

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, NOVEMBER 15, 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\\_RDYVrm2JTVqljQu5Hxh0Fw](https://us06web.zoom.us/webinar/register/WN_RDYVrm2JTVqljQu5Hxh0Fw)

## 6:00PM – ANTICIPATED NON-PUBLIC SESSIONS:

1. ACQUISITION OF REAL ESTATE BY THE CITY – RSA 91-A:3 II (d)
2. McINTYRE – RSA 91-A:3 II (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

### PROCLAMATION

1. 2021 Small Business Saturday

- VII. ACCEPTANCE OF MINUTES – OCTOBER 13, 2021 (*Sample motion – move to accept and approve the minutes of the October 13, 2021 meeting as presented*)

### VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

- A. \*Portsmouth High School Girls 2021 Field Hockey State Champions

- 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

#### Public Hearing & Adoption of Resolution:

- A. RESOLUTION PURSUANT TO RSA 72:28-c THE CITY OF PORTSMOUTH HEREBY ADOPTS A TAX CREDIT FOR COMBAT SERVICE IN THE AMOUNT OF \$500.00 TO BE SUBTRACTED EACH YEAR FROM THE PROPERTY TAX ON THE QUALIFYING RESIDENTIAL REAL ESTATE, AS DEFINED IN RSA 72:29 II, OF ANY QUALIFYING SERVICE MEMBER DURING THAT TAXABLE PERIOD

## XII. MAYOR BECKSTED

1. Appointments to be Considered:
  - Abigail Gindele appointment to the Conservation Commission as an Alternate
  - Jacob Lehoux appointment to the Economic Development Commission
  - James Hewitt appointment to the Planning Board
  - Greg Mahanna appointment to the Planning Board
  - Effie Malley appointment to the Sustainable Practices Blue Ribbon Committee
  - Thomas Rossi appointment to the Zoning Board of Adjustment
2. \*Appointments to be Voted:
  - Hawk Furman appointment to the Audit Committee (2 year term)
  - Christopher White appointment to the Audit Committee (3 year term)
3. Purple Heart Community (***Sample motion – move that the City of Portsmouth become a Purple Heart Community and that a Proclamation be prepared for the December 6, 2021 City Council meeting***)
4. \*Holiday Lights Contest

## XIII. CITY COUNCIL MEMBERS

### A. ASSISTANT MAYOR SPLAINE

1. “Downtown Parking/Portsmouth Outdoors”
2. \*Portsmouth Police Commission Vacancy – That the candidate who received the most votes for the Police Commission election on November 2, 2021 be appointed until the end of 2021

### B. COUNCILOR WHELAN

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the October 7, 2021 meeting (***Sample motion – move to accept and approve the action sheet and minutes of the October 7, 2021 Parking and Traffic Safety Committee***)
2. \*McIntyre Update

### C. COUNCILOR KENNEDY

1. Cemetery Committee (***Sample motion – move to pass first reading and have second reading and a public hearing on December 6, 2021, for the creation of an ordinance to have a cemetery committee in Portsmouth, NH***)

### D. COUNCILOR HUDA

1. The Final Unaudited FY21 Budget Surplus/Deficit Amounts by Budget Unit for Year Ended 6/30/21
  - Police
  - Fire
  - Municipal
  - School

***The Council is not in receipt of this data at November 10<sup>th</sup>, provide by the November 15<sup>th</sup> Council meeting***

2. Professional Service Audit Contract of 7/22/21 with Melanson (**Sample motion – move for a report back from the City Manager to the residents and the Council: Fieldwork Audit Work Dates listed as October 25<sup>th</sup> to October 28<sup>th</sup>, 2021, please advise of the status of the work and the results at this time**)
3. Monthly Financial Summary Report Month Ending September 30, 2021 – 25% of Fiscal Year (**Sample motion – move for a report back from the City Manager to the residents and the Council: please define and describe the areas that make up the highest increase in September spending in 4 years of \$3,061,983.00 from September FY21**) (See data below taken from the September 2021 Monthly Report)

<u>Fiscal Year</u>	<u>September</u>
<b>FY22</b>	<b>\$10,926,992.00</b>
<b>FY21</b>	<b>\$ 7,865,009.00</b>
<b>FY20</b>	<b>\$ 7,603,595.00</b>
<b>FY19</b>	<b>\$ 7,325,391.00</b>

