

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, DECEMBER 5, 2022 TIME: 6:30 PM

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_WSRy5TIPRsCv5uGucXE2Jg

6:30 PM – ANTICIPATED NON-PUBLIC SESSION IS BEING HELD IN CONFERENCE ROOM A
1. CONSIDERATION OF LEGAL ADVICE – RSA 91-A:3, II (I)

AGENDA

**Regular portion of City Council meeting to begin at 7:00 p.m.*

- 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 – SEPTEMBER 19, 2022; OCTOBER 3, 2022; & OCTOBER 17, 2022 (*Sample motion – move to approve and accept the minutes of the September 19, 2022; October 3, 2022; and October 17, 2022 City Council meetings*)
- 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 HEARINGS AND VOTE ON ORDINANCES AND/OR RESOLUTIONS

Public Hearings/Second Reading of Ordinances:

- A. Public Hearing/Second reading of Ordinance amending Chapter 12 and Chapter 15 – City’s Building Code (*Sample motion – move to pass second reading and hold third and final reading at the December 14, 2022 City Council meeting*)
 - PRESENTATION
 - CITY COUNCIL QUESTIONS
 - PUBLIC HEARING SPEAKERS
 - ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS
- B. Public Hearing/Second reading of Ordinance amending Chapter 5, Article I – Fire Department, Section 5.101 – Personnel and Article IX – Fire Code (*Sample motion – move to pass second reading and hold third and reading at the December 14, 2022 City Council meeting*)

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

Third and Final Reading of Ordinances:

- C. Third and final reading of Ordinance amending Chapter 1, Article IV – Commission and Authorities, Section 1.412 – Public Art Review Committee (***Sample motion – move to pass third and final reading of the ordinance as presented***)
- D. Third and final reading of Ordinance amending Chapter 1, Article XVII – Funding of Public Art, Section 1.1704 – Exemption and Section 1.1707 – Funding Accepted (***Sample motion – move to pass third and final reading of the ordinance as presented***)

XI. CITY MANAGER’S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager’s Items Which Require Action:

- 1. Sale of Surplus Equipment
- 2. *Release of Funds from the 400th Anniversary Trust
- 3. Access Easement for Water Services for 41 Salem Street
- 4. Sewer and Driveway Turnaround Easements for Property Located at 77 Meredith Way

XII. CONSENT AGENDA

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

- A. Letter from Jennie Halstead, Executive Director of My Breast Cancer Support, requesting permission to hold the 15th Annual Celebrate Pink 5k Walk & Run on Sunday, September 17, 2023 (***Anticipated action – move to refer to the City Manager with Authority to Act***)
- B. Letter from Tina Sawtelle, The Music Hall, requesting approval for the closure of Chestnut Street and live music for Live Under the Arch 2023 between Friday, June 30, 2023 and Sunday, September 3, 2023 (***Anticipated action – move to refer to the City Manager with Authority to Act to issue license for events***)

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- A. Presentation – COVID Response Task Force – Recovery Solutions
- B. *Presentation – PNH400 update

- C. Letter from Alissa Gumprecht, Director of Development and Communications for Cross Roads House, requesting permission to place tables in front of North Church in conjunction with vigil being held on December 21, 2022.
- D. Email Correspondence (**Sample motion – move to accept and place on file**)

XIV. MAYOR McEACHERN

- 1. Appointments to be considered to the Arts and Nonprofits Committee Cultural Plan Subcommittee:
 - Alan Chace
 - Jeffrey Cooper
 - Ellen Fineberg
 - Gerardo Gonzalez
 - Tom Kaufhold
 - Amanda Kidd-Kestler
 - Robin Lurie-Meyerkopf
 - John Mayer
 - Karen Rosania
 - Emma Stratton
 - Karen Battles (Alternate)
 - Suzanne Danforth (Alternate)
 - Ed Simeone (Alternate)
- 2. *Appointment to be Voted:
 - Appointment of David Rheume to the Zoning Board of Adjustment

