

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, MAY 15, 2023 TIME: 6:30PM

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_zj-A5GoZSYmbHkUrdBZhtg

6:30PM - ANTICIPATED NON-PUBLIC SESSIONS ARE BEING HELD IN CONFERENCE ROOM A

1. COLLECTIVE BARGAINING AGREEMENT – RSA 91-A:3, II (a)
2. 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 – APRIL 17, 2023 CITY COUNCIL MEETING**
- 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**

First Reading of Ordinance:

- A. First reading of Ordinance amending Chapter 10 – Article 5A – CHARACTER-BASED ZONING, Section 10.5A20, Regulating Plan, Subsection 10.5A21.10 Contents of Regulating Plan, Map 10.5A21B – Building Height Standards, Section 10.5A43.30 – Building and Story Heights, Subsection 10.5A43.33, Section 10.5A43.40 – Maximum Building Footprint, Subsections 10.5A43.41-44, and Section 10.5A45 – Community Spaces, Subsection Figures 10.5A45.10 Community Spaces, Section 10.5A46.20 – Requirements to Receive Incentives to the Development Standards, Subsections 10.5A46.21-22, and Article 15 – DEFINITIONS, Section 10.1530 – Terms of General Applicability (**Sample motion – move to pass first reading and refer to the Planning Board for report back and further schedule a public hearing and second reading for July 10, 2023**)

XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager's Items Which Require Action:

1. Approval of License Agreement with the General Services Administration (GSA) ***(Sample motion – move to authorize the City Manager to execute the proposed license agreement with GSA)***
2. Renewal of Prescott Park License Agreements between the City and the Gundalow Company, the Prescott Park Arts Festival, and the New Hampshire Art Association
3. Request for First Reading Regarding Amendments to Chapter 4, the City's Food Licensing and Regulations Ordinance
4. *Street Naming for 3548 Lafayette Road
5. Approval of the Portsmouth School Department Custodial Collective Bargaining Agreement

XII. CONSENT AGENDA

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

- A. Letter from Kelly Hartnett, Seacoast Mental Health Center, requesting permission to hold the Bridges 4 Friendship 10k on Saturday, October 14, 2023 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Letter from Jason Brewster, Brewster's Bait & Tackle, requesting permission to hold The Blessing of the Fleet on Thursday, July 27, 2023 from 6:00 p.m. – 7:00 p.m. on Four Tree Island ***(Anticipated action – move to refer to the City Manager with Authority to Act)***

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- A. *Presentation Regarding Community Health Profile by Health Officer Kim McNamara
- B. *Presentation from the COVID-19 Recovery Task Force by Abbie Frank
- C. Town of New Castle Sewer Agreement ***(Sample motion – move to request that the City Manager bring forward this wholesale sewer agreement for action at the next City Council meeting)***
- D. Email Correspondence ***(Sample motion – move to accept and place on file)***
- E. Request from Sue Polidura seeking permission to hold a community reading of the Declaration of Independence in front of the North Church on Tuesday, July 4, 2023 at 11:00 a.m. ***(Sample motion – move to refer to the City Manager with Authority to Act)***

- F. Letter from Danville Fire Chief Steven Woitkun regarding the quick action of Portsmouth Electrical Inspector John Plourde for intervening at a fire on Sandown Road in Danville, NH and making sure all residents and pets were evacuated safely from the home ***(Sample motion – move to accept and place on file)***
- G. Letter from Tom Kaufhold, Founder of NH Seacoast LGBTQ History Project, requesting permission to display six panels describing the history of the LGBTQ community on the seacoast at City Hall during the month of June 2023

XIV. MAYOR McEACHERN

1. Appointment to be Considered:
 - Reappointment of David Adams to the Historic District Commission
2. *Appointment to be Voted:
 - Peter Splaine to the Cemetery Committee

XV. CITY COUNCIL MEMBERS

A. COUNCILOR DENTON

1. Draft Ordinance Codifying the Sustainability Committee ***(Sample motion – move to refer the draft ordinance codifying the Sustainability Committee to the Governance Committee and the Legal Department for review and report back to the City Council for first reading)***

B. COUNCILOR MOREAU

1. Report of City-Owned Parcels for Potential Reuse as Workforce Housing

C. COUNCILOR BAGLEY

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the April 6, 2023 meeting ***(Sample motion – move to accept and approve the action sheet and minutes of the April 6, 2023 Parking and Traffic Safety Committee)***
2. Parking and Traffic Safety Committee Action Sheet and Minutes of the May 4, 2023 meeting ***(Sample motion – move to accept and approve the action sheet and minutes of the May 4, 2023 Parking and Traffic Safety Committee)***

