

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, DECEMBER 20, 2021 TIME: 6:30PM

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_coXjZCDIQAizBSK00xxhtA

6:30PM - PORTSMOUTH HIGH SCHOOL HOLIDAY ENSEMBLE MUSIC PERFORMANCE

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 [6:30 p.m. or thereafter]**
- IV. **ROLL CALL**
- V. **INVOCATION – CHAPLAIN PELKEY**
- VI. **PLEDGE OF ALLEGIANCE**
- VII. **ACCEPTANCE OF MINUTES – NOVEMBER 4, 2021; NOVEMBER 15, 2021; NOVEMBER 18, 2021 AND DECEMBER 6, 2021 (Sample motion – move to accept and approve the November 4, 2021, November 15, 2021, November 18, 2021 and December 6, 2021 City Council meeting minutes)**
 - **PRESENTATION OF GIFTS TO THE CITY COUNCIL – Mayor Becksted**
- VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**
 - A. Safe Water Advisory Group Presentation
 - B. Mayor’s Blue Ribbon Committee on Arts and Non-Profits Presentation
 - C. Portsmouth Energy Advisory Committee Report Presentation
- IX. **PUBLIC COMMENT SESSION – (participation may be in person or via Zoom)**
- X. **PUBLIC DIALOGUE SUMMARY [when applicable] – N/A**
- XI. **PUBLIC HEARINGS AND VOTE ON ORDINANCE AND/OR RESOLUTIONS**

Public Hearings & Adoption of Resolutions:

- A. RESOLUTION AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM UNASSIGNED FUND BALANCE FOR NECESSARY EXPENDITURES RELATED TO CONSTRUCTION OF A SKATEBOARD PARK, RECREATIONAL FIELD AND PUMP TRACK. THE CITY COUNCIL HAS DETERMINED THAT THE SUM OF TWO MILLION TWO HUNDRED THOUSAND (\$2,200,000.00) DOLLARS IS TO BE APPROPRIATED

- B. RESOLUTION APPROPRIATING \$10,000,000.00 TO PAY COSTS OF ACQUIRING THE COMMUNITY CAMPUS FROM THE FOUNDATION FOR SEACOAST HEALTH INCLUDING THE PAYMENT OF COSTS INCIDENTAL AND RELATED THERETO. USING VARIOUS REVENUE SOURCES TO INCLUDE A BOND ISSUE, AND OR NOTES OF UP TO \$3,250,000.00 (*THIS INCLUDES USING VARIOUS REVENUE SOURCES TO INCLUDE \$5,190,000.00 OF AMERICAN RESCUE PLAN ACT (ARPA) FUNDS WHICH WERE ACCEPTED BY THE CITY COUNCIL AT ITS MEETING OF JUNE 21, 2021 AS WELL AS A BOND ISSUE AND/OR NOTES OF UP TO \$3,250,000.00*)
- C. RESOLUTION AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM UNASSIGNED FUND BALANCE FOR OPERATING EXPENDITURES OF THE COMMUNITY CAMPUS UPON ACQUISITION FOR FISCAL YEAR ENDING IN JUNE 30, 2022. THE CITY COUNCIL HAS DETERMINED THAT THE SUM OF ONE HUNDRED SIXTEEN (\$116,000.00) DOLLARS IS TO BE APPROPRIATED

Third and Final Reading of Ordinance:

- D. Third and Final Reading of Ordinance amending Chapter 1, Article IV – Commissions and Authorities, Adding Section 1.415 Cemetery Committee

XII. MAYOR BECKSTED

1. *Appointments to be Voted:
- Jesse Lynch appointment to the Audit Committee
 - Mika Court appointment to the Conservation Commission
 - Andrew Ward appointment to the Economic Development Commission
 - Jane Begala appointment to the Planning Board
 - Andrew Samonas appointment as Alternate to the Planning Board
 - Franco DiRienzo appointment as Alternate to the Planning Board
 - Thomas Watson reappointment to the Trustees of the Trust Fund
 - Paul Mannle appointment to the Zoning Board of Adjustment
2. *Announcement of Holiday Lights Contest Winners

XIII. CITY COUNCIL MEMBERS

A. COUNCILOR WHELAN

1. *City Attorney update on the latest Redgate Kane SoBow Square LLC Correspondence and Hearing in Superior Court as of 12/20/21

