

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: TUESDAY, FEBRUARY 22, 2022 TIME: 5:30PM

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_VxWIs_nbQwGbUa2dwS81Tw

5:30PM – ANITICIPATED NON-PUBLIC SESSION RELATING TO CLAIMS, LITIGATION AND ACQUISITION OF REAL PROPERTY PURSUANT TO RSA 91-A:3, II (d), (e), and (l)

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 acceptance this evening***
- VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**
 1. *Portsmouth High School Girls Alpine Ski Team Division I State Champions
- IX. **PUBLIC COMMENT SESSION** (*This session shall not exceed 45 minutes*) – (*participation may be in person or via Zoom*)
- X. **PUBLIC HEARINGS AND VOTE ON ORDINANCE AND/OR RESOLUTIONS**

Continued Public Hearing – Capital Improvement Plan (CIP): (*Continued Public Hearing that was held open per action of the City Council at the February 7, 2022 meeting*)

 - A. *CAPITAL IMPROVEMENT PLAN (CIP) FY 2023-2028
 - **PRESENTATION** (*Presentation was held at the January 19, 2022 Work Session*)
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

(*Action on CIP will take place at the March 7, 2022 City Council meeting*)

Third and Final Reading of Ordinance:

- B. Third and Final Reading of Ordinance amending Chapter 3, Article XI, Section 3.1101 – 3.1105 – Face Coverings During the COVID-19 Pandemic (***Sample motion – move that third reading of the Face Coverings Ordinance be postponed indefinitely, not to be brought back before the City Council without one meeting prior notice***)

XI. CITY MANAGER’S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager’s Items Which Require Action:

- 1. Request for Public Hearing Regarding Elderly and Disabled Exemptions
- 2. *Report Back on Recommendations for Outdoor Dining
- 3. Approval of Deer Street Associates Parking Agreement
- 4. License Request for 64 Vaughan Mall

XII. CONSENT AGENDA

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

- A. Letter from Tina Sawtelle, The Music Hall, requesting permission to close Chestnut Street on Thursday, March 31, 2022 for Wentworth-Douglass Hospital’s rental fundraising event “The Seacoast Culinary Challenge” (***Anticipated action – move to refer to the City Manager with Authority to Act***)
- B. Letter from Tina Sawtelle, The Music Hall, requesting permission to close Chestnut Street for outdoor events beginning May 27, 2022 through August 27, 2022, and further approval to serve alcohol on Chestnut Street under The Music Hall’s liquor license. All liquor service will cease by 9:30 p.m. (***Anticipated action – move to refer to the City Manager with Authority to Act***)
- C. Request the New Hampshire Regiment and Jim Poole, CDR/US Navy retired seeking permission to fire their rifles and 6 pound cannon (no ammunition will be loaded) on April 24, 2022 at the John Paul Jones House (***Anticipated action – move to refer to the City Manager with Authority to Act***)

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- A. Email Correspondence (***Sample motion – move to accept and place on file***)
- B. Letter from James Hewitt regarding the installation of EV stations
- C. Petition from residents of Elwyn Park opposed to the installation of sidewalks in neighborhood

- D. Resubmission of letter from Gretchen Rath, Portsmouth Fabric Company, requesting retailers to be invited to any meetings convened regarding downtown parking
- E. Resubmission of letters from various downtown businesses regarding outdoor dining and the use of parking spaces

XIV. MAYOR McEACHERN

- 1. Appointments to be Considered:
 - Duncan MacCallum to the Cemetery Committee
 - Elaine Apatang-Butts to the Citywide Neighborhood Blue Ribbon Committee
 - Kathleen Boduch to the Citywide Neighborhood Blue Ribbon Committee
 - Lawrence Cataldo to the Citywide Neighborhood Blue Ribbon Committee
 - William Gatchell to the Citywide Neighborhood Blue Ribbon Committee
 - Lori Soloway to the Citywide Neighborhood Blue Ribbon Committee
 - Peter Somssich to the Citywide Neighborhood Blue Ribbon Committee
 - Anne Weidman as an Alternate to the Economic Development Commission
 - Heinz Sauk-Schubert as an Alternate to the Historic District Commission
 - Jeff Stern to the Library Board of Trustee
 - Jason Brewster to the Peirce Island Committee
 - Francesca Marconi Fernald to the Peirce Island Committee
 - Chris Gallot to the Peirce Island Committee
 - Steven Marison to the Peirce Island Committee
 - Stephen Philp to the Peirce Island Committee
 - Devan Quinn to the Peirce Island Committee
 - John Simon to the Peirce Island Committee
 - Richard Smith to the Peirce Island Committee
 - Marc Stettner to the Peirce Island Committee
 - William Townsend to the Peirce Island Committee
 - Kathleen Bergeron to the Portsmouth Housing Authority
 - Lauren Krans to the Recreation Board
 - Phyllis Eldridge to the Zoning Board of Adjustment
- 2. *Appointments to be Voted:
 - Genevieve Aichele to the Blue Ribbon Committee on Portsmouth Arts & Non-Profits
 - Jeffrey Barraclough to the Blue Ribbon Committee on Portsmouth Arts & Non-Profits
- 3. Resignation – Craig Jewett from the Portsmouth Housing Authority (***Sample motion – move to accept the resignation with regret and to send a letter to Mr. Jewett thanking him for his service to the City***)
- 4. Proposed City-wide Goals
- 5. Families First / COAST Bus

