

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, APRIL 4, 2022 TIME: 7:00PM

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_W5dgZWNUQe-nYg-N_h65zw

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. Sexual Assault Awareness Month

- VII. **ACCEPTANCE OF MINUTES – MARCH 7, 2022**

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

1. *Recognition for Fire Event on February 25, 2022 to Jayceon and Tristan
2. *Thank you to Nancy Carmer for 36 Years of Service to the City

- IX. **PUBLIC COMMENT SESSION *(This session shall not exceed 45 minutes) – (participation may be in person or via Zoom)***

- X. **PUBLIC HEARING AND VOTE ON ORDINANCE AND/OR RESOLUTION**

Public Hearing/Adoption of Resolution:

- A. RESOLUTION AUTHORIZING A BOND ISSUE, AND/OR NOTES OF UP TO ONE MILLION FOUR HUNDRED THOUSAND (\$1,400,000.00) DOLLARS FOR COSTS RELATED TO THE FEASIBILITY AND DESIGN OF A NEW POLICE FACILITY AND OR REHABILITATION OF THE EXISTING FACILITY

- **PRESENTATION**
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager's Items Which Require Action:

1. License Agreement with Strawberry Banke for Property Located at 81 Washington Street
2. Request to Extend Prescott Park Arts Festival 2022 Season Dates
3. Request from the Police Commission for a Performance Bonus for Chief of Police
4. *Union Cemetery Listing on State Register of Historic Places
5. Temporary Construction License for 45 Market Street
6. Approval of the Superintendent's Contract
7. *McIntyre Update
8. *Request to Schedule Public Hearing on April 18th to Accept Second Tranche of ARPA Funds
9. Actions Related to Community Campus Acquisition
 - A. Request to Schedule a Public Hearing on April 18th to Consider Resolution of \$10,000,000.00 for Community Campus Acquisition and Rescind Prior Funding Resolution
 - B. Request to Schedule a Public Hearing on April 18th to Appropriate \$5,260,000.00 in ARPA Funds for Certain Projects
 - C. Request to Schedule a Listening Session on April 11th on Spending ARPA Funds for this Purpose

XII. CONSENT AGENDA

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

- A. Letter from Katie Johnson, Yoga in Action, requesting permission to use Prescott Park as the site of their annual series: "Yoga in the Park" at the Whale Statue lawn for a one-hour class each Tuesday at Noon from June through August ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Letter from Bruce Hurley, Seacoast Half Marathon, requesting permission to hold the 17th Annual Seacoast Half Marathon on Sunday, October 30, 2022 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- C. Letter from Debra Smith, Friends of the South End, requesting permission to hold the annual Fairy House Tour event at Prescott Park on Saturday, September 24, 2022 and Sunday, September 25, 2022 from 10:00 a.m. – 3:00 p.m. and Peirce Island for parking ***(Anticipated action – move to refer to the City Manager with Authority to Act)***

- D. Letter from Richard Clyborne, Gundalow Company, requesting permission to hold the 12th annual Round Island Regatta on Saturday, August 27, 2022 and the use of the Peirce Island launch ramp and related parking area to facilitate this event (***Anticipated action – move to refer to the City Manager with Authority to Act***)
- E. Letter from JerriAnne Boggis, Black Heritage Trail, requesting permission to use public spaces for the Juneteenth celebration at the African Burying Ground Memorial, Sunday, June 19, 2022 from 2:00 p.m. – 4:00 p.m. and Church Street between Court Street and State Street, Monday, June 20, 2022 all day (***Sample motion – 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 Perry and Kristin Silverstein regarding Outdoor Dining and a Letter from Michael Levandowski, LeRoux Kitchen, requesting that the parking spaces that the City Council eliminated to provide outdoor seating be returned as parking spaces (***Sample motion – move to accept and place on file***)
- C. Letter from Luke Wentworth requesting the consideration of installing a basketball court and/or basketball hoop at the Plains Playground (***Sample motion – move to refer to the Recreation Board and Recreation Director Henley***)

