

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, JANUARY 24, 2022 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_nm6N8KSkQbKtoQ6yli_H7w

6:00PM – ANTICIPATED NON-PUBLIC SESSION:

1. COLLECTIVE BARGAINING 101 – RSA 91-A:3, II (a)
2. FIRE DEPARTMENT MEMORANDUM OF AGREEMENT – RSA 91-A:3, II (a)

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** (*There are no minutes on for this evening*)
- VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**
- IX. **PUBLIC COMMENT SESSION** (*This session shall not exceed 45 minutes*) – (*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**

First Reading of Ordinance:

- A. First reading of Ordinance amending Chapter 3, Article XI, Section 3.1101 – 3.1104 – Face Coverings During the COVID-19 Pandemic (**Sample motion – move to pass first reading and schedule a public hearing and second reading at the February 7, 2022 City Council meeting**)

XII. **MAYOR McEACHERN**

1. Acceptance of Resignations:
 - Andrew Samonas from the Conservation Commission
 - Peter McDonnell from the Zoning Board of Adjustment
 - Chase Hagaman, Alternate from the Zoning Board of Adjustment

2. Appointments to be Considered:
 - Jason Huett to the Cable Television and Communications Commission
 - Chris Benecick to the Cemetery Committee
 - Eva Boice to the Cemetery Committee
 - Deirdre (Dee) Forte to the Cemetery Committee
 - Michael Griffin to the Cemetery Committee
 - Donald Margeson to the Cemetery Committee
 - Sue Polidura to the Cemetery Committee
 - Kerry Rubinstein to the Cemetery Committee
 - Susan Sterry to the Cemetery Committee
 - Steven Detrolio to the Sustainable Practices Blue Ribbon Committee
 - Jay Lieberman to the Sustainable Practices Blue Ribbon Committee
3. Approval of City Council Rules and Orders
4. Ratification of City Council Policies
5. *Ethics Committee Drawing by Lot
6. Board and Commission Assignments for City Council
7. *Ratification of Blue Ribbon Committees
 - African Burying Ground Stewardship Blue Ribbon Committee
 - Prescott Park Master Plan Implementation Committee
 - Sister City Blue Ribbon Committee
 - Sustainable Practices Blue Ribbon Committee
 - Vaughan Mall Blue Ribbon Committee
 - Mayor's Blue Ribbon Energy Advisory Committee
 - Portsmouth Arts & Non-Profits
 - Safe Water Advisory Group Committee
 - Skateboard Park Blue Ribbon Committee

XIII. CITY COUNCIL MEMBERS

A. COUNCILOR TABOR

1. Community Power Update and next steps (no action required)

B. COUNCILOR DENTON

1. *Charter Amendments (***Sample motion – move for a report back on the process and recommended way forward for two charter amendments to be placed on the next Municipal Election's ballot that would accomplish the following:***
 - ***Officers elected at the biennial election taking office that November and not the following January; and***
 - ***The election of five ward specific City Councilors at-large City Councilors, with the at-large City Council candidate with the most votes becoming Mayor and the at-large City Council candidate with second most votes becoming Assistant Mayor; or***

- ***The election of five ward specific City Councilors, three at-large City Councilors, and the direct election of Mayor, with the at-large City Council candidate with the most votes becoming Assistant Mayor; or***
- ***The direct election of Mayor and the City Council candidate with the most votes becoming Assistant Mayor***

C. COUNCILOR BAGLEY

1. Religious Holiday Policy

D. COUNCILOR COOK

1. ****Discussion of establishment of a Governance Committee (Sample motion – move to create a Governance Committee to be convened for the purpose of reviewing the City Charter, Council Ordinances, Council Rules, and Council Policies, which will be required to report back to the City Council on committee progress and any recommended alternations to those documents. In furtherance, the Governance Committee shall consist of three members of the City Council, appointed by the Mayor with approval of the City Council. As a priority, the Governance Committee shall review the Ethics Ordinance, Land Use Board Appointment Process, and City Committee Structure, and any other urgent governance matter that comes to the attention of the committee or is referred by the City Council to the committee)***