XV. CITY COUNCIL MEMBERS

A. COUNCILOR TABOR

1. Community Power Coalition of New Hampshire (***Sample motion – move that the City Manager is authorized to take any and all actions necessary within her judgment to cause the City of Portsmouth to become party to the Joint Powers Agreement of the Community Power Coalition of New Hampshire, as presented, which became effective on October 1, 2021***)

B. COUNCILOR DENTON

1. Proposed Outdoor Dining Fees (***Sample motion – move to amend by halving the City’s proposed outdoor dining fees and to have City staff work with the Fee Schedule Study Committee to develop equivalent fees for Food Service Establishments on City property that violate the composting requirements of the Distribution of Single-Use Disposables on City property ordinance***)

C. COUNCILOR BAGLEY

1. *Elwyn Park Traffic Calming and Pedestrian Improvements (***Sample motion – move TSM-17-PL-59: Elwyn Park Traffic Calming and Pedestrian Improvements from FY24 and FY25 in the CIP to FY23 as \$1,660,000.00 to be bonded***)

D. COUNCILOR LOMBARDI & COUNCILOR TABOR

1. *Report Back regarding Proposed Cargo Facility at the Tradeport

E. COUNCILOR COOK

1. *Cultural Plan for Portsmouth (***Sample motion – move to approve of a new Cultural Plan for Portsmouth to be commenced in 2022, based on a scope of work outlined by the Portsmouth Arts & Nonprofits Committee, noting that the request for development of a Cultural Plan in 2022 was included in the Committee’s 2021 Year End Report to the City Council on December 20, 2021, and request that the City Manager identify the appropriate funding source for said Cultural Plan***)

XVI. APPROVAL OF GRANTS/DONATIONS

- A. *Acceptance of Wellness Reward - \$2,000.00 (***Sample motion – move to approve and accept the Wellness Reward as presented***)

XVII. CITY MANAGER’S INFORMATIONAL ITEMS

1. Report Back on EV Charging Stations

XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

1. Citywide Neighborhood Committee Meeting Minutes of January 26, 2022

XIX. 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: February 17, 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 February 22, 2022

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

A. Continued Public Hearing – Capital Improvement Plan (CIP) FY2023-2028:

In accordance with Section 7.7 of the City Charter, the City Council is continuing the public hearing at this evening's City Council meeting regarding the [proposed Capital Improvement Plan for FY 2023 – FY 2028](#). In addition to this evening's public hearing, the City Council held a work session on January 19, 2022 and [the City shared the attached presentation](#). At the work session, a presentation of the proposed CIP was made by City staff. As you are aware, the City Council is required, in accordance with Section 7.8 of the City Charter, to adopt the Capital Plan subsequent to the public hearing and before the City Manager submits the budget to the City Council.

Adoption of the proposed CIP will take place at the March 7, 2022 City Council meeting.

B. Third and Final 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.

I recommend that the City Council move that third reading of the Face Coverings Ordinance be postponed indefinitely, not to be brought back before the City Council without one meeting prior notice.

XI. City Manager's Items which Require Action:

1. **Request for Public Hearing Regarding Elderly and Disabled Exemptions:**

Annually, the City of Portsmouth reviews income and asset levels for both the Elderly and Disabled Exemptions and makes recommendations as to these levels pursuant to RSA 72:39-b and RSA 72:37-b. [Attached please find a memorandum outlining three options](#) for the Council's consideration.

I recommend that the City Council move to schedule a public hearing at the March 7, 2022 City Council meeting.