XIV. MAYOR McEACHERN

- 1. “Love in Kilnerry” Proclamation
- 2. *Recognition of John Leith
- 3. Appointments to be Considered:
 - Appointment of Lynn Vaccaro to the Conservation Commission
 - Appointment of Celeste Brooks to the Cemetery Committee
 - Appointment of Jody Record to the Library Board of Trustees
- 3. *Appointments to be Voted:
 - Reappointment of Rob Capone to the Cable Television & Communications Commission
 - Appointment of Loreley Godfrey to the Sustainable Practices Blue Ribbon Committee
 - Appointment of Alana Rooke to the Arts & Non Profits Blue Ribbon Committee

XV. CITY COUNCIL MEMBERS

A. COUNCILOR DENTON & COUNCILOR LOMBARDI

- 1. *Request to Waive Peirce Island Fees for military, military dependents, veterans, and veteran caregivers (***Sample motion – move for a report back on the costs associated with waiving the following non-resident daily fees for military, military dependents, veterans, and veteran caregivers: \$2 for children and \$4 for adults to use Peirce Island Outdoor Pool; \$10 for kayaks, canoes, and any other non-motorized water craft to use Peirce Island Boat Launch; and \$20 for motorized water craft, jet skis, and/or sail boat to use the Peirce Island Boat Launch***)

B. COUNCILOR COOK

1. *Update on Governance Committee Work
2. Proposed changes recommended by the Governance Committee to the Rules and Orders of the Portsmouth City Council ***(Sample motion – move to accept the changes to the Rules and Orders of the Portsmouth City Council proposed by the Governance Committee)***

XVI. APPROVAL OF GRANTS/DONATIONS

- A. *Acceptance of Donation to the Skateboard Park
 - Summer Sessions - \$1,025.00***(Sample motion – move to approve and accept the donations as presented)***
- B. *Acceptance of Grant from the NH Department of Justice through the 'Victims of Crime Act' (VOCA) for expenses incurred and services provided for direct victim services, to include expenses for personnel - \$24,759.00 ***(Sample motion – move to approve and accept the grant as presented)***

XVII. CITY MANAGER'S INFORMATIONAL ITEMS

1. Report Back on COVID-19 Bounce Back Plan
2. Bridge Street Lot Closure
3. Sagamore Avenue Area Sewer Extension Project Update
4. EPA Mandated Industrial Pretreatment Program
5. *NHDES Public Hearing regarding Pease Aviation Partners, LLC Application for Wetland Permit

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 31, 2022

To: Honorable McEachern and City Council Members

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

Re: City Manager's Comments on City Council Agenda of April 4, 2022

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

A. **Public Hearing and Adoption of Resolution Authorizing a Bond Issue and/or Notes of Up to One Million Four Hundred Thousand (\$1,400,000) Dollars for Costs Related to the Feasibility and Design of a New Police Facility and/or Rehabilitation of the Existing Facility:**

Attached please find a proposed resolution authorizing a bond issue of up to \$1.4 million for costs related to the feasibility and design of a new Police Facility and/or the rehabilitation of the existing facility as approved in the FY22 CIP.

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

XI. City Manager's Items which Require Action:

1. **License Agreement with Strawberry Banke for Property Located at 81 Washington Street:**

Strawberry Banke proposes adding two parking spaces to its property located at 81 Washington Street. The City of Portsmouth owns a thin parcel of land along Washington Street which separates 81 Washington Street from that right of way. The impacted portion of the City's parcel is outlined in green on the attached drawing.

In order to gain access to Washington Street over City land, Strawberry Banke has requested a license from the City. Rodney Rowland, Director of Facilities and Environmental Sustainability for Strawberry Banke, has submitted the attached letter in support of his request. If the council grants this license to Strawberry Banke, it would still be required to obtain a driveway permit from the Department of Public Works.

I recommend that the City Council move to authorize the City Manager to negotiate and execute a revocable license to Strawberry Banke Museum, Inc. to cross Parcel S-3 to access 81 Washington Street for the purposes of parking, as depicted on the attached plan.

2. **Request to Extend Prescott Park Arts Festival 2022 Season Dates:**

Attached please find a request from the Prescott Park Arts Festival to extend their 2022 season dates. They would like to begin their season on Friday, June 10th and close their season with a final performance on Monday, September 5th.

I recommend that the City Council move to extend the Prescott Park Arts Festival's 2022 season to include the requested dates.

3. **Request from the Police Commission for a Performance Bonus for Chief of Police:**

At the February 15, 2022 non-public Police Commission meeting, the Board of Police Commissioners completed an annual performance evaluation of Chief Newport. Following completion of his evaluation, the Board approved a one-time bonus of \$3,000.