XIV. APPROVAL OF GRANTS/DONATIONS

- A. ****Approval of Grant for Police Department from US Department of Justice - \$418,549.00 (Sample motion – move to approve and accept the grant for the Police Department from the U.S. Department of Justice as presented)***
- B. ****Acceptance of Donations to the Police Department:***
 - Donation of \$300.00 from the Seidl Family
 - Donation of \$10.00 Gift Card from the Rollins Family
 - Donation of various Gift Cards from anonymous citizens***(Sample motion – move to approve and accept the donations for the Police Department as presented)***
- C. ****Acceptance of Donations to Portsmouth 400th***
 - Robert Barefield - \$1.00
 - Denise A. Poulos - \$1,000.00***(Sample motion – move to approve and accept the donations as presented)***
- D. ****Acceptance of Donation to Fire Department from Paul Gormley and Kimi Iguchi - \$2,500.00 (Sample motion – move to approve and accept the donation for the Fire Department as presented)***

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager's Items Which Require Action:

1. Ratification of Release of Trust Funds for Community Campus Acquisition
2. License Extension for 60 Penhallow Street
3. Expansion of West End Economic Revitalization Zone
4. Approval of Proposed Redistricting Map

XVI. CONSENT AGENDA

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

- A. Letter from Rich Clyborne, Gundalow Company, requesting permission to hold the second Riverfest on Saturday, June 4, 2022 from 10:00 a.m. to 5:00 p.m. ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Letter from Kathie Lynch, Portsmouth Little League, requesting approval of temporary Signs/Banners for 2022 Season ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- C. Letter from Emily Rivera, National Multiple Sclerosis, requesting permission to hold the annual Walk MS 2022 on Saturday, April 23, 2022 from 10:00 a.m. to 1:00 p.m. ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- D. Letter from Tamires Costa, Cystic Fibrosis Foundation, requesting permission to hold the CF Cycle for Life on Saturday, July 16, 2022 from 7:30 a.m. to 4:00 p.m. ***(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 from Shawn Menard, Seacoast Eat Local regarding new management of Portsmouth Farmers' Market ***(Sample motion – move to refer to the Legal Department for report back)***

XVIII. CITY MANAGER'S INFORMATIONAL ITEMS

XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

- A. Citywide Neighborhood Committee Biennial Report to the City Council – *Information Only*

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

**Indicates verbal report*

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



CITY OF PORTSMOUTH

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(603) 610-7201

Karen S. Conard
City Manager

Date: January 20, 2022

To: Honorable Mayor Deaglan McEachern and City Council Members

From: Karen S. Conard, City Manager *KSC*

Re: City Manager's Comments on City Council Agenda of January 24, 2022

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

A. **First Reading of Ordinance Amending Chapter 3, Article XI – Face Coverings During the COVID-19 Pandemic:**

Attached please find a [proposed ordinance](#) regarding Chapter 3, Article XI – Face Coverings During the COVID-19 Pandemic. A [copy of the previous ordinance](#) is included for your information.

XIV. Approval of Grants/Donations:

A. **Approval of Grant for Police Department - \$418,549:**

The Police Department received a grant award from the U.S. Department of Justice in the amount of \$418,549 for the NH Internet Crimes Against Children Task Force.

I recommend that the City Council move to approve and accept the grant for the Police Department from the U.S Department of Justice as presented.

B. **Approval of Various Donations for Police Department:**

The Police Department received various donations. They are outlined below:

- the Seidl Family - \$300
- the Rollins Family - \$10 Dunkin Donuts gift card
- Two anonymous citizens – five \$10 Starbucks gift cards, five \$10 Dunkin Donuts gift cards, and six \$25 Kaffee Vonsolln gift cards

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

C. Approval of Various Donations to Portsmouth 400th:

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

- Robert Barefield - \$1
- Denise A. Poulos - \$1,000

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

D. Approval of Donation to the Fire Department - \$2,500:

The Fire Department received a donation from Paul Gormley and Kimi Iguchi in the amount of \$2,500.