XV. CITY COUNCIL MEMBERS

A. COUNCILOR DENTON

- 1. *Approval of 2023 City Council May Budget Meeting Schedule

B. COUNCILOR MOREAU

- 1. ****Sample Motion - to extend the Neighborhood Pilot Program through June 30, 2023, for the purposes of developing, adopting and implementing ordinance changes to create a neighborhood parking program for downtown adjacent areas. This effort would specifically include the development of a program for the neighborhood from Cornwall to Bridge Street which is currently in the pilot program.***

The ordinance could also establish a process for consideration of other neighborhoods adjacent to the downtown. For example, the ordinance could describe a petition process by which neighborhoods could petition for consideration for a neighborhood parking program with a referral to the Parking and Traffic and Safety Committee for consideration and recommendation if a certain threshold of interest was met. Alternatively, the City Council could accomplish this process through a City Council policy. There is an assumption that other neighborhoods may be interested in a parking program.

C. COUNCILOR BAGLEY

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the October 6, 2022 meeting (*Tabled at the November 14, 2022 City Council meeting*) (***Sample motion – move to approve and accept the action sheet and minutes of the October 6, 2022 Parking and Traffic Safety Committee meeting***)
2. Parking and Traffic Safety Committee Action Sheet and Minutes of the November 3, 2022 meeting (***Sample motion – move to approve and accept the action sheet and minutes of the November 3, 2022 Parking and Traffic Safety Committee meeting***)
3. *Free On-street parking for up to Three Hours from Saturday, December 17th through Monday, December 26th in Celebration of the Holiday Season. We hope residents and visitors will take advantage of this and support Portsmouth’s wonderful, local small businesses, restaurants and non-profits.

D. COUNCILOR BLALOCK

1. *Portsmouth Skatepark Fundraising Update and Acknowledgements

XVI. APPROVAL OF GRANTS/DONATIONS

- A. Donation to the Cemetery Committee from Kerry and Peter Rubenstein for Cemetery Projects - \$2,001.38 (***Sample motion – move to approve and accept the donation from Kerry and Peter Rubenstein for Cemetery Projects - \$2,001.38***)

XVII. CITY MANAGER’S INFORMATIONAL ITEMS

1. *McIntyre Update
2. *Report Back on Funding for Greater Portsmouth Recovery Ready Community Coalition
3. Report Back on Outdoor Dining

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**



Karen S. Conard
City Manager

CITY OF PORTSMOUTH

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

Date: December 1, 2022

To: Honorable Mayor McEachern and City Council Members

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

Re: City Manager's Comments on City Council Agenda of December 5, 2022

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

A. Public Hearing and Second Reading of Ordinance Amending Chapter 12 and Chapter 15, the City's Building Code:

The City's building code ordinance was last amended in December of 2019. At that time, the City Council adopted amendments to our building code ordinances (Chapters 12 and 15) to reflect the current version of the State Building Code and to update our local regulations and amendments to those codes. This version consists of 55 pages in two separate Chapters.

The Inspection Department has received complaints from the public that the City's existing building code ordinances are too long and are not user friendly. When the public cannot find local requirements and Code amendments, the building code ordinance is more difficult to administer. This is caused in part because our current ordinances track and amend different sections of the State Building Code that repeat the same language.

In July of 2022, the State of New Hampshire adopted the 2018 version of the International Codes and other national codes ("State Building Code"). The adoption of these new codes create an opportunity for the City to update and revise our existing building code ordinance.

This proposed amendment, as presented, removes Chapter 15 in its entirety, resulting in one completely revised building ordinance – a new Chapter 12 consisting of approximately 20 pages. Chapter 12, as rewritten, will be the City Building Code which adopts the current State Building Code as well as our local regulations and amendments to the State Building Code, which are permitted when they are stricter than the State Building Code.

The statutes governing local amendments to the State Building Code will be amended as of January 1, 2023. The current statute requires only that local building code ordinances be filed with the State Building Code of Review ("Board"). The amended statute creates a complicated process whereby all local building code amendments must be reviewed by the Board prior to passage in order to verify that the local requirements do not "conflict" with the current State

Building Code. There is no definition of “conflict” in the amended statute, thus calling into question the ability of municipalities to make any local regulations and amendments to the State Building Code.