#### XIV. APPROVAL OF GRANTS/DONATIONS

- A. \*Violence Against Women Act (VAWA) Grant for the Police Department – \$25,025.00 (**Sample motion – move to approve and accept the grant for the Portsmouth Police Department in the amount of \$25,025.00 as presented**)
- B. \*ICAC Apple Equipment Donation Sub-Grant for the Police Department – \$9,737.00 (**Sample motion – move to approve and accept the equipment donation sub-grant award for the Police Department in the amount of \$9,737.00 as presented**)
- C. \*Bulletproof Vest Grant - \$7,160.86 (**Sample motion – move to approve and accept the grant award for the Police Department in the amount of \$7,160.86 as presented**)
- D. \*Donation to the Portsmouth Police Department from Paul Lapanne - \$5.00 (**Sample motion – move to approve and accept the donation for the Police Department in the amount of \$5.00 as presented**)
- E. \*Acceptance of Donations to the Skateboard Park:
  - Amy Mae Court - \$396.00
  - Andrew Bagley - \$121.00
  - Nicholas Eaton - \$150.00
  - Amy Buntel - \$250.00
  - Anna Nuttall - \$300.00
  - Mark Gianniny, Jr. - \$160.00
  - Kevin Anderson - \$410.00
  - Kristopher Loranger - \$200.00**(Sample motion – move to approve and accept the donations as presented)**

- F. \*Acceptance of Donations to the Portsmouth NH 400
  - Kevin Perkins - \$100.00
  - Kathleen Somssich - \$1,000.00

***(Sample motion – move to approve and accept the donations as presented)***
- G. \*Acceptance of Donation to the Portsmouth Public Library from Serhii Havrylenko - \$10.00 ***(Sample motion – move to approve and accept the donation in the amount of \$10.00 as presented)***
- H. \*Acceptance of Grant from Great Bay Resource Protection Partnership - \$2,425.00 ***(Sample motion – move to approve and accept the grant from Great Bay Resource Protection Partnership in the amount of \$2,425.00 as presented)***

**XV. CITY MANAGER’S ITEMS WHICH REQUIRE ACTION**

**A. CITY MANAGER CONARD**

**City Manager’s Items Which Require Action:**

- 1. Borthwick Easements
- 2. 64 Vaughan Mall LLC License and Easement Requests
- 3. Temporary Construction License Extension for 205 Market Street
- 4. Access Easement for Water Services at 1338 Woodbury Avenue

**XVI. CONSENT AGENDA**

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

- A. Letter from Linda Carter, Big Brothers Big Sisters of New Hampshire, requesting permission to hold the 13<sup>th</sup> Annual Stiletto Sprint on Saturday, September 24, 2022 from 1:00 p.m. – 4:00 p.m. ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Letter from Freddy Petrone, I Got Bridged Team, requesting permission to hold the 2<sup>nd</sup> Annual Bridge-a-thon on Sunday, September 11, 2022 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- C. Letter from Jeff Kamensky, The Music Hall, requesting permission to close Chestnut Street on November 18<sup>th</sup> at 5:00 p.m., November 19<sup>th</sup> at 4:00 p.m., and November 20<sup>th</sup> at 2:00 p.m. for the Warren Miller Ski Films ***(Sample motion – move to refer to the City Manager with Authority to Act)***

**XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. \*Presentation Re: Noise Assessment Findings Along I-95 and Spaulding Turnpike Corridors by Jonathan Evans from NH DOT
- B. Email Correspondence (***Sample motion – move to accept and place on file***)
- C. Request of Restoration of Involuntary Merged Lots – 77 Meredith Way (***Sample motion – move to refer to the Planning Board and City Assessor for report back***)
- D. Petition to Limit Truck Traffic on Peverly Hill Road
- E. Memorandum from Police Commission regarding Police Commissioners' Vacancies

**XVIII. CITY MANAGER'S INFORMATIONAL ITEMS**

*(There are no items under this section of the agenda)*

**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:** November 12, 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 November 15, 2021

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

A. **Public Hearing and Adoption of Resolution Regarding A Tax Credit for Combat Service in the Amount of \$500 to be Subtracted Each Year from the Property Tax on the Qualifying Residential Real Estate, as Defined in RSA 72:29 II, of Any Qualifying Service Member During That Taxable Period:**

At the October 18, 2021 City Council meeting, the City Council considered a **proposed resolution** regarding the optional tax credit for combat service brought forward by Josh Denton, Commander of #168 VFW. At that meeting the City Council voted to schedule a public hearing and adoption of the resolution at this evening's meeting.

If the City Council would like to move forward with this resolution, a recommended motion would be for the City Council to adopt the proposed Optional Tax Credit for Combat Service Resolution.

