of the City Under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of Up to Thirteen Million Nine Hundred Thousand Dollars (\$13,900,000) Related to Water Line Upgrades, Water Transmission Main Replacement, Islington Street Improvements Phase 2, Willard Avenue Upgrades and Union Street Reconstruction:

Based on the City’s consulting engineer’s current total project cost estimate for the Little Bay Water Transmission Main Replacement (FY22 CIP Project EF-18-WD-82), the City learned of the need to increase the bonding resolution for this project from \$5.4 million to \$7.3 million due to the type of construction necessary to meet the regulatory requirements for reducing the amount of disturbance the construction will have on the wetlands and the Little Bay waters. The original design and cost estimate called for the installation of turbidity curtains to contain sediment while in water excavation occurs for the pipeline. The design now calls for installation of a temporary sheet pile cofferdam to contain sediment during excavation which will reduce the temporary impacts to the salt marsh zone. A temporary trestle structure has also been designed to enable access of the large construction equipment.

Due to the increase of the estimated cost of this project, an **amended resolution** is attached for \$13,900,000.00.

I recommend that the City Council move to adopt the proposed resolution to be bonded as presented.

XIV. Approval of Grants/Donations:

A. Acceptance of Memorial Bench Donation in Memory of Pat Bertrand- \$2,200:

Dorothy Buell, representing a group of donors, wishes to donate a memorial bench in memory of Pat Bertrand to be placed alongside the walking path at the Peirce Island dog off leash area. This donation has been reviewed by the Department of Public Works and is recommended for acceptance by the City Council this evening.

I recommend that the City Council move to approve and accept the donation for a bench in memory of Pat Bertrand, as presented.

XV. City Manager's Items which Require Action:

1. Approval of School Paraeducators Collective Bargaining Agreement:

Attached is the tentative collective bargaining agreement with the School Department Paraeducator Employees.

As recently discussed in non-public session, I recommend that the City Council move to ratify the agreement as presented with the School Department Paraeducator Employees.

2. Approval of School Cafeteria Collective Bargaining Agreement:

Attached is the tentative collective bargaining agreement with the School Department Non-Supervisory Cafeteria Employees.

As recently discussed in non-public session, I recommend that the City Council move to ratify the agreement as presented with the School Department Non-Supervisory Cafeteria Employees.

3. Temporary Construction License for 409 Franklin Pierce Highway, LLC, 205 Market Street:

Owner 409 Franklin Pierce Highway, LLC, under ENCM 21-50, is performing interior and exterior improvements and repair work for water damage at 205 Market Street, shown on the City of Portsmouth's Assessor's Map as Tax Map 0018-0001 ("Subject Property"). The owner has encumbered the sidewalk in front of the subject property with pass through staging for 30 consecutive working days in order to perform improvements and repairs consistent with the Historic District Commission's Administrative Approval (LUHD-342). During the 30 day term of the encumbrance permit, the owner has experienced delays in the receipt of materials and discovered substantially more water damage to the subject property that will require more time than initially anticipated to repair. In order to encumber the sidewalk beyond 30 days, a license approved by the City Council is required.

The owner, through its August 13, 2021 letter attached, has requested to encumber the 360 square feet of sidewalk in front of 205 Market Street for 93 days (August 28 through November 28, 2021). Licenses are subject to the "License Fee for Encumbrance of City Property" policy. Under this policy, a daily fee is calculated per square foot of encumbered sidewalk (360 square feet x .05 = \$18 a day x 93 days = \$1,674). However, when the public has access to the License Area through pass through staging, license fees are typically waived.

The Legal and Planning Departments have reviewed and approved the form of the attached License.

Recommendations:

- If the Council agrees to grant the temporary construction license to encumber the sidewalk along 205 Market Street, an appropriate motion would be:

To recommend that the City Manager be authorized to waive the license fee and execute and accept the temporary construction license for the term of 93 days to encumber the sidewalk with pass through staging at 205 Market Street as requested.

XVI. Consent Agenda:

C. Projecting Sign License – 72A Congress Street:

Permission is being sought to install a projecting sign at **72A Congress Street** that extends over the public right of way, as follows:

Sign dimensions: 36” x 24”

Sign area: 6 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.*

D. Projecting Sign License – 79 Congress Street:

Permission is being sought to install a projecting sign at **79 Congress Street** that extends over the public right of way, as follows:

Sign dimensions: 40” x 28”

Sign area: 7.78 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.

