

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH

DATE: MONDAY, MAY 1, 2023

TIME: 5:30PM

*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\\_DOXqsut5SHWzqrd5eJBXPg](https://us06web.zoom.us/webinar/register/WN_DOXqsut5SHWzqrd5eJBXPg)

**5:30PM - 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**

### PROCLAMATION

1. Jewish American Heritage Month

- VII. **ACCEPTANCE OF MINUTES – APRIL 3, 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**

### Public Hearing/Second Reading of Ordinance:

- A. Public Hearing/Second Reading of Ordinance amending Chapter 10 – Accessory Dwelling Unit, Section 10.430 – Use Regulations – Use is permitted by right through Administrative Approval, Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts – Administrative Approval, Section 10.814 – Accessory Dwelling Units – Purpose and Eligibility, Section 10.814.40 – Additional Standards for Detached Accessory Dwelling Units, Section 10.814.50 – Architectural Design Standards, Section 10.814.60 – Review and Approval Process, Section 10.814.70 – Post-Approval Requirements, Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking – Location of Parking Facilities on a Lot, Article 15 – Definitions – Section 10.1530 – Terms of General Applicability – Accessory Building or Structure, Accessory Dwelling Unit (ADU), Deletion of Garden Cottage and Addition of Gross Living Area (GLA)

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

*(Sample motion – move to pass second reading and hold third and final reading at the May 15, 2023 City Council meeting)*

Third and Final Reading of Ordinance:

- B. Third and Final Reading of Ordinance amending Chapter 1, Article IV, Section 1.411 – Cemetery Committee – Membership and Term *(Sample motion – move to pass third 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. Report Back on Negotiated Sale Process and Fair Market Value for Acquisition of McIntyre Property *(Sample motions: 1) move to authorize the City Manager to communicate to the GSA that the City is not interested in participating in a negotiated sale process; or 2) move to authorize the City Manager to communicate to the GSA that the City is interested in participating in a negotiated sale process and is prepared to commit to taking the necessary procedural steps in the next ninety days to borrow the sum of up to \$25 million for the purchase price)*
2. \*Approval of License Agreement with GSA *(Sample motion – move to authorize the City Manager to execute the proposed license agreement with GSA)*
3. Resolution for the Authorization for Transfer of Balance of Bond Proceeds After Completion of the Project
4. Month-to-Month South Meeting House Lease Agreement for Portsmouth Public Media, Inc. (PPMtv)
5. Bicycle Pedestrian Path Easement for Property Located at 2255 Lafayette Road

**XII. CONSENT AGENDA**

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

- A. Request from Joe Kelley, Thirsty Moose Taphouse, to install a Projecting Sign at 15 Congress Street *(Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning & Sustainability Director, and further, authorize the City Manager to execute the License Agreement for this request)*

**Planning Director’s Stipulations:**

- *The license shall be approved by the Legal Department as to content and form;*

- ***Any removal or relocation of projecting sign, for any reason, shall be done at to the City; and***
- ***Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works***

B. Request from Aaron Smith, Salud LLC, to install a Projecting Sign at 90 Fleet Street (***Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning & Sustainability Director, and further, authorize the City Manager to execute the License Agreement for this request***)

**Planning Director’s Stipulations:**

- ***The license shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of projecting sign, for any reason, shall be done at to the City; and***
- ***Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works***

C. Request from Alex Budd, OTTO Portsmouth, to install a Projecting Sign at 110 Brewery Lane (***Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning & Sustainability Director, and further, authorize the City Manager to execute the License Agreement for this request***)

**Planning Director’s Stipulations:**

- ***The license shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of projecting sign, for any reason, shall be done at to the City; and***
- ***Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works***

D. Letter from Tina Sawtelle, The Music Hall, requesting permission for the closure of Chestnut Street on Friday, May 12, 2023 for TEDxPortsmouth and Tuesday, May 16, 2023 for Primex3 Making Waves Summit (***Anticipated action – move to refer to the City Manager with Authority to Act***)

- E. Letter from Allan Scholtz, Portsmouth Professional Firefighters Local 1313, requesting permission to hold a boot drive for Muscular Dystrophy Association on Saturday, August 12, 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 Tom Taylor, Honored American Veterans Afield (HAVA), requesting permission to reserve space at the Prescott Park Dock on July 12, 2023 for event to promote awareness of veterans' mental health & suicide issue

### **XIV. MAYOR McEACHERN**

1. Reappointments to be Voted to the Cemetery Committee
  - Eva Boice
  - Celeste Brooks
  - Deirdre (Dee) Forte
  - Michael Griffin
  - Duncan MacCallum
  - Sue Polidura
  - Susan Sterry
2. Appointment to be Considered:
  - Peter Splaine to the Cemetery Committee
3. Acceptance of Resignations
  - Jason Huett from the Cable and Broadband Internet Commission (***Sample motion – move to accept with regret and to send a letter of thanks and appreciation for his service to the city***)
  - Dave McDonald from the Zoning Board of Adjustment (***Sample motion – move to accept with regret and to send a letter of thanks and appreciation for his service to the city***)

### **XV. CITY COUNCIL MEMBERS**

#### **A. COUNCILOR DENTON**

1. Climate Action Plan Event Flier

#### **B. COUNCILOR COOK**

1. Donation Policy (***Postponed from the April 3, 2023 City Council meeting***) (***Sample motion – move to adopt the amended policy as presented***)
2. \*Review and Recommend Changes to Parking Requirements in City Ordinance (***Sample motion – move to request a review by the Land Use and the Parking, Traffic & Safety Committees of the City parking requirements, and request a report back by the August 7<sup>th</sup> City Council meeting on recommendations that would increase housing affordability and reduce dependency on motor vehicles***)

