

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, MARCH 7, 2022 TIME: 5:00PM

*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\\_kNKAz7nLTrOM\\_Gr-D\\_7UsQ](https://us06web.zoom.us/webinar/register/WN_kNKAz7nLTrOM_Gr-D_7UsQ)

5:00PM – ANTICIPATED NON-PUBLIC SESSIONS RELATING AND PURSUANT TO COLLECTIVE BARGAINING – RSA 91-A:2, III (a); CONSIDERATION OF LEGAL ADVICE – RSA 91-A:3, II (I)

## 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. \*Women’s History Month

- VII. **ACCEPTANCE OF MINUTES – FEBRUARY 7, 2022; FEBRUARY 10, 2022; AND FEBRUARY 22, 2022**

- VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**

1. \*New Hampshire State Spelling Bee – Portsmouth Middle School 7<sup>th</sup> Grader, Aadhavan Veerendra

- 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) / Adoption of CIP:**  
(Continued Public Hearing that was held open per action of the City Council at the February 22, 2022 meeting) (**Sample motion – move to adopt the Capital Improvement Plan as presented**)

- 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**

**Public Hearing/Adoption of Resolutions:**

- B. RESOLUTION PURSUANT TO RSA 72:39-b THE CITY HEREBY AMENDS THE ELDERLY EXEMPTION BASED ON ASSESSED VALUE FOR QUALIFIED TAXPAYERS, SUCH THAT THE EXEMPTION SHALL BE AVAILABLE ONLY WHEN THE QUALIFYING TAXPAYER(S) HAVE A NET INCOME OF NOT MORE THAN

**OPTION 1**

Proposed increase of Elderly Exemption by the Social Security cost-of-living increase

Single	\$46,124 increase of \$2,196
Married	\$63,108 increase of \$2,708

**OPTION 2**

Proposed increase of Elderly Exemption by the November to November consumer price index

Single	\$44,829 increase of \$ 901
Married	\$61,638 increase of \$1,238

**OPTION 3**

Proposed increase of Elderly Exemption

Do Nothing

The elderly exemption shall remain unchanged except as amended hereby.

- C. RESOLUTION PURSUANT TO RSA 72:39-b THE CITY HEREBY AMENDS THE DISABLED EXEMPTION BASED ON ASSESSED VALUE FOR QUALIFIED TAXPAYERS, SUCH THAT THE EXEMPTION SHALL BE AVAILABLE ONLY WHEN THE QUALIFYING TAXPAYERS(S) HAVE A NET INCOME OF NOT MORE THAN

**OPTION 1**

Proposed increase of Disabled Exemption by the Social Security cost-of-living increase

Single	\$46,124 increase of \$2,196
Married	\$63,108 increase of \$2,708

**OPTION 2**

Proposed increase of Disabled Exemption by the November to November consumer price index

Single	\$44,829 increase of \$ 901
Married	\$61,638 increase of \$1,238

### OPTION 3

#### Proposed increase of Disabled Exemption

Do Nothing

The disabled exemption shall remain unchanged except as amended hereby.

## XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

### A. CITY MANAGER CONARD

#### *City Manager's Items Which Require Action:*

1. Report Back on 77 Meredith Way Request to Restore Involuntarily Merged Lots

## XII. CONSENT AGENDA

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

- A. Letter from Hershey Hirschkop, Seacoast Outright, requesting permission to hold the PRIDE Parade on Saturday, June 25, 2022 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Letter from Ilysse Sirmaian, Portsmouth Babe Ruth, requesting approval to place temporary signage at Leary Field during the 2022 baseball season ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- C. Letter from Chris Maden, Portsmouth Maritime Folk Festival, requesting permission to hold on Saturday, September 24, 2022 and Sunday, September 25, 2022 ***(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. Report Back from Economic Development Commission regarding the inclusion of funding for EV Charger Installation in Capital Improvement Plan ***(Sample motion – move to accept and place on file)***
- C. Cemetery Committee's Historical Cemeteries Restoration Project ***(Sample motion – move to refer to the City Manager to establish a date for a presentation by the Cemetery Committee at a future City Council meeting)***

## XIV. MAYOR McEACHERN

1. \*Appointments to be Voted:
  - 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

## **XV. CITY COUNCIL MEMBERS**

### **A. COUNCILOR DENTON & COUNCILOR LOMBARDI**

1. Service-Connected Total Disability Tax Credit (***Sample motion – move to increase the Service-Connected Total Disability Tax Credit from \$3,000.00 to \$4,000.00 prior to April 1, 2022***)