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

XV. City Manager's Items which Require Action:

1. Ratification of Release of Trust Funds for Community Campus Acquisition:

Attached please find a [memorandum from Attorney Sullivan regarding Trust Funds for the Community Campus Acquisition](#).

I recommend that the City Council move that the City Council action of December 20, 2021 authorizing the release of certain funds from the Peirce Estate Recreation and Environmental Trust and Daniel Street Trust is hereby ratified; and further move that the City Council specifically authorizes that the sum of \$627,496.53 be expended from the Peirce Estate Recreational and Environmental Trust pursuant to Article 3 of that Trust, and that the sum of \$25,542.95 be expended from the 135-143 Daniel Street Charitable Trust pursuant to Article 3 (B) of that Trust for the acquisition of certain real estate from the Foundation for Seacoast Health as approved by [letter dated November 23, 2021 addressed to the City Attorney by Thomas Donovan, Director of Charitable Trusts, Office of the Attorney General](#).

2. License Extension for 60 Penhallow Street:

McNabb Properties has requested an extension of an existing license agreement to facilitate ongoing construction work at 60 Penhallow Street (the Brick Market project). Please find [attached a letter from Lynn Kramer](#) with updated construction schedule. If granted, this would be the third (and hopefully final) extension. Background on this project and the history of licenses granted is described in a [Memorandum from Assistant Staff Attorney Jane Ferrini](#).

In response to ongoing concerns from some abutters about the project impacts, City staff from multiple departments met recently with Lynn Kramer, Project Manager, to discuss the license extension request and identify what further actions might be taken to mitigate some of the offsite impacts. City staff included the Director of Public Works, the Chief Building Inspector, the Parking General Foreman and representatives from the Legal and Planning Departments.

As a result of that meeting, several upcoming coordination issues were identified and resolved. There will, for example, be close coordination between the Department of Public Works, local utilities and the contractors this winter and spring as utilities will be placed underground in Daniel Street to both bring power to the Brick Market building and to improve resiliency and aesthetics in the area. Issues related to noise were also discussed and some potential solutions were identified.

With regard to the [proposed license document](#) that is the subject of action tonight, that document now reflects the different phases of work that will occur over the winter and spring. The proposed license extension document includes: a request to close 1,740 square feet of sidewalk along Daniel and Penhallow and the use of three (3) parking spaces on Penhallow from February 1, 2022 through July 3, 2022. The license extension request also includes the use of three (3) parking spaces along Daniel Street from April 1, 2022 through July 3, 2022. Note that the license term for use of all parking spaces is for weekday use only. These parking spaces will be available for the public to park from 2:00 p.m. on Friday through Sunday evening. The License Fee for the closure of 1,740 square feet of sidewalk along Penhallow and Daniel is \$13,311 (1,740 sq. ft X \$0.05 = \$87 x 153 days). The License Fee for the three (3) parking spaces on Penhallow Street is \$16,350 (\$50 per space x 3 = \$150 x 109 days). The License Fee for the three (3) parking spaces on Daniel Street is \$9,900. (\$50 per space x 3 = \$150 x 66 days). The total License Fee is \$39,561.

The property developer already provides weekly communication to abutters by e-mail regarding upcoming construction activity. The City has requested not only that these communications continue, but that more attention be given to timeliness and completeness of those communications.

The Legal and Planning Department have reviewed and approved the form of license. Suzanne Woodland, the Acting Deputy City Manager/Deputy City Attorney will be available at this evening's meeting, along with other members of staff to address any questions and concerns. A representative of the owner/developer will also be present.