XVIII. City Manager's Informational Items:

1. **Update on Development of Audit Committee Ordinance:**

Acting Deputy City Manager/Deputy City Attorney Woodland has prepared an [update on the status of the development of an Audit Committee ordinance](#).

2. **Report Back on Status of Mosquito Spraying:**

As requested at the August 2, 2021 City Council meeting, the following is a report back on the City's current mosquito control program. As part of cost cutting measures in the Fiscal Year 2021 and 2022 budgets, the City's mosquito program was adjusted to eliminate adulticiding (i.e. road spraying for nuisance mosquitos) and to focus on larvicide and monitoring for mosquito borne diseases. This adjustment to the program saved approximately \$56,000/year. Larvicide has been shown to be most effective in controlling mosquito borne illnesses as opposed to adulticiding spraying. Monitoring for mosquito borne illnesses is done in conjunction with the State of New Hampshire's Division of Health Services.

Staff has recently reached out to the City's mosquito control contractor, Dragon Mosquito Control Inc., to explore the cost of resuming road spraying for nuisance mosquitos. The owner of the company, Sarah MacGregor, said they would put together a proposal to do the work. However, she wanted us to know that the adulticide product is not on hand and must be ordered, that staffing is challenging and that scheduling the work may take a few weeks. She also wanted us to know that the spraying season typically ends in late September. She further cautioned that the spraying program does not address the mosquitos in residents' back yards and that given the unique conditions the mosquito populations are unusually high this year.

In addition, Ms. MacGregor indicated that the heavy rains in July combined with hot weather resulted in additional monitoring and larvicide applications.

Attached are a [summary of monitoring results, monitoring and larvicide applications and information related to things residents can do to help minimize mosquitos around their homes](#).

3. **Update on NH HB 220:**

Assistant City Attorney Ferrini will be providing a verbal update on the Assistant Mayor Splaine's request for mandatory vaccinations for City employees and the impact of NH HB 220 on this request. At this time, the New Hampshire Municipal Association is advising municipalities to proceed with extreme caution on mandating vaccinations for employees, as the legislative history on the bill indicates that the bill could be interpreted differently and there is not uniform interpretation throughout the State.

4. **Report Back on Rainbow Crosswalks:**

Please find attached a [report back on the proposal of a rainbow crosswalk in the City](#).

5. **Report Back from the Legal Department on Knights of Columbus Boot Drive:**

In regards to the Knights of Columbus' request for a boot drive in Market Square on September 11, 2021, the Legal Department has prepared a [report back and recommendation](#).

6. **Status Update on Cate Street and Bartlett Street Intersection:**

At the August 2, 2021 City Council meeting, the Council requested a report back on the status of the Bartlett Cate Street intersection modification. The modification was designed by the engineering firm Fuss and O'Neil to improve traffic and pedestrian safety in conjunction with the creation of Hodgdon Way. Hodgdon Way, the new roadway from Cate Street to the Route 1 Bypass, was created in part as a response to resident requests to reduce truck and vehicle traffic in the Bartlett Street Neighborhood. The design was peer reviewed for the City by the traffic engineering firm TEC and approved by the City's Planning Board. The design was stamped by the Professional Engineer of Record.

The approved design was implemented on July 16, 2021. The current configuration has been done in a manner to allow for an adjustment period during which the Department of Public Works (DPW) is monitoring the traffic pattern to confirm the effectiveness of the modified roadway. DPW has collected traffic video of the intersection including the pedestrian crosswalks which the Engineer of Record will review. Analysis of the data is done both manually and by a traffic analysis program.

City Staff are working with the design engineers to determine the function of the intersection as currently configured and what if any modifications are needed to improve its operation. Due to staffing challenges and schedule conflicts this work is anticipated to take approximately three to four weeks.

City Staff and the Design Engineer will provide a formal presentation of their findings and recommendation to Council at the September 20, 2021 Council meeting. This report back will include the pros and cons of the crosswalk location and whether there is an ability for traffic calming such as a speed table or any alternative measures for the current crosswalk or relocated crosswalk. In addition, the report back will include possible measures to promote the new flow of traffic to break the habit of people just going up Bartlett Street.

7. **Response to Comments Regarding City Finances:**

Please find attached a [memorandum in response to comments regarding City finances](#).