### **B. COUNCILOR DENTON & COUNCILOR COOK**

1. \*Capital Improvement Plan – Electric Vehicle Charging Stations (***Sample motion – move that \$150,000.00 be added to the Capital Improvement Plan in FY24, FY25, FY26, FY27, and FY28 for a combination of Level 2 (120 / 208 volt single phase) and Level 3 (480 volt three phase) electric vehicle charging stations throughout Portsmouth, to include Parking Zone A***)

### **C. COUNCILOR MOREAU**

1. Land Use Committee Update :  
*Goals and Objectives*
  - A. Increase diversity of housing types and price points.
  - B. Remove regulatory barriers for housing diversification in neighborhoods (eg. Accessory Dwelling Units) – while considering context sensitive design and impacts to traffic, on street parking and other infrastructure impacts.
  - C. Restructure incentives to deliver greater public benefit in workforce housing construction.
  - D. Identify other regulatory updates where by-right density can be conditioned with performance standards.

- E. Identify and maximize partnerships, coalitions, and funding opportunities to deliver affordable housing.
- F. Establish 2 Working Groups within the Committee: Supported Market and Regulatory

*Minutes of Committee Attached*

**D. COUNCILOR BAGLEY**

- 1. \*Comprehensive COVID Bounce-Back Plan (***Sample motion – move for a report back from City staff on developing a comprehensive COVID Bounce-Back Plan similar to the previous COVID task forces***)

**XVI. APPROVAL OF GRANTS/DONATIONS**

- A. Grant Award from the Drinking Water and Groundwater Trust Fund - \$111,500.00 (***Sample motion – move to approve and accept the grant for the City of Portsmouth to accept up to \$111,500.00 from the Drinking Water and Groundwater Trust Fund as presented***)

**XVII. CITY MANAGER’S INFORMATIONAL ITEMS**

- 1. Further Update from the Inspection Department

**XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING**

**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:** March 3, 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 March 7, 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.

*I recommend that the City Council move to adopt the Capital Improvement Plan as presented.*

#### **B. Public Hearing and Adoption of Resolution Pursuant to RSA 72:39-b Amending Elderly Real Estate Tax Exemption Income Limits:**

Annually, the City of Portsmouth reviews the income and asset levels for the elderly exemptions and makes recommendations to these levels. The following recommendations were made at the February 22<sup>nd</sup> City Council meeting, which the City Council requested a public hearing to be held.

Option 1 (5.9%) – Increase by the 2022 Social Security COLA Adjustment:

- Single \$46,124 increase of \$2,196
- Married \$63,108 increase of \$2,708

Option 2 (2.05%) – Increase by the November to November ten-year rolling average of the Boston-Cambridge-Newton, MA-NH consumer price index:

- Single \$44,829 increase of \$901
- Married \$61,638 increase of \$1,238

Option 3 – Do nothing. Current income limits would not change; no move to adopt required:

- Single \$43,928
- Married \$60,400

*I recommend that the City Council move to adopt Option 1 or Option 2 as presented. If Option 1 or Option 2 is not adopted, the elderly exemption shall remain unchanged except as amended hereby.*

Additionally, the City is undergoing a Statistical Revaluation for Tax Year 2022. Increases to the current elderly and disabled exemption amounts will be recommended once the revaluation has been finalized and prior to the certification of values to the State of New Hampshire Department of Revenue Administration for Tax Year 2022. Any adjustment to the exemption amount will be applied to the FY2023/TY2022 tax bill which will be due December 2022 and June 2023.

Current Exemption Amount:

- Age 65 to 74 \$235,000
- Age 75-79 \$285,000
- Age 80 + \$335,000
- Disabled \$235,000

Current impact on the City’s revenue and tax rate is as follows:

- Revenue Loss \$498,770.55
- Impact on Tax Rate 8 Cents on the current tax rate.

Any adjustment if approved would be for the 2023 Fiscal Year, 2022 Tax Year. New applicants must submit an application and required documentation by April 15, 2022 in order to qualify.

**C. Public Hearing and Adoption of Resolution Pursuant to RSA 72:39-b Amending Disabled Real Estate Tax Exemption Income Limits:**

Annually, the City of Portsmouth reviews the income and asset levels for the disabled exemptions and makes recommendations to these levels. The following recommendations were made at the February 22<sup>nd</sup> City Council meeting, which the City Council requested a public hearing to be held.

