

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, JUNE 5, 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\\_GquosmluQqyEGM2nmaFsVA](https://us06web.zoom.us/webinar/register/WN_GquosmluQqyEGM2nmaFsVA)

**6:15PM - 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. Juneteenth 2023 in Portsmouth

- VII. ACCEPTANCE OF MINUTES – MAY 8, 2023 AND MAY 15, 2023 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

### Adoption of Proposed Budget Resolutions:

- A. Adoption of Budget Resolutions for Fiscal Year July 1, 2023 through June 30, 2024 (FY24)
  - Resolution No. 9-2023 – Municipal Fees (*Sample motion – move to adopt Resolution #9-2023 – Municipal Fees*)
  - Resolution No. 10-2023 – General Fund Expenditures (*Sample motion – move to adopt Resolution #10-2023 – General Fund Expenditures*)

- Resolution No. 11-2023 – Water Fund Expenditures (***Sample motion – move to adopt Resolution #11-2023 - Water Fund Expenditures***)
- Resolution No. 12-2023 – Sewer Fund Expenditures (***Sample motion – move to adopt Resolution #12-2023 – Sewer Fund Expenditures***)
- Resolution No. 13-2023 – Special Revenues (Including American Rescue Plan Act (ARPA), Debt Service, Fund and Committed Fund Balances for Necessary Expenditures (***Sample motion – move to adopt Resolution #13-2023 – Special Revenues (Including American Rescue Plan Act (ARPA), Debt Service, Fund and Committee Fund Balance for Necessary Expenditures)***)
- Resolution No. 14-2023 – Investment Policy (***Sample motion – move to adopt Resolution #14-2023 - Investment Policy***)

***(Roll call votes are required for Adoption of each Resolution)***

First Reading of Ordinance:

- B. First reading of Ordinance amending Chapter 4, Article I – Food Licensing and Regulations, Section 4.101 – Adoption of the FDA 2022 Food Code, Section 4.102 – Amendments, Additions and Deletions to Food Code, Section 4.103 – Adoption of Specific Parts He-P 2300, as amended, and Section 4.107 – Term of License (***Sample motion – move to pass first reading and schedule a public hearing and second reading for June 20, 2023***)

**XI. CITY MANAGER’S ITEMS WHICH REQUIRE ACTION**

**A. CITY MANAGER CONARD**

**City Manager’s Items Which Require Action:**

1. Town of New Castle Sewer Agreement
2. Temporary Construction License for Lucky Thirteen Properties, LLC 147 Congress Street

**XII. CONSENT AGENDA**

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

- A. Request from James Nadeau, LandVest, to install a Projecting Sign at 56 State 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 Elizabeth Andrews, Market Square Jewelers, to install a Projecting Sign at 124 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**

C. Letter from Cristine More, Wentworth-Douglass Hospital, requesting permission to hold the 10<sup>th</sup> Annual Seacoast Cancer 5K Festivities at the Pease Tradeport on Saturday, September 23, 2023 and Sunday, September 24, 2023 **(Anticipated action – move to refer to the City Manager with Authority to Act)**

D. Letter from Mike Effenberger, Seacoast Jazz Society, requesting permission to hold a street performance in three locations – the Vaughan Mall stage, Market Square (by the North Church) and the open space area by the tugboats, for Jazz In The Street on 5 Saturdays this summer (July 1, 2023; July 7, 2023; July 28, 2023; August 5, 2023 and August 19, 2023) from 12:30 p.m. – 2:00 p.m. **(Anticipated action – move to refer to the City Manager with Authority to Act)**

**XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS**

A. Email Correspondence **(Sample motion – moved to accept and place on file)**

B. Letter from Sam Accardi, Yellow Fin Events LLC, requesting permission to hold the Bikes & Beers Cycling event with Cisco Brewers to benefit the Bike Walk Alliance of New Hampshire on Saturday, July 22, 2023 at the Pease Tradeport **(Sample motion – move to refer to the City Manager with Authority to Act)**

C. Letter from Valerie Rochon, Managing Director, Portsmouth NH 400<sup>th</sup>, Inc., requesting permission to install lawn signs on municipal property, primarily in gateway areas at the end of June and removed before snow falls as part of the PNH400’s overall marketing initiatives