I recommend authorization to finalize and execute the temporary construction license for the term of February 1, 2022 to July 3, 2022 as proposed.

3. **Expansion of West End Economic Revitalization Zone:**

The purpose of this memo is to provide an overview of the City's Economic Revitalization Zone (ERZ) program and request City Council approval of an application to the NH Business and Economic Affairs (BEA) Office to expand the existing West End ERZ.

Overview of Economic Revitalization Zones (ERZ) Incentive Tool

The ERZ designation is an economic development tool allowed by state statute (RSA 162-N) that creates incentive for companies to expand or relocate to an eligible area in the state and create jobs. An Economic Revitalization Zone is "an area with a single continuous boundary, designated in accordance with RSA 162-N:8, and having at least one of the following characteristics:

- Unused or underutilized industrial parks; or
- Vacant land or structures previously used for industrial, commercial, or retail purposes but currently not so used due to demolition, relocation of the former occupant’s operations, age, obsolescence, deterioration, brownfields, or cessation of operation resulting from unfavorable economic conditions either generally or in a specific economic sector.”

State approval of Economic Revitalization Zones qualifies businesses expanding or relocating in these zones for tax credits outlined in RSA 162-N:8. Under the provisions of this statute, businesses in an approved ERZ may be eligible for tax credits to be used against Business Profit Tax and Business Enterprise Tax up to a maximum of \$40,000 annually for a five year period. ERZ areas are reevaluated by the state every five years for eligibility.

Projects in an approved zone must create new full-time jobs and expand the economic base, and can include the creation of new facilities, the rehabilitation of existing structures, or the investment in equipment and machinery. The credit is based on a percent of the salary for each new full time job created and the lesser of: either a percent of the actual cost incurred for the project or a maximum credit for each new job created in the fiscal year.

Portsmouth Economic Revitalization Zones (ERZ)

The City of Portsmouth currently has five active ERZs that have been approved by the state of New Hampshire following successful application by the City for an eligible ERZ. The five active zones are shown on the [City’s website](#) and include:

- Pease Tradeport ERZ (approved 10/09)
- Portsmouth Business Park ERZ a/k/a Commerce Way (approved 7/10)
- Heritage-Constitution Industrial Park ERZ (approved 10/09)
- Downtown Central Business District (CBD) ERZ (approved 5/18)
- West End ERZ (approved 5/18)

Request to Expand the West End ERZ

The West End ERZ is one of the most recently established in ERZs in the City, and was approved by the state in May 2018. Recently, the City received a request to expand the West End ERZ by commercial entities that are expanding into the West End Yards project and that wish to apply for the tax credit afforded in the legislation. In order to seek approval for a new ERZ, the City completes and sends an ERZ application which is reviewed and approved by the City’s Economic Development Commission (EDC) before sending it to the state for ultimate approval. For expansion of a zone, the EDC reviews and approves the expansion and the City sends a letter outlining the request and mapping the proposed new boundaries of the expanded zone.

When the request to expand the West End ERZ was discussed by the EDC, the Commission suggested not only including the West End Yards area along Cate Street, but also the area inclusive of the property that abuts West End Yards and the rail line opposite Plaza 800 ([see attached map](#)). The EDC unanimously approved the proposed West End expansion in late 2021 and recommended that the expansion be brought before the City Council for approval as a means to raise public awareness of the program and the benefits of this economic development tool to businesses.

I recommend that the City Council move to approve the proposed expansion of the West End ERZ and send a letter requesting the expansion to the NH Business and Economic Affairs Office.

4. **Approval of Proposed Redistricting Map:**

[Attached please find a memorandum](#) from City Clerk Barnaby, MMC/CNHMC, regarding proposed redistricting, along with a [map of the proposed ward adjustments](#).

I recommend that the City Council move to authorize the City Manager to submit the small adjustment to ward lines for Ward 2 and Ward 5 on behalf of the City Council to the Legislature requesting a session law change to act upon the reflected new boundaries.