D. COUNCILOR LOMBARDI

1. Economic Development Commission Powers and Duties (Section 1.402) ***(Sample motion – move to refer to the Governance Committee and Legal Department for report back to the City Council)***

XVI. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of NHDES 2022-2024 Strategic Planning Grant Program (***Sample motion – move to authorize the City Manager to enter into a Grant Agreement with the State of New Hampshire Department of Environmental Services to accept up to \$50,000.00 from the NHDES 2022-2024 Strategic Planning Grant Program to assist with paying a portion of the comprehensive planning study and preliminary engineering evaluation of the Lafayette tank pressure zone***)
- B. Acceptance of Donation to the Senior Activity Center from the Portsmouth Garden Club - \$500.00 (***Sample motion – move to approve and accept the donation as presented***)
- C. Acceptance of Various Police Department Grants:
- US Department of Justice for the NH Internet Crimes Against Children Task Force - \$377,882.00
 - 2023 Safe & Active Grant award from the Injury Prevention Center at Dartmouth-Hitchcock for 50 multi-sport helmets, 50 bike lights and educational materials

(Sample motion – move to approve and accept the grants for the Police Department as presented)

XVII. CITY MANAGER’S INFORMATIONAL ITEMS

(There are no items under this section of the agenda this evening)

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: May 11, 2023

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 May 15, 2023

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

- A. **First Reading of Ordinance Amending Chapter 10 – Article 5A – CHARACTER-BASED ZONING, Section 10.5A20- Regulating Plan, Subsection 10.5A21.10, Contents of Regulatory Plan, Map 10.5A21B Building Height Standards; Section 10.5A43.30 – Building and Story Heights, Subsection 10.5A43.33; Section 10.5A43.40 – Maximum Building Footprint, Subsections 10.5A43.41-44; Section 10.5A45 – Community Spaces, Subsection Figures 10.5A45.10 Community Spaces; Section 10.5A46.20 – Requirements to Receive Incentives to the Development Standards, Subsections 10.5A46.21-22; and Article 15 – DEFINITIONS, Section 10.1530 – Terms of General Applicability:**

The Land Use Committee has recently reviewed the type and quality of community space and the lack of workforce housing in several recently approved or pending large developments in downtown Portsmouth. The Committee concluded that the existing density incentives do not fully achieve the community's objectives of providing reasonable and realistic opportunities for workforce housing and meaningful community space. The Committee has reviewed and recommends amending the City's zoning ordinance to address these concerns. The optional density incentives address these issues and are provided in [the attached amendment](#).

Chapter 10, Article 5A, Section 10.5A20 - Regulating Plan, amending Map 10.5A21B (Building Height Standards)

The proposed amendment to the Building Height Standards Map 10.5A21B will reduce the allowed building height along the portion of Bow Street depicted in the map from 4 stories/45 feet to 3 stories/40 feet.

Chapter 10, Article 5A, Section 10.5A43.40 - Building and Story Heights

This proposed amendment provides changes to the existing optional density incentive for large parcels over one (1) acre in a Character District. This density incentive may be granted by the Planning Board through a conditional use permit to allow an additional story in height up to

15 feet and an increase in building footprint size up to 50,000 SF. In order to qualify for this density incentive, the project must provide both an increase in community space and workforce housing as set forth in [the attached amendment](#). The amendment also creates more options for community space by adding pedestrian passageways, public observations decks, and pedestrian arcades to the existing definition of community space types.

Chapter 10 Article 5A, Section 10.5A43.40 - Maximum Building Footprint

The existing ordinance provides that the Planning Board may grant a conditional use permit to allow an increased building footprint if specific types of parking are provided for the project in exchange for community space. [The attached amendment](#) would reduce the community space requirement and add the requirement that the project also include workforce housing as described.

Chapter 10 Article 5A, Section 10.5A46.20 - Requirements to Receive Incentives to the Development Standards

The existing ordinance currently allows developments in the Overlay District to add an additional story and a larger footprint in exchange for community space. The amendment will require the Planning Board to grant a conditional use permit for all lots requesting this density incentive within the Overlay District. Further, all lots greater than 100 feet from the North Mill Pond will be required to provide both community space and workforce housing.