B. COUNCILOR KENNEDY

1. *Unseal Non-Public Session Minutes (*Sample motion – move to unseal the meeting and minutes for the last four City Council Non-Public meetings on the McIntyre*)

C. COUNCILOR HUDA

1. To update the residents & taxpayers that previously budgeted funds have been identified for the December 6th McIntyre Resolutions to cover estimated legal expenses of \$75,000 & estimated Principle Group expense of \$75,000 = total \$150,000
2. Update on the Audit Committee

D. COUNCILOR TABOR

1. *The Mayor's three Planning Board appointments tonight exceeds the legal authority given for appointments. City ordinance states, "The Mayor shall apportion appointments to that no more than three appointments occur annually." (Amended 6/3/2002) Section 1.303. The Council has been asked to approve five Planning Board appointments in the month of December

E. COUNCILOR TRACE

1. *General comment to residents regarding past two years – three minutes please

XIV. APPROVAL OF GRANTS/DONATIONS

- A. *Acceptance of Donations to the Portsmouth 400th
 - Michael Skelly - \$50.00
 - Rick Becksted - \$100.00
 - Susan Tober - \$250.00
 - Elizabeth Moreau - \$500.00
 - Jim Pender - \$1,000.00***(Sample motion – move to approve and accept the donations as presented)***
- B. *Acceptance of Donation to the Skateboard Park
 - Edmunds General Contracting, LLC - \$1,000.00***(Sample motion – move to approve and accept the donation as presented)***
- C. Acceptance of Donation from Ronald and Karen Fitz of a Bench in memory of Dora Orsucci to be placed adjacent to the playground on Peirce Island ***(Sample motion – move to approve and accept the donation as presented)***

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager's Items Which Require Action:

1. ☯ Approval of 2022 City Council Meeting Calendar
2. ☯ Sale of Commercial Safe
3. ☯ Street Naming for 83 Peverly Hill Road
4. *The Foundation for Seacoast Health Purchase of Community Campus Property Located at 100 Campus Drive

5. Renewal of City's Parking Lot Use and Maintenance Agreement with the St. John's Masonic Association

XVI. CONSENT AGENDA

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

- A. Letter from Maria Stephanou, Alzheimer's Association, requesting permission to hold the Annual Seacoast Walk to End Alzheimer's on September 25, 2022 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Letter from Jennie Halstead, My Breast Cancer Support, requesting permission to hold the 14th Annual Celebrate Pink 5k Walk & Run on September 18, 2022 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***

XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. ☞ Email Correspondence ***(Sample motion – move to accept and place on file)***
- B. ☞ Letter regarding the need for a Taxi Commission ***(Sample motion – move to accept and place on file)***
- C. ☞ Letter from Attorney Kenneth Murphy, Rainboth, Murphy & Lown, PA, regarding Worth Lot Parking Agreement Revision ***(Sample motion – move to refer to the Legal Department for report back)***
- D. ☞ Materials from Kristen Mello regarding PFAS

XVIII. CITY MANAGER'S INFORMATIONAL ITEMS

XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

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

**Indicates verbal report*

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



CITY OF PORTSMOUTH

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

Karen S. Conard
City Manager

Date: December 16, 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 December 20, 2021

VIII. Recognitions and Volunteer Committee Reports:

A. **Safe Water Advisory Group:**

Along with a **written report**, the Safe Water Advisory Group will be presenting a summary of their work and their Group's recommendations at this evening's meeting.

B. **Mayor's Blue Ribbon Committee on Arts and Non-Profits:**

Russ Grazier will be presenting a **report** on behalf of the Mayor's Blue Ribbon Committee on Arts and Non-Profits.

C. **Portsmouth Energy Advisory Committee Report:**

Energy Advisory Committee members will be presenting a **Committee report** at this evening's meeting.

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

A. **Public Hearing and Adoption of Resolution Authorizing a Supplemental Appropriation from Unassigned Fund Balance for Necessary Expenditures Related to Construction of a Skateboard Park, Recreational Field and Pump Track in the Amount of \$2,200,000:**

At its December 6, 2021 City Council meeting, the Council voted 7-2 to approve the sum of **\$2,200,000 to be appropriated** for construction of a skateboard park, recreational field and pump track.