Per Chief Newport's Employment Agreement, Section #3, paragraph 3 (last sentence), states: "The parties may, by written addendum executed by both parties and approved by the Portsmouth City Council, agree to provide additional compensation to the employee in recognition for his accomplishments of the performance objectives identified by the Commission." Included in this request is [Chief Newport's contract](#) as well as [a formal written request by Chair Stefany Shaheen and Commissioners Kate Coyle and Albert Scherr](#).

4. **Union Cemetery Listing on State Register of Historic Places:**

The City has the opportunity to list the Union Cemetery on Maplewood Avenue on the New Hampshire State Register of Historic Places. Through the efforts of the Cemetery Committee, an inventory of the historic features of the Union Cemetery prepared some years ago by City staff was presented recently to the New Hampshire Division of Historic Resources for evaluation. The New Hampshire Division of Historic Resources has indicated that this inventory is sufficient to move forward with the process for listing. Listing on the State Register would make the Union Cemetery eligible for State grants and other funding opportunities.

I recommend that the City authorize the City Manager to proceed to take the additional steps to have the Union Cemetery listed on the State Register of Historic Places.

5. **Temporary Construction License for 45 Market Street:**

Owner of C5 45 Market Street, LLC, under ENCM 21-78, is performing interior and exterior improvements at [45 Market Street](#), shown on the City of Portsmouth's Assessor's Map as Tax Map 106, Lot 028 ("Subject Property"). The owner has encumbered the sidewalk in front of the Subject Property with pass through staging for 30 consecutive working days in order to perform improvements. During the 30 day term of the encumbrance permit, the Owner has experienced a small delay in receipt of materials, which will require more time than initially anticipated to complete the portion of the project that requires staging on city sidewalks. In order to encumber the sidewalk beyond 30 days, a license approved by the City Council is required.

Owner, through its March 29, 2022 letter attached, has requested to encumber the 105 square feet of sidewalk in front of 45 Market Street for 18 days (April 13 through April 30, 2022). 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 (105 square feet x .05 = \$5.25 a day x 18 days = \$94.50). 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 grant the temporary construction license to encumber the sidewalk along 45 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 for the term of 18 days to encumber the sidewalk with pass-through staging at 45 Market Street as requested.

6. **Approval of the Superintendent’s Contract:**

[Attached please find a memorandum and proposed employment contract for incoming Superintendent Dr. Zachary McLaughlin.](#)

7. **McIntyre Update:**

There will be a verbal update on the McIntyre Redevelopment project at this evening’s meeting.

8. **Request to Schedule Public Hearing on April 18 to Accept Second Tranche of ARPA Funds:**

On March 11, 2021, the American Rescue Plan Act of 2021 (ARPA) was signed into law which established the Coronavirus State and Local Fiscal Recovery Fund to provide direct support for local governments to respond to COVID-19’s impact on our community, residents and businesses. It is an economic stimulus bill to help every city and town recover from the impacts of COVID-19. The City received its first tranche of ARPA funds in the amount of \$6,441,140. These funds were accepted at a public hearing by the City Council on June 21, 2021. The City is set to receive the second tranche of APRA funds in the amount of \$6,440,140, and as such I recommend the Council schedule a public hearing to accept these funds.

I recommend that the City Council schedule a public hearing to accept the second tranche of ARPA funds at the next City Council meeting on April 18, 2022.

9. **Actions Related to Community Campus Acquisition:**

- A. Request to Schedule a Public Hearing on April 18th to Consider Resolution of \$10,000,000 for Community Campus Acquisition and Rescind Prior Funding Resolution:

On December 20, 2021, the previous City Council passed a resolution to authorize the purchase of Community Campus using various funding sources to include Trusts, Special Revenue, Capital Outlay, American Rescue Plan Act (ARPA), and Borrowing (\$3,250,000). In the time since the passage of that resolution, the federal government has published its Final Rule on the use of ARPA Grant funds effective April 1, 2022. This 400-page Final Rule document provide additional and expanded guidance relative to the purchase and use of real estate. To avoid potential limitations on possible future uses of the Community Campus property, I recommend that the Council rescind the December 20, 2021 resolution and replace it with one that utilizes Trusts, Special Revenue, Capital Outlay and Borrowing (\$8,423,820.70). See [draft Resolution](#) replacing the funding sources.

