

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, APRIL 3, 2023 TIME: 6:15PM

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_9xn5-WpQTKSGcjheH71uLw

6:15PM - ANTICIPATED NON-PUBLIC SESSIONS ARE 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

PROCLAMATIONS

1. Volunteer Appreciation Month
2. Sexual Assault Awareness Month

VII. ACCEPTANCE OF MINUTES – FEBRUARY 6, 2023; FEBRUARY 21, 2023; MARCH 6, 2023; AND MARCH 20, 2023

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

- A. Mortimer Scholarship Funds
- B. *Great Bay Community College Men's Basketball Team – United States Collegiate Athletic Association Final Four Appearance

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 1, Article IV, Section 1.411 – Cemetery Committee – Membership and Term (**Sample motion – move to pass first reading and schedule a public hearing and second reading at the April 17, 2023 City Council meeting**)

Public Hearing/Second Reading of Ordinance:

- B. Public Hearing/Second reading of Ordinance amending Chapter 10 – Accessory Dwelling Unit, Section 10.43- - Use Regulations, Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, Section 10.814 – Accessory Dwelling Units, Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking, Article 15 – Definitions – Section 10.1530 – Terms of General Applicability (***Sample motion – move to postpone public hearing and second reading and schedule a Work Session for April 10, 2023. Further, for report back from the Legal Department regarding amendments to be considered at the City Council meeting of April 17, 2023***)

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 Skateboard Park Additional Bond Authorization
2. License Agreement for Seacoast Eat Local/Farmers’ Market 2023
3. Acceptance of Easement for 170 Union Street
4. Acceptance of Easements for 160 Court Street
5. Acceptance of Easements for 2454 Lafayette Road
6. Acceptance of Easement for 201 Kearsarge Way
7. Acceptance of Easements and License for 444 Borthwick Avenue
8. Finalization of Easements and a License Amendment for West End Yards

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 the Whale Statue lawn in Prescott Park 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 Richard Mason, Veterans Count, requesting permission to hold the Pack & Boots 5K Road Race at the Pease Tradeport on Tuesday, July 4, 2023 at 8:00 a.m. (***Anticipated action - move to refer to the City Manager with Authority to Act***)
- C. Letter from Bruce Hurley, Seacoast Half Marathon, requesting permission to hold the 18th Annual Seacoast Half Marathon on Sunday, October 29, 2023 (***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 Maggie Walsh, YMCA of the Seacoast, requesting permission to hold a 5K Fun Run on Saturday, June 24, 2023 (***Sample motion – move to refer to the City Manager with Authority to Act***)
- C. Letter from Julia Sinelnikova regarding PNH400 artwork (***Sample motion – move to place on file***)

XIV. MAYOR McEACHERN

1. *Appointments to be Voted:
 - Ernest Carrier appointment as alternate to the Planning Board
 - Daniel Main reappointment to the Portsmouth Housing Authority
 - Jacqueline Cali-Pitts reappointment to the Recreation Board
 - Richard Duddy reappointment to the Recreation Board
 - Lauren Krans reappointment to the Recreation Board
 - Jessica Blasko appointment to the Blue Ribbon Sustainability Committee
 - John Patrick Carty appointment to the Blue Ribbon Sustainability Committee
 - Jeffrey Mattson appointment as regular member to the Zoning Board of Adjustment
 - ML Geffert appointment as alternate to the Zoning Board of Adjustment
 - Jody Record appointment as alternate to the Zoning Board of Adjustment

XV. CITY COUNCIL MEMBERS

A. COUNCILOR TABOR

1. Request for Update on the Public Engagement Report of July 22, 2022 and consideration of further public processes (***Sample motion – move to request an update on the Public Engagement Report of July 22, 2022***)

B. COUNCILOR BAGLEY

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the March 15, 2023 meeting (***Sample motion – move to approve and accept the action sheet and minutes of the March 15, 2023 Parking & Traffic Safety Committee meeting***)