### ***XIV. Approval of Grants/Donations:***

A. **Violence Against Women Act (VAWA) Grant for the Police Department- \$25,025:**

At the October 26, 2021 Special Police Commission meeting, the Board of Police Commissioners approved and accepted a grant in the amount of \$25,025 from the New Hampshire Department of Justice which partially funds the Department's Victim Witness Advocate position.

*I recommend that the City Council move to approve and accept the grant for the Police Department in the amount of \$25,025 as presented.*

**B. ICAC Apple Equipment Donation Sub-grant for the Police Department- \$9,737:**

At the October 26, 2021 Special Police Commission meeting, the Board of Police Commissioners approved and accepted an Apple equipment donation sub-grant award, with a total value of \$9,737 from Fox Valley Technical College for one iMac computer and 22 iPads for use by the NH ICAC Task Force.

*I recommend that the City Council move to approve and accept the equipment donation sub-grant award for the Police Department in the amount of \$9,737 as presented.*

**C. Bulletproof Vest Grant for the Police Department- \$7,160.86:**

At the October 26, 2021 Special Police Commission meeting, the Board of Police Commissioners approved and accepted a matching grant in the amount of \$7,160.86 from the US Department of Justice for new and replacement bullet proof vests.

*I recommend that the City Council move to approve and accept the grant award for the Police Department in the amount of \$7,160.86 as presented.*

**D. Donation to the Police Department from Paul Lapanne- \$5:**

At the October 26, 2021 Special Police Commission meeting, the Board of Police Commissioners approved and accepted a donation in the amount of \$5 from Paul Lapanne.

*I recommend that the City Council move to approve and accept the donation for the Police Department in the amount of \$5 as presented.*

**E. Various Donations to the Skateboard Park:**

The City received various donations to the Skateboard Park. They are outlined below:

- Amy Mae Court - \$396
- Andrew Bagley - \$121
- Nicholas Eaton - \$150
- Amy Buntel - \$250
- Anna Nuttall - \$300
- Mark Gianniny Jr. - \$160
- Kevin Anderson - \$410
- Kristopher Loranger - \$200

*I recommend that the City Council move to approve and accept the donations as presented.*

**F. Various Donations to the PortsmouthNH 400<sup>th</sup>:**

The City received various donations to the Portsmouth 400<sup>th</sup>. They are outlined below:

- Kevin Perkins - \$100
- Kathleen Somssich - \$1,000

*I recommend that the City Council move to approve and accept the donations as presented.*

**G. Donation to the Library from Serhii Havrylenko - \$10:**

The City received a donation of \$10 from Serhii Havrylenko for the Library.

*I recommend that the City Council move to approve and accept the donation from Serhii Havrylenko in the amount of \$10 as presented.*

**H. Acceptance of Grant from Great Bay Resource Protection Partnership - \$2,425:**

In March 2021, the City conducted an appraisal on a 17.3 acre parcel that abuts the Bellamy Reservoir for consideration of purchasing a conservation easement for the long-term protection of the Bellamy Reservoir water quality. The cost of this appraisal was divided equally between the property owner and the City. The total cost of the appraisal was \$4,850, of which \$2,425 was paid by the City.

A grant was awarded to the City for up to 50% of the appraisal cost from the Great Bay Resource Protection Partnership. In accordance with City Policy, the Water Division seeks approval by the City Council for the authorization to accept these grant funds, in the amount of \$2,425.

*I recommend that the City Council move to approve and accept the grant from the Great Bay Resource Protection Partnership in the amount of \$2,425 as presented.*

***XV. City Manager's Items which Require Action:***

**1. Borthwick Easements:**

In accordance with a request from the City Council, on October 21, 2021 the Planning Board, after a public hearing, recommended approval of four easements which had been previously recommended by the Planning Board on May 27, 2017 as part of the subdivision and site plan approval for a new development on Eileen Dondero Foley Drive Avenue off of Borthwick Avenue in Portsmouth.

The Planning Board recommendation of approval consisted of four easements with a stipulation that the City staff confirm that the development is consistent with the approved plans. According to Vincent Hayes, the City's Land Use Compliance Agent, this project has been inspected and is in compliance with plans.