A separate page on [the Inspection Department’s website](#) contains a copy of Chapter 12, as amended, along with the redlined versions of Chapter 12 and 15, and updated State Building Code information.

I recommend that the City Council move to pass second reading, and schedule a third and final reading at the December 14, 2022 City Council meeting.

B. Public Hearing and Second Reading of Ordinance Amending Chapter 5, Article I – Fire Department, Section 5.101 - Personnel and Chapter 5, Article IX – Fire Code:

The City’s fire code ordinance was last amended in December of 2019. In July of 2022, the State of New Hampshire adopted the State Fire Code, which adopts by reference the Life Safety Code, NFPA 101, 2018 edition, and the Uniform Fire Code NFPA 1, 2018 edition. When the State Fire Code is updated, the Fire Department reviews and makes housekeeping amendments to Chapter 5. The City does not adopt any amendments to the State Fire Code. However, in addition to the adoption of the State Fire Code, the City also adopts the International Fire Code.

The Fire Department is recommending that the City [amend Chapter 5, Article I – Section 5.101 and Chapter 5, Article IX](#) to adopt the current State Fire Code and the updated version of the International Fire Code, 2018 Edition. The amendments are primarily housekeeping edits to reference the correct section of the International Fire Code, 2018 edition. Some local amendments have been deleted as they are now included within the published codes and are no longer necessary. Additionally, we have deleted the local amendments regarding solar installations as the State has amended these requirements within the State Fire Code.

I recommend that the City Council move to pass second reading, and schedule a third and final reading at the December 14, 2022 City Council meeting.

C. Third and Final Reading of Ordinance Amending Chapter 1, Article IV – Commission and Authorities, Section 1.412 – Public Art Review Committee:

Attached please find a proposed ordinance [amending Chapter 1, Article IV – Commissions and Authorities, Section 1.412 – Public Art Review Committee](#).

I recommend that the City Council move to pass third and final reading of the ordinance as presented.

D. Third and Final Reading of Ordinance Amending Chapter 1, Article XVII – Funding of Public Art, Section 1.1704 – Exemption and Section 1.1707 – Funding Accepted:

Attached please find a proposed ordinance [amending Chapter 1, Article XVII – Funding of Public Art, Section 1.1704 – Exemption and Section 1.1707 – Funding Accepted](#).

I recommend that the City Council move to pass third and final reading of the ordinance as presented.

XI. City Manager's Items which Require Action:

1. Sale of Surplus Equipment:

The Department of Public Works has surplus property comprised of motors, trailers, and various other equipment ready for disposal. [See attached list](#). As in the past, the City has disposed the surplus equipment through a sealed bid process or through GovDeals, an online auction site in which the equipment is sold to the highest bidder.

I would like to use GovDeals to dispose of these surplus items. We have used GovDeals in the past and it has shown that the City receives more money for our surplus property than through a sealed bid process. According to City Ordinance Section 1.505, property valued at \$500 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 surplus equipment as presented.

2. Request for Portsmouth NH 400th City Trust Funds:

On February 22, 2022, the Portsmouth New Hampshire 400 Management Team approved a proposal for \$10,000 for the 101 Objects Book Legacy project. In June 2022, the City Council approved, and the City's Trustees of Trust Funds released, funds to Portsmouth NH 400th, Inc. which included a \$2,500 deposit for River Run Bookstore to print the book. The balance of \$7,500 for the 101 Objects Book Legacy Project should now be released. This request is for authorization from the City Council to allow the release of the funds from the 400th Anniversary Trust to Portsmouth NH 400th, Inc. to satisfy this balance.

I recommend that the City Council authorize the release of \$7,500 from the 400th Anniversary Trust to Portsmouth NH 400 Inc.

3. Access Easement for Water Services at 41 Salem Street:

On May 27, 2020, the Planning Board granted site plan approval for owner Bonza Builders, LLC to construct three new dwelling units at 41 Salem Street, Tax Map 144, Lot 31, Land Use Application LU-20-49. These dwelling units are condominiums with private water infrastructure. It is important for the City to have access to this private water infrastructure for inspection purposes and leak detection. Bonza Builders, LLC has granted the City an Access Easement for Water Services for this purpose.