C. COUNCILOR COOK

1. City Council Donation Policy (***Sample motion – move to adopt the policy as presented***)

XVI. APPROVAL OF GRANTS/DONATIONS

- A. Approval of Donation to the Fire Department from Shirley Van Aken for use at the Fire Department's Discretion - \$100.00 (***Sample motion – move to approve and accept the donation as presented***)
- B. Acceptance of Assistance to Firefighters Grant - \$333,294.54 (***Sample motion – move to approve and accept the grant as presented***)

- C. Acceptance of State Aid Grant Award (SAG) Peirce Island WWTF Upgrade (**Sample motion – move to approve and accept the State Aid Grant in the amount of \$35,031,456.00 payable over 30 years pursuant to amortization schedule**)
- D. Acceptance of 2023 Local Source Water Protection Program Grant (**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 \$25,000.00 from the NHDES Local Source Water Protection Program to assist with the purchase of a conservation easement on a parcel adjacent to the Bellamy Reservoir**)
- E. Approval of Donation from Piscataqua Savings Bank for lunch as part of Student Government Day (**Sample motion – move to accept the donation not to exceed \$1,000.00 for lunches as part of Student Government Day for the students, staff and City Council participating in the day**)
- F. Acceptance of InvestNH Municipal Demolition Grant Program - \$125,600.00 (**Sample motion – move to approve and accept the Grant as presented**)

XVII. CITY MANAGER’S INFORMATIONAL ITEMS

- 1. *McIntyre Update
- 2. Rail Car Safety Update
- 3. Household Hazardous Waste Collection Day
- 4. *Request for Work Session Regarding Indoor Sports Complex/Ice Rink

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 30, 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 April 3, 2023

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

A. First Reading of Ordinance Amending Chapter 1, Article IV, Section 1.411 – Cemetery Committee – Membership and Term:

Attached please find an amendment to Chapter 1, Article IV, Section 1.411 – Cemetery Committee – Membership and Term.

I recommend that the City Council move to pass first reading, and schedule a public hearing and second reading on this proposed amendment at the April 17, 2023 City Council meeting.

B. Public Hearing and Second Reading of Ordinance Amending Chapter 10 – Accessory Dwelling Unit, Section 10.43 – Use Regulations, Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, Section 10.814 – Accessory Dwelling Units, Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking, Article 15 – Definitions – Section 10.1530 – Terms of General Applicability:

Attached please find an amendment to Chapter 10 – Accessory Dwelling Unit, Section 10.43 – Use Regulations, Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, Section 10.814 – Accessory Dwelling Units, Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking, Article 15 – Definitions – Section 10.1530 – Terms of General Applicability.

I recommend that the City Council move to postpone the public hearing and second reading, and schedule a work session on April 10, 2023. Further, for a report back from the Legal Department regarding amendments to be considered at the City Council meeting of April 17, 2023.

XI. City Manager's Items Which Require Action:

1. **Request for Public Hearing Regarding Skateboard Park Additional Bond Authorization:**

Bids for the construction of the Skateboard Park are due at 10:30 a.m. on Friday, March 31st. City staff is expecting that bid prices will show that additional funding is needed for the project to proceed. Consequently, after bid opening, staff will promptly evaluate the bids and submit for inclusion on the April 3rd Agenda a proposed Resolution for additional bond authorization. We will coordinate with the City Clerk to have the proposed bond authorization added promptly to the City Council packet.

I recommend that the City Council move to schedule a public hearing on the bond authorization for the Skateboard Park at the April 17, 2023 City Council meeting.

2. **License Agreement for Seacoast Eat Local/Farmers' Markets 2023:**

[Attached please find a License Agreement](#) between the City of Portsmouth and Seacoast Eat Local, manager of the Farmers' Market in Portsmouth.

I recommend that the City Council move to authorize the City Manager to execute the License Agreement as presented, allowing Seacoast Eat Local to operate a Farmers' Market at the Municipal Complex on Saturdays from May 6, 2023 through November 4, 2023, and that the City Manager is further authorized to negotiate and execute any amendment to the Agreement that she deems consistent with its purpose.

3. **Acceptance of Easement for 170 Union Street:**

At its regularly scheduled meeting on February 27, 2020, the Planning Board granted Site Plan Review approval to LCSG, LLC to merge two lots and construct a new single family residence and separate building with a four-bay garage and an apartment above on a site where a duplex existed. As a condition of approval, the Planning Board recommended the City accept an access easement for water services. This project is largely complete, and this access easement will permit City staff to access 170 Union Street for the purposes of leak detection and valve access.