*Attached for reference is the Planning Board's letter of decision from October 21, 2021 and the figure showing the four easement areas.*



*I recommend that the City Council move to authorize the City Manager to finalize and accept the easements due to the City of Portsmouth from Borthwick Forest LLC.*

2. **64 Vaughan Mall LLC License and Easement Requests:**

64 Vaughan Mall, LLC (“Owner”) is constructing a mixed use building with underground parking at 64 Vaughan Street, Tax Map 126, Lot 1 (“Subject Property”). The lot lies within the Character District 5 (CD5), Downtown Overlay and Historic District. The lot abuts the Vaughan Mall, the Worth Parking Lot and 25 Maplewood Avenue. The Owner has received preliminary and final subdivision approval of a lot line revision and site plan approval from the Planning Board. The site plan approval is subject to certain stipulations (conditions precedent).

The first condition precedent requires the Owner to seek City Council approval to construct a sidewalk on City property in the Worth Lot. The sidewalk would run along the north border of the Worth Lot abutting the Subject Property. After crossing the Worth Lot exit between 64 Vaughan and 25 Maplewood, a sidewalk continues along property owned by 25 Maplewood, creating pedestrian access from the Vaughan Mall to Maplewood Avenue. The Owner will also improve sidewalks along Hanover Streets and install improvements to the Vaughan Mall.

The creation of the sidewalk in the Worth Lot requires the reconfiguration of the parking spaces, reducing the total number of parking spaces by two. The Owner is required to install curbing, lights, a new median and will repave and restripe the Lot as more fully described in [Owner’s letter dated October 8, 2021](#). The terms of the Owner’s obligations regarding the above described improvements are set forth in the [Development Agreement with Municipal Improvement Plan attached](#).

The second condition precedent requires the Owner to grant the City a Community Space Easement. Condition 3.4 states “[t]he sidewalk and landscaped area in front of the building on Hanover Street side shall be deeded to the City as community space (as wide pedestrian sidewalk) in order to meet the set back and front lot-line buildout requirements.”

[Attached is the Lot Line Adjustment Plan with easement description](#) and [draft Community Space Easement](#) subject to the approval of the City Council.

The Legal Department and Planning Department have approved the form of the easement.

*I recommend that the City Council move to authorize the City Manager to negotiate and execute the Development Agreement with 64 Vaughan Mall, LLC regarding the installation of sidewalks, improvements and reconfiguration of parking spaces in the Worth Lot, installation of sidewalks along Hanover Street and improvements to the Vaughan Mall, as presented; and*

*Move to authorize the City Manager to accept and execute the Community Space easement in a form substantially in conformance to the attached.*

### 3. **Temporary Construction License Extension for 205 Market Street:**

409 Franklin Pierce Highway, LLC, 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 was granted a License to encumber the sidewalk in front of the Subject Property with pass through staging in order to perform improvements and repairs consistent with the Historic District Commission's Administrative Approval (LUHD-342). The current License was granted by the City Council on August 23, 2021 for 93 days and expires on November 28, 2021. The Owner continues to experience additional material and contractor delays that have far exceeded its original estimate of the current license term and seeks to extend the License for an additional 30 days.

The Owner, through its **November 8, 2021 letter attached**, has requested to encumber the 360 square feet of sidewalk in front of 205 Market Street for an additional 30 days (November 29 through December 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 30 days = \$540). 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**.

If the Council agrees to extend the current temporary construction license for an additional 30 days to encumber the sidewalk along 205 Market Street, an appropriate motion would be:

*Move that the City Manager be authorized to waive the license fee, and execute and accept the temporary construction license extension with a 30 day term to encumber the sidewalk with pass through staging at 205 Market Street as requested.*

### 4. **Access Easement for Water Services at 1338 Woodbury Avenue:**

To fulfill a stipulation to site plan approval from the Planning Board, Woodbury Avenue Cooperative, Inc. proposes to convey a Water Services Access Easement to the City over property located at 1338 Woodbury Avenue. This easement provides City staff the ability to enter 1338 Woodbury Avenue for the purposes of inspecting water service infrastructure, and accessing valves for the purposes of turning on and off municipal water services.

The Legal Department has reviewed the form of the easement, and **the final version, executed by Woodbury Avenue Cooperative, Inc., is attached**. The Planning Board moved to recommend the City Council accept this easement deed by a unanimous vote at its meeting on March 18, 2021.

*I recommend that the City Council move to authorize the City Manager to accept an access easement for water services over land at 1338 Woodbury Avenue from Woodbury Avenue Cooperative Inc. (Tax Map 237 Lot 70).*

*XVII. Presentations and Consideration of Written Communications and Petitions:*

**A. Presentation Regarding Noise Abatement Assessment Findings Along 1-95 and Spaulding Turnpike Corridors:**

Jonathan Evans, Air and Noise Program Manager at the NH DOT, will be presenting the results of the DOT's noise assessment for the City of Portsmouth.