Additional amendments include adding new community space types in Figures 10.5A45.10 Community Spaces, and amending the definition of building footprint in Section 10.1530.

I recommend that the City Council move to pass first reading and refer to Planning Board for report back and further schedule a public hearing and second reading for July 10, 2023.

XI. City Manager's Items Which Require Action:

1. Approval of License Agreement with the General Services Administration (GSA):

The City's current license agreement with the GSA relative to the maintenance of the McIntyre property and use of the parking spaces expired on April 11, 2023, but has been extended by verbal agreement and confirmed by email. The GSA is prepared to enter into a renewed license agreement for a period of 180 days that would allow the City to continue to use the parking spaces for the maintenance of the building. This license agreement has provisions which allow the City to enter into a negotiated sale if the City elects to pursue that route. As reported previously, the parking revenues cover the City's expenses to maintain the McIntyre property.

I recommend that the City Council authorize the City Manager to execute [the proposed license agreement with GSA](#).

2. **Renewal of Prescott Park License Agreements between the City and the Gundalow Company, the Prescott Park Arts Festival, and the New Hampshire Art Association:**

Presented for Council review and approval are three License Agreements for Prescott Park. These License Agreements are between the City of Portsmouth and the Gundalow Company, the Prescott Park Arts Festival and the NH Art Association. The Agreements presented for Council’s consideration are five-year renewals of the License Agreements that were originally approved by the Council on May 21, 2018, with a few minor updates and modifications.

By way of background, during the finalization of the Prescott Park Master Plan in 2017, a Prescott Park Policy Advisory Committee was formed. After the Master Plan was adopted, the Advisory Committee issued a Final Report that recommended key issues identified during the Committee’s policy discussions be converted to specific provisions in future license agreements. Some of the provisions that were the product of these recommendations in the 2018 Agreements defined authorized activities in the license area, capital improvement and maintenance responsibilities, public safety plans, signage, merchandizing, sound and amplification. Another recommendation was that all Agreements for each organization be in a form that does not vary significantly from organization to organization but also include separate Schedules that are specifically tailored to each organization’s operations and programs.

The City and the Gundalow Company, the Prescott Park Arts Festival and the NH Art Association would attest to the fact that the detailed provisions included in the 2018 License Agreements have, over the past five years, clarified roles and responsibilities, improved communication and most importantly, improved operations and the public’s enjoyment of Prescott Park.

On July 11, 2022, the City Council voted to approve Phase 1A of the Prescott Park Master Plan Improvements. The current License Agreements have been modified to acknowledge that the organizations’ programs and operations may be disrupted as a result of these improvements, and the License Schedules may be amended, if needed. The City will continue to communicate the schedule of the Phase 1A Master Plan Improvements and work with each organization to anticipate and minimize their impact. The current Agreement also adds required statutory language regarding real estate tax exemptions and other general edits to dates and personnel.

The City’s Legal Department and the Gundalow Company, the Prescott Park Arts Festival and the NH Art Association have approved the form of [the attached License Agreements](#).

Motions:

A) Gundalow Company:

I recommend the City Council move to approve the Prescott Park License Agreement between the City and the Gundalow Company in a form similar to [the attached](#) and to authorize the City Manager to execute the Agreement.

B) Prescott Park Arts Festival:

I recommend the City Council move to approve the Prescott Park License Agreement between the City and the Prescott Park Arts Festival in a form similar to [the attached](#) and to authorize the City Manager to execute the Agreement.

C) NH Art Association:

I recommend the City Council move to approve the Prescott Park License Agreement between the City and the NH Art Association in a form similar to [the attached](#) and to authorize the City Manager to execute the Agreement.

3. Request for First Reading Regarding Amendments to Chapter 4, the City's Food Licensing and Regulations Ordinance:

The City's Food Licensing and Regulations Ordinance, Chapter 4, (aka the City's Food Code Ordinance) was last amended in late 2017. At that time, the City Council adopted amendments to our Food Code Ordinance (Chapter 4) by adopting the 2009 version of the FDA Food Code with local amendments, along with portions of the NH Code of Administrative Rules, Part He-P 2300, Sanitary Production and Distribution of Food, with local amendments.