[The form of this easement is attached](#), and has been reviewed and approved by the Planning and Legal Departments. Public Works recommends acceptance of this easement.

I recommend that the City Council move to authorize the City Manager to accept and record an access easement for water services in substantially similar form to the easement deed from LCSG, LLC contained in the agenda packet.

4. **Acceptance of Easements for 160 Court Street:**

At its regularly scheduled meeting on August 21, 2018, the Planning Board granted Site Plan Review approval to Portsmouth Housing Authority to construct a four-story workforce housing structure located at 160 Court Street. As a part of that approval, the Planning Board recommended the City Council accept a sewer line easement securing an existing City sewer line crossing 160 Court Street. The proposed easement is 1,492 square feet in area.

The form of this easement is attached and has been reviewed and approved by the Planning and Legal Departments. Public Works recommends acceptance of this easement. The location of the sewer line and easement are depicted on the attached drawing.

I recommend that the City Council move to authorize the City Manager to accept and record sewer line easement in substantially similar form to the easement deed from Portsmouth Housing Authority contained in the agenda packet.

5. **Acceptance of Easements for 2454 Lafayette Road:**

At its regularly scheduled meeting on December 30, 2021, the Planning Board granted certain approvals to 2422 Lafayette Road Associates, LLC to construct a five-story structure with 95 condominium units at 2454 Lafayette Road. This project contemplates the demolition of the former Cinemagic building, to be replaced with a residential development.

Specifically, the Planning Board granted two Conditional Use Permits, one for increased housing density and one for increased building height as allowed by Section 10.5B72.10 and Section 105B72.20 of the Zoning Ordinance, along with Site Plan Review to demolish the existing structure and construct a five story structure with 95 condominium units with 20% designated as workforce housing units and provide 21,896 square feet of community space. The community space areas are shown on the attached drawing, and the workforce housing units are to be distributed evenly throughout the structure.

Therefore, the Planning Board recommended the City Council accept a community space easement and a workforce housing covenant from 2422 Lafayette Road Associates, LLC. The form of these easements has been reviewed and approved by the Planning and Legal Departments. As is consistent with past practices, Portsmouth Housing Authority has agreed to assist the City as it ensures future compliance with the terms of the Workforce Housing Covenant.

I recommend that the City Council move to authorize the City Manager to accept and record a Community Space Easement and a Workforce Housing Covenant in substantially similar form to the easement deeds from 2422 Lafayette Road Associates LLC contained in the agenda packet.

6. **Acceptance of Easement for 201 Kearsarge Way:**

At its regularly scheduled meeting on October 20, 2022, the Planning Board granted conditional subdivision approval to Richard Fusegni to create three new lots at 201 Kearsarge Way. As a part of that approval, the Planning Board recommended the City Council accept a 1,492 square foot access easement over Lot 2 of the subdivision. This new easement will supplement an existing access easement over 201 Kearsarge Way, and will be used for plowing, turnaround, and general maintenance of the adjacent, existing public way known as Birch Street.

The form of this easement is attached, and has been reviewed and approved by the Planning and Legal Departments. Public Works recommends acceptance of this easement. The area of the existing easement and the proposed additional access easement are depicted on the attached drawing.

I recommend that the City Council move to authorize the City Manager to accept and record an access easement in substantially similar form to the easement deed from Richard Fusegni contained in the agenda packet.

7. **Acceptance of Easements and License for 444 Borthwick Avenue:**

At its regularly scheduled meeting on August 18, 2022, the Planning Board granted conditional site plan approval to HCA Realty Inc., for the construction of a 501-space, satellite parking lot to be located at 444 Borthwick Avenue. This parking lot with associated on-site improvements is designed to support the existing hospital facilities currently serviced by 783 parking spaces.