#### **XIV. MAYOR McEACHERN**

1. Appointments to be Considered:
  - Appointment of Linnea Grim to the Arts and Nonprofits Committee, President & CEO of Strawberry Banke Museum Representative
  - Reappointment of Jessica Blasko to the Conservation Commission
  - Appointment of Adam Fitzpatrick to the Conservation Commission
  - Reappointment of Abigail Gindele to the Conservation Commission
  - Reappointment of Barbara McMillan to the Conservation Commission
  - Reappointment of Allison Tanner to the Conservation Commission
  - Reappointment of Lynn Vaccaro to the Conservation Commission
  - Appointment of Linnea Grim to the Prescott Park Master Plan Implementation Blue Ribbon Committee
2. \*Appointments to be Voted:
  - Reappointment of David Adams to the Historic District Commission
  - Reappointment of Peter Britz to the Rockingham Planning Commission
3. Resignation of Ernie Carrier from the Planning Board

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

##### **A. COUNCILOR TABOR**

1. \*Portsmouth Community Power launch: June statistics on enrollment and customer savings

##### **B. COUNCILOR MOREAU**

1. \*Report Back on Land Use Committee meeting of June 2, 2023

#### **XVI. APPROVAL OF GRANTS/DONATIONS**

- A. Acceptance of Donation to the Senior Activity Center from Service Credit Union to support refreshments for our Veterans Coffee Afternoons - \$1,200.00 (***Sample motion – move to approve and accept the donation as presented***)
- B. Acceptance of Donation to the Skateboard Park from Lisa Morse - \$1,000.00 (***Sample motion – move to approve and accept the donation 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:** June 1, 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 June 5, 2023

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

#### **A. Adoption of Proposed Budget Resolutions for Fiscal Year July 1, 2023 through June 30, 2024 (FY24):**

On Monday evening, I am requesting that the City Council adopt the proposed FY24 Budget (July 1, 2023 through June 30, 2024). For your review and action, there are six proposed Resolutions relative to the annual budget adoption:

- **Resolution No. 9-2023 – Municipal Fees** adopts Municipal Fees that have been recommended by the Fee Committee. The total revenue generated from these fees is estimated at \$2,111,600 or 1.5% of the total FY24 General Fund Revenues.
- **Resolution No. 10-2023 – General Fund Expenditures** for both the Operating and Non-Operating appropriations for a total of \$137,283,375.
- **Resolution No. 11-2023 – Water Fund Expenditures** establishes the annual appropriation, cash requirements and user rates for the Water Fund. The adoption of this resolution will include a two-step, inclining block rate structure for water usage. Also included is a three step, inclining block rate structure for metered irrigation water usage. This resolution reflects a 4.5% increase in water user rates. The irrigation water usage is not subject to sewer charges.
- **Resolution No. 12-2023 – Sewer Fund Expenditures** establishes the annual appropriation, cash requirements and user rates for the Sewer Fund. Sewer charges are based on water consumption. Similar to water, the adoption of this resolution will include a two-step, inclining block rate structure. This resolution reflects a 4.5% increase in sewer user rates.

- **Resolution No. 13-2023 – Special Revenues, Debt Service Fund and Committed Fund Balances for Necessary Expenditures** allows for the expenditure of Special Revenues including the use of American Rescue Plan Act (ARPA) funds, Debt Service Fund, and Committed Fund Balance. This allows the City to expend from donations, State and Federal Grants as they are accepted and received, pay principal and interest associated with Betterment Assessments from a Debt Service Fund, and expend from Committed Fund Balance.
- **Resolution No. 14-2023 – Investment Policy** deals with the adoption of an annual investment policy. State law requires the annual adoption of such a policy by every city and town.

I am requesting that the City Council move to adopt each Resolution separately by a roll call vote.

**B. First Reading of Ordinance Amending Chapter 4, Article I – Food Licensing and Regulations, Section 4.101 – Adoption of the FDA 2022 Food Code, Section 4.102 – Amendments, Additions and Deletions to Food Code, Section 4.103 – Adoption of Specific Parts He-P 2300, as Amended, and Section 4.107 – Term of License:**

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.