The proposed amendments to Chapter 4 include the adoption of the recently released 2022 version of the FDA Food Code with local amendments. Adopting the most recent version of the 2022 FDA Food Code is necessary in order to maintain the "uniform system of provisions that address the safety and protection of food offered at retail and in food service." (FDA.gov). The amendments to Chapter 4 also include adding definitions and other sections of He-P 2300 that specifically apply to food processing/food manufacturing plants.

The adoption of both these updated codes, along with our local amendments, is necessary for our Retail Food program and our Manufactured Food program to align with our State regulatory partners for regulatory consistency. Additionally, adopting the updated codes will allow us to take advantage of newer, more efficient food service inspection software.

I therefore recommend that the Council vote to schedule first reading of the amended Chapter 4 at its June 5, 2023 meeting. Of note, consistent with the City's past practice, the Health Department will schedule a public information session on June 8, 2023. Prior to that informational public meeting, the City will establish a separate webpage that contains a copy of Chapter 4 as amended.

I recommend that the City Council move to schedule first reading of the amendments to Chapter 4, the City's Food Licensing and Regulations Ordinance, at the June 5, 2023 City Council meeting.

4. Street Naming for 3548 Lafayette Road:

The property owners of 3548 Lafayette Road where Monarch Village is being constructed are requesting approval to name the private street Monarch Way.

The Department of Public Works has reviewed the request of Monarch Way with the State e911 and they have no objection to the name. Additionally, there are no duplicate names in this zip code.

I recommend that the City Council authorize the use of Monarch Way as the private street name for the development at 3548 Lafayette Road.

5. **Approval of the Portsmouth School Department Custodial Collective Bargaining Agreement:**

Attached please find a memorandum from the City's Labor Negotiator, Tom Closson, regarding the School Department Custodial Collective Bargaining Unit.

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

XIII. Presentations and Written Communications:

A. **Presentation Regarding Community Health Profile by Health Officer Kim McNamara:**

The City's Health Officer, Kim McNamara, will provide a brief presentation regarding the Community Health Profile.

B. **Presentation from the Covid-19 Recovery Task Force:**

Abbie Frank, member of the Covid-19 Recovery Task Force, will present at this evening's meeting.

C. **Town of New Castle Sewer Agreement:**

The attached agreement between the City of Portsmouth and the Town of New Castle will update the City's terms for providing the Town with sewer service. New Castle independently owns and operates all their sewer pipes, pumps and infrastructure. Their sewage is transmitted to the City's Peirce Island Wastewater Treatment Facility where it is metered and treated. City staff have been working with the town for many months to update these terms. [The attached letter from the Town provides more detail.](#) The City also had our rate consultant, David Hyder of Stantec, review the agreement and assess the recommended wholesale rate for their service.

We will be available at the May 15, 2023 meeting to brief the City Council on this matter. Representatives from New Castle will also be there to answer any questions.

It is of mutual benefit to enter into this agreement.

I recommend that the City Council move to request that the City Manager bring forward this wholesale sewer agreement for action at the next city council meeting.

XVI. Approval of Grants/Donations:

A. Acceptance of NHDES 2022-2024 Strategic Planning Grant Program - \$50,000:

The City has been awarded a grant for \$50,000 from the NHDES 2022-2024 Strategic Planning Grant Program to assist with paying a portion of the comprehensive planning study and preliminary engineering evaluation of the Lafayette tank pressure zone.

I recommend that the City Council move to authorize the City Manager to enter into a Grant Agreement with the State of New Hampshire Department of Environmental Services to accept up to \$50,000 from the NHDES 2022-2024 Strategic Planning Grant Program to assist with paying a portion of the comprehensive planning study and preliminary engineering evaluation of the Lafayette tank pressure zone.

B. Acceptance of Donation to the Senior Activity Center from the Portsmouth Garden Club - \$500:

Attached please find a donation from the Portsmouth Garden Club for the Senior Activity Center in the amount of \$500.

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

C. Acceptance of Various Police Department Grants:

At the February 27, 2023 Police Commission meeting, the Board of Police Commissioners approved and accepted the following:

- A grant in the amount of \$377,882 from the US Department of Justice for the NH Internet Crimes Against Children Task Force.

At the April 18, 2023 Police Commission meeting, the Board of Police Commissioners approved and accepted the following grant:

- A 2023 Safe & Active grant award from the Injury Prevention Center at Dartmouth-Hitchcock for 50 multi-sport helmets, 50 bike lights and educational materials.

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

XVII. City Manager's Informational Items:

There are no City Manager informational items for consideration at this evening's meeting.