The City has 60 days from the date of the purchase of Community Campus to change its funding source. The purchase date of Community Campus was March 14, 2022, making May 14, 2022, the last day the City could change the funding source for the property.

I recommend that a public hearing be established at the City Council meeting of April 18, 2022 to consider the proposed Resolution to replace the community campus funding sources.

B. Request to Schedule a Public Hearing on April 18th to Appropriate \$5,260,000 in ARPA Funds for Certain Projects:

In order to offset the increase in borrowing from \$3,250,000 to \$8,423,820.70, I recommend using ARPA monies to fund four currently authorized projects. This effort would be accomplished by a [second resolution \(see attached\)](#) to rescind already adopted bonding resolutions (listed below), and replace the funding with the use of ARPA Grant funds.

Therefore, I recommend that a public hearing be established at the City Council meeting of April 18, 2022 to consider this second proposed resolution to use ARPA funds for the four described projects below:

Proposed Changes to Debt:	Authorized Date	Authorized Unissued Debt	Proposed reduction to Authorized Unissued Debt	Proposed Increases to Authorized Debt	New Authorized Debt
Community Campus	12/20/2021	3,250,000	(3,250,000)	8,423,820.70	8,423,820.70
Multi-Purpose Recreation Fields-Lighting	7/9/2018	560,000	(560,000)		-
Citywide Sidewalk Reconstruction Program	7/15/2019	400,000	(400,000)		-
Street Paving, Management and Rehabilitation	7/15/2019	2,000,000	(2,000,000)		-
Islington Street Phase 2	8/2/2021	2,300,000	(2,300,000)		-
Total		\$ 8,510,000	\$ (8,510,000)	\$ 8,423,820.70	\$ 8,423,820.70

I recommend that a public hearing be established at the City Council meeting of April 18, 2022 to consider this second proposed Resolution to use ARPA funds for the four projects described.

C. Request to Schedule a Listening Session on April 11th on Spending ARPA Funds for this Purpose:

Finally, in order to provide more opportunity for public comment prior to the City Council meeting on April 18, 2022, I propose a listening session to be held on April 11, 2022 relative to the use of ARPA funds for the purposes outlined above.

I recommend that a listening session relative to the use of ARPA funds for the purposes outlined above be scheduled for April 11, 2022.

XVI. Approval of Grants/Donations:

A. **Acceptance of Donation to the Skateboard Park - \$1,025:**

The City received a donation in the amount of \$1,025 to the Skateboard Park from Summer Sessions Surf Shop.

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

B. **Acceptance of Grant for the Police Department from the NH Department of Justice Through the Victims of Crime Act (VOCA) - \$24,759:**

At the March 15, 2022 Police Commission meeting, the Board of Police Commissioners approved and accepted a grant in the amount of \$24,759 from the NH Department of Justice through the Victims of Crime Act. This grant is for expenses incurred and services provided to direct victim services, to include expenses for personnel.

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

XVII. City Manager's Informational Items:

1. **Report Back on COVID-19 Bounce Back Plan:**

Attached please find a report back on the City's recommendations in response to Councilor's Bagley request for a COVID-19 Bounce Back Plan at the March 7, 2022 City Council meeting.

2. **Bridge Street Lot Closure:**

Attached please find an informational memorandum regarding the Bridge Street Parking Lot upgrades which will begin on April 11, 2022.

3. **Sagamore Avenue Area Sewer Extension Project Update:**

Attached please find an update on the [Sagamore Avenue Area Sewer Extension Project](#).

4. **EPA Mandated Industrial Pretreatment Program:**

A memorandum regarding the EPA mandated Industrial Pretreatment Program is attached for your information.

5. **NHDES Public Hearing Regarding Pease Aviation Partners, LLC Application for Wetland Permit:**

Pursuant to RSA 482:A:8, Env-Wt 202, and Env-C 205.03, the New Hampshire Department of Environmental Services, Wetlands Bureau is providing [notice of a Public Hearing](#) scheduled on April 6, 2022, beginning at 4:00 PM to receive public comment on an application from Pease Aviation Partners, LLC for property located at Exeter Street, Portsmouth, NH; Portsmouth Tax Map/Lot 307/0, 307/3, 307/2.

At the December 8, 2021 meeting of the Conservation Commission, the Commission unanimously recommended that NHDES deny the permit application.