Option 1 (5.9%) – Increase by the 2022 Social Security COLA Adjustment:

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- Revenue Loss \$498,770.55
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Any adjustment if approved would be for the 2023 Fiscal Year, 2022 Tax Year. New applicants must submit an application and required documentation by April 15, 2022 in order to qualify.

***XI. City Manager’s Items which Require Action:***

**1. Report Back on 77 Meredith Way Request to Restore Involuntarily Merged Lots:**

At its meeting on November 15, 2021, the City Council considered a request from Attorneys R. Timothy Phoenix and Monica F. Kieser, on behalf of their client, property owners Jeff and Randi Collins, requesting the restoration of involuntarily merged lots at 77 Meredith Way Map 162 Lot 16 to their pre-merger status pursuant to NH RSA 674:39-aa. The Council voted to refer to the Planning Board and Assessor for report back.

RSA 674:39-aa requires the City Council to vote to restore “to their premerger status” any lots or parcels that were “involuntarily merged” by municipal action for zoning, assessing, or taxation purposes without the consent of the owner. Unlike all other lot divisions, there is no statutory role for the Planning Board in this process nor is there any requirement for the City to hold a public hearing. However, in Portsmouth the City Council has historically referred such requests to the Planning Board to conduct a public hearing.



The statute defines “voluntary merger” and “voluntarily merged” to include “any overt action or conduct that indicates an owner regarded said lots as merged such as, but not limited to, abandoning a lot line” (RSA 674:39-aa, I). It is therefore the City Council’s responsibility to determine whether a merger was voluntary (i.e., requested by a lot owner) or involuntary (implemented by the City without the owner’s consent). If the merger was involuntary, the Council must vote to restore the lots to their premerger status. Following such a vote, the City GIS and Assessing staff will update zoning and tax maps accordingly. It will then be up to the owner to take any further action to confirm the restoration to premerger status, such as recording a plan at the Registry of Deeds.

It is important to note that the granting of a request to restore lots to their premerger status does not mean that the resulting lots will be buildable or, if already developed, will conform to zoning. The statute states that “The restoration of the lots to their premerger status shall not be deemed to cure any non-conformity with existing land use ordinances” (RSA 674:39-aa, V). For example, the restored lots may not comply with current zoning requirements for lot area, frontage and depth, and the re-establishment of a lot line between any two pre-merger lots may introduce a new nonconformity with respect to maximum allowed building coverage or a minimum required side yard where a building already exists on one of the premerger lots. In such cases, the owner(s) of the applicable lot(s) would have to apply to the Zoning Board of Adjustment for the necessary variances to restore zoning compliance or to allow future development.

The City Assessor reviewed this request and has completed research of the City’s records for this property. [Three memos and responses, from Rosann Maurice-Lentz, City Assessor, were provided to the Planning Board](#) and are included into this packet for the Council along with [a response submitted by Attorneys Phoenix and Kieser on behalf of their client](#). The City Assessor is recommending denial of the request.

At the February 17, 2022 Planning Board meeting, the Planning Board considered the application for the Restoration of Involuntary Merged Lots for Property Located at 77 Meredith Way. As a result of their consideration, the Board voted to recommend that the Council follow the recommendation from the City Assessor and deny the request for restoration of involuntarily merged lots requested by the property owner. On February 21, 2022, [Jeff and Randi Collins submitted a second letter](#) responding to the recommendation of the Planning Board.

On February 28, 2022, Attorneys Phoenix and Kieser notified the City that they are no longer representing the property owners in this request.

On March 1, 2022, [the City Assessor provided an additional response](#) addressing the property owner’s letter dated February 21, 2022.

*I recommend that the City Council vote to deny the request for restoration of involuntarily merged lots requested by the owner.*

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

### **A. Approval of Grant Award from the Drinking Water and Groundwater Trust Fund - \$111,500:**

Attached please find a memorandum from Deputy Director of Public Works, Brian Goetz, regarding a grant from the Drinking Water and Groundwater Trust Fund.

*I recommend that the City Council move to approve and accept the grant for the City of Portsmouth to accept up to \$111,500 from the Drinking Water and Groundwater Trust Fund as presented.*

## ***XVII. City Manager's Informational Items:***

### **1. Further Update from the Inspection Department:**

Attached please find a memorandum from the City's Chief Building Inspector, Shanti Wolph, providing a further update on the Inspection Department.