**XVI. APPROVAL OF GRANTS/DONATIONS**

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

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

1. \*Pease Development Authority Update

**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:** April 27, 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 1, 2023

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

A. **Public Hearing and Second Reading of Ordinance Amending Chapter 10 – Accessory Dwelling Unit, Section 10.430 – 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 10.430 – 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 pass second reading and schedule a third and final reading at the May 15, 2023 City Council meeting.*

B. **Third and Final 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 third reading of the ordinance as presented.*

## *XI. City Manager’s Items Which Require Action:*

### **1. Report Back on Negotiated Sale Process and Fair Market Value for Acquisition of McIntyre Property:**

At the meeting of April 17, 2023, the City Council postponed until the meeting of May 1, 2023 consideration of whether to communicate to the General Services Administration (GSA) that the City is or is not interested in participating in a negotiated sale process. The City Council expressed its interest in particular in understanding more about the process and most importantly the likely acquisition price. Subsequent to the meeting, there have also been inquiries from some City Councilors about various scenarios relative to use of the property if acquired. [Attached is a memorandum](#) which includes information relative to the outstanding questions, contains updated information from the GSA, and opines on various scenarios.

Sample motions for the Council’s consideration are listed below:

- *To authorize the City Manager to communicate to the GSA that the City is not interested in participating in a negotiated sale process; or*
- *To authorize the City Manager to communicate to the GSA that the City is interested in participating in a negotiated sale process and is prepared to commit to taking the necessary procedural steps in the next ninety days to borrow the sum of up to \$25 million for the purchase price.*

### **2. 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](#).*

### **3. Resolution for the Authorization for Transfer of Balance of Bond Proceeds After Completion of the Project:**

I request that the City Council authorize the transfer of Bond Proceeds that are no longer needed for a project for which they were initially borrowed to pay the costs of another capital project in accordance with RSA 33:3-a (II). Please note that the project noted [in the attached resolution](#) is also listed below. Please note a 2/3 vote is required to authorize this transfer of bond proceeds.



<u>Original Project Description</u>	<u>Original Borrowing Amount</u>	<u>Approval Date</u>	<u>Unexpended Balance</u> are	<u>Allocate to Project</u>
Longmeadow Road Extension	\$400,000.00	08/06/18	\$263,783.61	DPW Fueling Station

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

4. **Month-to-Month South Meetinghouse Lease Agreement for Portsmouth Public Media, Inc. (PPMtv):**

In 2016, the City first entered into a lease with Portsmouth Public Media, Inc, (“PPMtv”) at the South Meetinghouse located at 280 Marcy Street. The original lease was for a five (5) year term. The lease has been extended twice and is due to expire on May 6, 2023.

With assistance from City representatives, PPMtv has been actively looking for a new location for many months. It has identified a few potential new locations, but it will take time to relocate. PPMtv is requesting approval of a month-to-month lease for a period not to exceed six months to allow it time to relocate.

Like many leases of the City’s historic properties, PPMtv is obligated to expend what it would otherwise be assessed as real estate taxes on capital improvements to the property. PPMtv will be making pro-rated investments/payments under the month-to-month agreement.

*I recommend that the City Council move to approve [the attached month-to-month lease](#) of the South Meeting House for PPMtv.*

5. **Bicycle Pedestrian Path Easement for Property Located at 2255 Lafayette Road:**

At its regularly scheduled meeting on Thursday, June 23, 2022, the Planning Board granted Site Plan Approval, a Wetlands Conditional Use Permit and a Conditional Use Permit to allow a drive-thru facility as an accessory use to Mastoran Restaurants Inc., property owners at 2255 Lafayette Road. This action permits the property owners to convert the former Burger King location into a retail fueling station and a convenience store/sandwich shop with a drive-thru window.

As a part of this approval, the Planning Board recommended the City Council accept a [Bicycle/Pedestrian Path Easement](#) from the property owners. The Bicycle Pedestrian Path easement is a part of the broader effort by the City to extend a bicycle pedestrian path along the extent of Route 1/Lafayette Road as properties are developed. The location of the easement is reflected on [the attached drawing](#).

The Planning and Legal Departments have reviewed the form of the easement and recommend the City Council accept this easement.

*I recommend that the City Council move to authorize the City Manager to accept and record a Bicycle/Pedestrian Path Easement in substantially similar form to the easement deed from Mastoran Restaurants, Inc. contained in the agenda packet.*



## *XII. Consent Agenda:*

### **A. Projecting Sign License – 15 Congress Street:**

Permission is being sought to install a projecting sign at [15 Congress Street](#) that extends over the public right of way, as follows:

Sign dimensions: 52” x 32”

Sign area: 11.5 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. *Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:*

- 1) The license shall be approved by the Legal Department as to content and form;*
- 2) Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and*
- 3) Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the signs, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.*

### **B. Projecting Sign License – 90 Fleet Street:**

Permission is being sought to install a projecting sign at [90 Fleet Street](#) that extends over the public right of way, as follows:

Sign dimensions: 42.5” x 37.25”

Sign area: 11 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. *Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:*

- 1) The license shall be approved by the Legal Department as to content and form;*
- 2) Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and*
- 3) Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the signs, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.*

C. **Projecting Sign License – 110 Brewery Lane:**

Permission is being sought to install a projecting sign at [110 Brewery Lane](#) that extends over the public right of way, as follows:

Sign dimensions: 36” x 36”

Sign area: 9 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. *Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:*

- 1) The license shall be approved by the Legal Department as to content and form;*
- 2) Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and*
- 3) Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the signs, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.*

***XVII. City Manager’s Informational Items:***

1. **Pease Development Authority Update:**

As a recently appointed member of the Pease Development Authority, I will plan to provide a verbal update following their most recent Board Meeting on April 20<sup>th</sup>.