2. **Report Back on Recommendations for Outdoor Dining:**

At the February 7, 2022 City Council Meeting, Assistant Mayor Kelley and Councilor Bagley requested a report back with recommendations for outdoor dining during the 2022 season. As you know, the Council has received numerous emails from residents and interested persons on this matter. In addition, several businesses have expressed their concerns via letters to the Council (which have again been included in the Agenda packet under Written Communication).

Staff and I will participate in a Zoom meeting hosted by the Chamber Collaborative of Greater Portsmouth this Friday, February 18th. My report back with recommendations will incorporate comments from this timely meeting, and will be sent as an addendum to the Council packet on Friday afternoon.

3. **Approval of Deer Street Associates Parking Agreement:**

In 2016, the City entered into a certain Post Closing Obligations Agreement (PCOA) with Deer Street Associates (DSA), which facilitated the City's acquisition of the land upon which the Foundry Garage now sits. The City had a duty under that agreement to deliver a Parking Agreement to DSA. [The Parking Agreement](#) would, in general terms, provide DSA with 68 parking passes in the garage, which DSA would pay for at a market rate.

Therefore, in order to satisfy the City's contractual responsibilities under the PCOA, the Legal Department recommends that the City Council authorize the City Manager to execute a Parking Agreement with DSA in a form substantially similar to that which is attached.

I recommend that the City Council move to authorize the City Manager to execute a Parking Agreement with Deer Street Associates in a form substantially similar to the attached agreement.

4. **License Request for 64 Vaughan Mall:**

On August 19, 2021, the Planning Board granted site plan approval for renovation of the Margeson building and construction of an addition for property located at [64 Vaughan Street](#). The original site plan included retail and office space with underground parking, as well as sidewalks and improvements to the Worth Lot.

The property was conveyed to Novocure Inc. in December of 2021. Novocure Inc. will use the 42,000 square foot building for their corporate headquarters. The site plan was amended to exclude retail use of the premises.

The Construction Mitigation and Management Plan (CMMP), signed on November 16, 2021, identified temporary encumbrances 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 license associated with this project is subject to the "License Fee for Encumbrance of City Property" policy.

The license is a request to use 35 square feet of land in the Vaughan Mall and fourteen (14) parking spaces in the Worth Lot for 90 days, from March 5, 2022 through June 3, 2022. The request for a License is to enable the Owner to set up scaffolding to work on the façade of the Margeson Building that abuts the Worth Lot (formerly known as the Whaling Wall).

The License Fee for the use of 35 square feet of city property in the Vaughan Mall is **\$157.50** (35 sq. ft X \$0.05 = \$1.75 x 90 days). The License Fee for the fourteen (14) parking spaces in the Worth Lot is **\$44,100** (\$35 per space x 14 = \$490 a day x 90 days). The total License Fee is **\$44,257.50**.

During the term of this License, the Owner will work with the Director of Public Works to create a pilot for the reconfiguration of the Worth Lot before finalizing the permanent improvements as set forth in a separate Development Agreement approved by the City Council on November 15, 2021.

The Legal and Planning Departments have reviewed and approved the form of the [attached License](#).

If the Council agrees to grant the temporary construction license for use of 35 square feet of land in the Vaughan Mall and the fourteen (14) parking spaces in the Worth Lot, an appropriate motion would be:

Move that the City Manager be authorized to execute and accept the temporary construction license for the term of March 5, 2022 to June 3, 2022 for the use of 35 square feet of land in the Vaughan Mall and fourteen (14) parking spaces in the Worth Lot as requested.

XVI. Approval of Grants/Donations:

A. Approval of Wellness Reward - \$2,000:

In the month of January, department members from Human Resources, Department of Public Works, Fire and Police, attended training through HealthTrust as returning Wellness Coordinators. As a reward for being returning Wellness Coordinators, they each received \$500 for their departments to use towards wellness initiatives in 2022.

This money will be used differently in each department, but some examples of how the money will be spent include raffles, blood pressure monitors, fitness devices, water bottles, fitness equipment and other initiatives to promote wellness for all employees.

The goal of the HealthTrust Wellness program, *Slice of Life*, is to reduce health risk factors and promote a healthier lifestyle of our employees. To realize this goal, the City, through its Wellness program, will provide health and safety initiatives, as well as education to its employees in an effort to improve the quality of their lives.

In order to use this reward, it must be approved by the City Council.

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

XVII. City Manager's Informational Items:

1. Report Back on EV Charging Stations:

Attached please find a report back on electric vehicle charging stations as requested by the City Council at the February 7, 2022 City Council meeting.