B. Public Hearing and Adoption of Resolution Appropriating \$10,000,000 to Pay Costs of Acquiring the Community Campus from the Foundation for Seacoast Health Including the Payment of Costs Incidental and Related Thereto. This Includes Using Various Revenue Sources to Include \$5,190,000 of American Rescue Plan Act (ARPA) Funds Which Were Accepted by the City Council At Its Meeting of June 21, 2021 As Well As A Bond Issue And /Or Notes of Up to \$3,250,000:

I am requesting that the City Council hold a public hearing on the **proposed Bonding Resolution** at this evening's meeting to purchase the Community Campus.

The total purchase price of the Community Campus is \$10 million, and this is the total amount that the City is requesting be authorized to spend in the resolution.

This purchase will be funded through various sources, detailed in the resolution to include bonding. The City will be utilizing:

- Revenue sources totaling \$6.76 million from various sources to include Trusts and recently received ARPA funds from the federal government. If this Resolution passes, the Council will be rendering its final approval of a plan for expending a portion of the ARPA funds in the amount of \$5,190,000.
- The School Department is waiting to get final approval from the New Hampshire Department of Education, to utilize ESSER Funds (Elementary and Secondary School Emergency Relief Fund) to utilize \$2,000,000 to fund a portion of the purchase of the community campus.
- The City is seeking an authorization for bonding of up to \$3,250,000 to fund the remaining portion of the Community Campus purchase:
 - If the School is NOT able to obtain permission to utilize the \$2,000,000 in funding from ESSER, the City will bond all \$3,250,000 to complete the purchase.
 - If the school IS able to obtain permission, the City will only be bonding \$1,250,000 to complete the purchase.

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

C. Public Hearing and Resolution Authorizing a Supplemental Appropriation from Unassigned Fund Balance for Operating Expenditures of the Community Campus Upon Acquisition for Fiscal Year Ending June 30, 2022 in the Amount of \$116,000:

The City's acquisition of Community Campus will result in additional operational obligations which require a supplemental appropriation to cover operation and maintenance expenses for the remainder of Fiscal Year 2022. Based on a review of past operating expense records a **supplemental appropriation of \$116,000** is necessary. These monies will cover utilities, custodial services, and maintenance of the facility. Future budgets will be developed based on the City's actual operations expenses once staff have fully programmed the Campus and existing contracted service agreements have expired.

I recommend that the City Council move to adopt the proposed resolution in the amount of \$116,000 as presented.

D. Third and Final Reading of Ordinance Amending Chapter 1, Article IV – Commissions and Authorities, Adding Section 1.415 Cemetery Committee:

Attached please find a proposed ordinance amending Chapter 1, Article IV – Commissions and Authorities.

If the City Council would like to proceed, I recommend that they move to adopt the third and final reading of the proposed amendments as presented.

XIV. Approval of Grants/Donations:

A. Acceptance of Various Donations to the Portsmouth 400th:

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

- Michael Skelly - \$50
- Rick Becksted - \$100
- Susan Tober - \$250
- Elizabeth Moreau - \$500
- Jim Pender - \$1,000

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

B. Acceptance of Donation to the Skateboard Park:

The City received a donation from Edmunds General Contracting, LLC in the amount of \$1,000 for the Skateboard Park.

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

C. Acceptance of Donation from Ronald and Karen Fitz of A Memorial Bench:

Ronald and Karen Fitz wish to donate a memorial bench in memory of Karen's mother, Dora Orsucci, to be placed adjacent to the playground on Peirce Island. This donation is acceptable to the Department of Public Works and the Chairman of the Peirce Island Committee.

I recommend that the City Council move to approve and accept a donation of a memorial bench as presented.

XV. City Manager's Items which Require Action:

1. Approval of 2022 City Council Meeting Calendar:

Attached please find the proposed 2022 City Council meeting calendar.

I recommend that the City Council move to approve the 2022 proposed meeting calendar as presented.

2. **Sale of Commercial Safe:**

The Tax Department has a **commercial safe** that is in need of disposal, as it is no longer adequate for the needs of the city. The gaskets are missing, so it is no longer fireproof, the doors require some force to close and the combination dial is a little difficult to read.

The City will use GovDeals, an online auction site where items are sold to the highest bidder, to dispose of the safe. Utilizing this online auction site has proven to result in more competitive bidding than through the sealed bid process.

According to City Ordinance Section 1.505, property valued at \$500.00 or more must receive approval from the City Council prior to bidding.