Owner Bonza Builders, LLC mistakenly recorded this Access Easement prior to City Council approval. [The Access Easement attached](#) is being presented now for Council approval along with a utility plan.

I recommend that the City Council move to grant the City Manager the authority to accept the Access Easement for Water Services from Bonza Builders, LLC as presented.

4. **Sewer and Driveway Turnaround Easements for Property Located at 77 Meredith Way:**

At its regularly scheduled meeting on October 27, 2022, the Planning Board granted subdivision approval to Randi and Jeff Collins, owners of a single family residence at 77 Meredith Way. This subdivision permits the creation of an additional residential lot on Meredith Way. As a part of subdivision approval, the Planning Board recommended the City Council (1) grant a sewer easement to Mr. Collins for two sewer laterals, and (2) accept a turnaround easement. These easements are shown on the drawing prepared by James McCarty, GIS Manager, as [Exhibit A](#).

As a part of that subdivision approval, the Planning Board recommended the City Council grant the Collins an easement for private gravity sewer laterals to be constructed crossing the Pine Street Park to connect to the public sewer main within Pine Street. The sewer lateral from the existing residence at 77 Meredith Way crosses City property, and is not secured in any easement. The locations of the proposed laterals do not impact any existing infrastructure on the Pine Street Park. The Public Works Department recommends permitting the sewer laterals to be on City property instead of constructing a new line within Meredith Way.

The proposed sewer easement will permit the property owners to construct two new sewer laterals on City property and require the property owners to restore any disturbed areas. In the event the City wishes to use the Pine Street Park in a way which interferes with the sewer laterals, the property owner has agreed to relocate them at their own expense. The proposed sewer easement is attached as [Exhibit B](#).

The second easement is to the City, and it permits emergency vehicles to use a portion of the new driveway as a turnaround. Without this easement, emergency vehicles would have difficulty accessing any new home constructed on the new parcel at the end of Meredith Way. The proposed turnaround easement to benefit the City is shown as [Exhibit C](#).

The foregoing easements have been reviewed and approved by the Legal Department, Planning Department, Public Works and, where relevant, the Fire Department.

I recommend that the City Council move to authorize the City Manager to grant and record a sewer easement to Randi and Jeff Collins and to accept and record a turnaround easement from Randi and Jeff Collins in substantially similar form to the easement deeds contained in the agenda packet.

XIII. Presentations and Written Communications:

A. Presentation from the COVID Response Task Force Regarding Recovery Solutions:

Whitney Brown and Lori Waltz, members of the COVID Response Task Force Blue Ribbon Committee, will be updating the Council and the public on their efforts at this evening's meeting.

B. Portsmouth NH 400th, Inc. Update:

At the request of the City Council at their November 14th meeting, Valerie Rochon, Managing Director of the Portsmouth NH 400th, Inc. will provide a presentation at this evening's meeting.

XVI. Approval of Grants/Donations:

A. Approval of Donation to the Cemetery Committee - \$2,001.38:

Attached please find a donation form from the Public Works Department requesting acceptance of \$2,001.38 for Cemetery Committee projects.

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

XVII. City Manager's Informational Items:

1. McIntyre Update:

I will provide an update on the McIntyre Redevelopment Project at this evening's meeting.

2. Report Back on Funding for Greater Portsmouth Recovery Ready Community Coalition:

As a report back to the Council as requested following the presentation by the Pinetree Institute at the November 14th Council Meeting, if the Council wishes to provide funding to support this effort, I would recommend the following:

In support of providing funding to the Greater Portsmouth Recovery Ready Community Coalition, we have identified \$60,000 in FY22 surplus Welfare funding which could be released to accommodate the first tranche of two for January 1, 2023. In addition, as currently only \$10,000 of the FY23 Welfare budget has been expended to date, it is very reasonable to plan to use \$60,000 of these funds for the second tranche of two for January 1, 2024.

3. Report Back on Outdoor Dining:

At the February 22, 2022 City Council meeting, staff was directed to provide an end of the year report. This report along with a memorandum of recommendations for further consideration are attached.