As a part of that site plan approval, the Planning Board recommended the City Council accept a stormwater easement from, and grant a sidewalk maintenance license to, HCA Realty, Inc. HCA Realty, Inc. has agreed to construct certain stormwater infrastructure on 444 Borthwick Avenue which will better manage the stormwater runoff from Borthwick Avenue. The Department of Public Works recommends accepting this easement and the infrastructure contained therein. HCA Realty, Inc. will also accept maintenance of the new sidewalk, a portion of which will be constructed on City property.

The location of 444 Borthwick Avenue, and the locations of the stormwater easement and the sidewalk license area are depicted on the drawing included within the agenda packet. A draft deed and a draft license agreement are also included within the agenda packet.

I recommend that the City Council move to authorize the City Manager to accept and record a stormwater easement, and grant a sidewalk maintenance license in substantially similar form to the easement deed from and the license agreement to HCA Realty, Inc. contained in the agenda packet.

8. **Finalization of Easements and a License Amendment for West End Yards:**

Attached please find a memorandum from Assistant City Attorney Jane Ferrini regarding the proposed finalization of easements and a license amendment for West End Yards.

In lieu of five individual motions, I recommend that the City Council move to authorize the City Manager to accept and record the multiple deeds and license amendment in substantially similar form as set forth in the memorandum from Attorney Ferrini.

XVI. Approval of Grants/Donations:

A. **Approval of Donation to the Fire Department - \$100:**

Attached please find a donation form requesting acceptance of \$100 for the Fire Department from Shirley Van Aken.

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

B. **Acceptance of Fire Department Grant - \$333,294.54:**

Attached please find a memorandum from Fire Chief McQuillen regarding a Federal Department of Homeland Security's FY 2021 Assistance to Firefighters Grant Program.

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

C. **Acceptance of State Aid Grant Award (SAG) Peirce Island WWTF Upgrade - \$35,031,456:**

Attached please find a memorandum from the Public Works Department regarding a State Aid Grant Award (SAG) for the Peirce Island Wastewater Treatment Facility (WWTF) Upgrade.

I recommend that the City Council move to approve and accept the State Aid Grant in the amount of \$35,031,456 payable over 30 years pursuant to the amortization schedule.

D. **Acceptance of Grant from NHDES Local Source Water Protection Program - \$25,000:**

The City has been awarded a grant for \$25,000 from the NHDES Local Source Water Protection Program for assistance with the purchase of a 45-acre conservation easement adjacent to the Bellamy Reservoir. Attached please find the Award Letter and Grant Agreement.

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 \$25,000 from the NHDES Local Source Water Protection Program to assist with the purchase of a conservation easement on a parcel adjacent to the Bellamy Reservoir.

E. **Approval of Donation from Piscataqua Savings Bank for Lunch as Part of Student Government Day:**

Attached please find a piece of correspondence from Piscataqua Savings Bank offering to pay for lunches for the City's Student Government Day on April 19, 2023.

I recommend that the City Council move to accept the donation for Student Government Day for students, staff and City Council members participating, not to exceed \$1,000.

F. **InvestNH Municipal Demolition Grant Program - \$125,600:**

A State of New Hampshire InvestNH Program Demolition Grant in the amount of \$125,600 has been awarded to the City as supplemental funds to support the Woodbury Avenue Cooperative Water-Sewer and Site Improvement project, which is funded in part and administered by the Portsmouth Community Development Block Grant Program. The InvestNH Demolition Grant will be used toward demolition and abatement expenses associated with the above-named project and administered by the City's Community Development staff.

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

XVII. City Manager's Informational Items:

1. **McIntyre Update:**

City Attorney Susan Morrell and I will provide an update on the McIntyre Redevelopment Project at this evening's meeting.

2. **Rail Car Safety Update:**

In response to the Ohio Train Derailment that occurred in February, Fire Chief McQuillen and Deputy City Manager Woodland have prepared a memorandum outlining the City's safety training regarding this type of incident.

3. **Household Hazardous Waste Collection Day:**

Attached please find a press release announcing Spring's Household Hazardous Waste Collection Day on April 29th.

4. **Request for Work Session Regarding Indoor Sports Complex/Ice Rink:**

I will provide a verbal report back regarding the request for a work session regarding the Indoor Sports Complex/Ice Rink.