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 pass first reading and schedule a public hearing and second reading at the June 20<sup>th</sup> City Council meeting.*

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

### 1. **Town of New Castle Sewer Agreement:**

By letter dated May 8, 2023, the Town of New Castle requested that the City Council enter a 20-year wholesale, bulk sewer agreement with the Town. At the May 15, 2023 meeting, the City Council heard from both City staff and Town representatives on the proposed agreement, with a robust exchange of questions and answers. In response to the discussion, the Town of New Castle agreed to work with City staff to add additional language to the proposed agreement to reflect the concerns of the City Council. With that response, the City Council moved to request that the City Manager bring this agreement with changes back for action at the next City Council meeting. [Attached is an updated version of that agreement](#) with changes tracked for proposed action. Changes can be found on pages 1-4.

*I recommend that the City Council move to authorize the City Manager to accept all changes to the draft wholesale sewer agreement as proposed, to finalize and execute it.*

### 2. **Temporary Construction License for Lucky Thirteen Properties, LLC, 147 Congress Street:**

Lucky Thirteen Properties, LLC, ("Owner") is making improvements to property it owns at 147 Congress Street, shown on the City of Portsmouth's Assessor's Map as Tax Map 126, Lot 4 ("Property"). The Owner is constructing a 700 square foot addition to the building and front and rear canopies. The Owner has encumbered the sidewalks that abut the Property along Congress Street and Maplewood Avenue. The encumbrance permit expires on June 13, 2023 and in order to encumber the sidewalk beyond 30 days, a license approved by the City Council is required.

The Owner seeks to encumber the sidewalks that abut the Property to complete the project in two phases; 1,401 square feet of sidewalk along Maplewood Avenue for four months and 500 square feet of sidewalk along Congress Street for two months. Encumbrances for longer than 30 days are subject to the City Council's policy for encumbering city property entitled "License Fee for Encumbrance of City Property." Under this policy, a daily fee is calculated per square foot of encumbered sidewalk. The Owner seeks to encumber 1,401 square feet of the sidewalk that abuts the Property along Maplewood Avenue (License Area 1) for 4 months (June 14, 2023 through October 12, 2023, 121 days). The Owner has also requested to encumber License Area 2, 500 square feet of sidewalk in front of the Property along Congress Street for two months (June 19, 2023 through August 17, 2023, 60 days). The License Fee for License Area 1 is  $1,401 \times .05 = \$70.05$  per day  $\times 121$  days = \$8,476.05. The License Area for License Area 2 is  $500$  square feet  $\times .05$  per day = \$25 per day  $\times 60$  days = \$1,500. The total license fee for License Areas 1 and 2 is \$9,976.05.

Note that the [License Area in Exhibit A](#) also includes encumbering three parking spaces at the rear of the building in the Worth Lot. These spaces are currently reserved exclusively for the Owner's use per separate agreement with the City and therefore do not require a license.

In addition, the Owner has worked with the Department of Public Works to ensure appropriate signage is posted to redirect pedestrians when the sidewalks are closed during the term of this License.

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 Congress Street and Maplewood Avenue for property located at 147 Congress Street, an appropriate motion would be:

*Move that the City Manager be authorized to execute and accept the temporary construction license to encumber the sidewalks along Congress Street and Maplewood Avenue that abut 147 Congress Street as requested.*

## ***XII. Consent Agenda:***

### **A. Projecting Sign License – 56 State Street:**

Permission is being sought to install a projecting sign at [56 State Street](#) that extends over the public right of way, as follows:

Sign dimensions: 16” x 30”

Sign area: 3.3 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 – 124 Congress Street:**

Permission is being sought to install a projecting sign at [124 Congress Street](#) that extends over the public right of way, as follows:

Sign dimensions: 24" x 21.66"

Sign area: 3.6 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.*

***XVI. Approval of Grants/Donations:***

**A. Acceptance of Donation for the Senior Activity Center - \$1,200:**

[Attached please find a donation from Service Credit Union](#) for the weekly Veterans Coffee at the Senior Activity Center in the amount of \$1,200.

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

**B. Acceptance of Donation for the Skateboard Park - \$1,000:**

[Attached please find a donation from Lisa Morse](#) for the Skateboard Park in the amount of \$1,000.

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

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

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