I recommend that the City Council move to authorize the sale of the commercial safe as presented.

3. **Street Naming for 83 Peverly Hill Road:**

At the October 21, 2021 meeting of the Planning Board, the Board voted to name the newly approved city street off of Peverly Hill Road, Sage Lane. **Attached please find the Planning Board letter of decision** and a **list of alterative street names** that could be used if the City Council finds they would like to select a different name than Sage Lane. The list of names provided has been reviewed by emergency services and the Post Office, as well as the Town of Newington for conflicts. Any other names selected should be vetted for conflicts before final approval.

I recommend that the City Council authorize the City Manager to proceed with the naming of Sage Lane as described.

4. **The Foundation for Seacoast Health Purchase of Community Campus Property Located at 100 Campus Drive:**

On September 20, 2021, the City Council voted to authorize the City Manager to negotiate the captioned purchase and sale agreement to be brought back to the Council for final approval. This memorandum will briefly summarize the Purchase and Sale Agreement (“Agreement”) which has been negotiated is being brought to the City Council. The full document may be seen at: <https://www.cityofportsmouth.com/city/press-releases/foundation-seacoast-health-announces-potential-plan-sell-community-campus-city>.

- The City will acquire full title to the 37.062 acres and buildings owned by The Foundation for Seacoast Health (“Foundation”) at the Campus Drive location.
- The City will pay for the property in a single lump sum payment of \$10 million to be delivered at closing.
- Closing is scheduled for February 1, 2022.

- The earnest money to be placed in escrow at the execution of the Purchase and Sale Agreement is \$250,000.
- The City will be acquiring the property essentially without any representations or warranties from the Foundation as to conditions or otherwise, but the City will have until January 31, 2022 to conduct its own due diligence into these matters. That activity has already begun.
- The outstanding due diligence issues, on which the City's contractors are working, are environmental, survey, and title.
- If the City encounters difficulties during the due diligence period, it will have the option to terminate the sale prior to January 31, 2022. In that case, the earnest money will be refunded to the City.
- After the City acquires the property, the Foundation will be allowed to continue to occupy its current office space for 90 days without payment of rent to the City. Thereafter, rent would be paid by the Foundation to the City at the rental rate offered to other tenants of the Campus property.
- The City agrees that it will maintain the leases of certain existing tenants of the Foundation, such as the Seacoast Community School, through to the end of the lease terms.
- The Purchase and Sale Agreement contains no funding contingency. Under its terms, it will be necessary for the City to produce the purchase price at the closing and failure to do so would not be an excuse for non-performance of the Agreement.

On approval of this Purchase and Sale Agreement by the City Council it will be executed and delivered along with \$250,000 by the City Manager to the Foundation. Thereafter, the closing and title insurance will be handled by the McLane law firm on behalf of the City.

I recommend that the City Council move to authorize the City Manager to execute, deliver and implement the Purchase and Sale Agreement for the purchase from The Foundation for Seacoast Health of its Community Campus property located at 100 Campus Drive, as presented.

5. **Renewal of City's Parking Lot Use and Maintenance Agreement with the St. John's Masonic Association:**

St. John's Masonic Association, Inc. ('St. John's') has had a Parking Lot Usage/Maintenance Agreement with the City to allow the public to park for free in 61 designated parking spaces in its parking lot located on at the corner of Miller Avenue and Middle Street at [City Tax Map 136, Lot 019](#), commonly known as the St. John's Masonic Lodge Lot ('Lot'). The Agreement expires on December 31, 2021, and the City and St. John's seek to extend the public's free use of 61 designated parking spaces ('Parking Spaces') in the Lot for the next three (3) years.

[The Agreement](#) has been amended to permit members of the public to use the Parking Spaces during Snow Emergencies, adding important snow ban parking inventory for the public's use.

As noted in the Agreement, St. John's has agreed to enlarge an existing Sidewalk and Traffic Signal Easement granted to the City at the corner of Miller Avenue and Middle Street.

The Easement will be presented to Council for its approval after a survey is conducted of the expanded easement area.

The Department of Public Works, the Legal Department and St. John's have reviewed and approved the form of the Agreement.

I recommend that the City Council move to authorize the City Manager to negotiate and enter into the Parking Lot Usage/Maintenance Agreement with St. John's as presented.