

CITY COUNCIL MEETING

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

DATE: MONDAY, DECEMBER 18, 2023

TIME: 7:00PM

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_irHHP6D8T-uuQIkUWGih_w

AGENDA

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

I. WORK SESSION

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



PORTSMOUTH HIGH SCHOOL HOLIDAY ENSEMBLE PERFORMANCE



PROCLAMATION

1. Jessica's Law Awareness in Portsmouth

VII. **ACCEPTANCE OF MINUTES – SEPTEMBER 18, 2023; OCTOBER 2, 2023 AND OCTOBER 16, 2023**

VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**

1. *Recognition of the efforts of Portsmouth NH 400th LLC, and its Managing Director Valerie Rochon

2. *Report of the Achievements of the 2021-2023 Arts and Nonprofits Committee

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 Ordinance and Resolutions:

A. Public Hearing/Second Reading of Ordinance amending Chapter 1, Article IV – Commission and Authorities – Public Art Review Committee (***Sample motions – a) move to pass second reading and suspend the rules to take up third and final reading, and b) move to pass third and final reading of the ordinance***)

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

B. Public Hearing/Adoption of Resolution on a Supplemental Appropriation from Unassigned Fund Balance of \$450,000.00 for Outside Counsel Legal Fees
(Sample motion – move to adopt the Resolution as presented)

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

XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager's Items Which Require Action:

1. Temporary Construction License for 70 Maplewood Avenue
2. Lease Extension for Community Campus Tenants
3. Revocable License for 320 Union Street
4. Polling Hours for 2024 Presidential Primary Election
5. Drainage Easement for Property Located at 700 Peverly Hill Road
6. Access Easement for 201 Kearsarge Way

XII. CONSENT AGENDA

- A. Letter from Jennie Halstead, My Breast Cancer Support, requesting permission to hold the 15th Annual Celebrate Pink 5k Walk & Run on Sunday, September 22, 2024
(Anticipated action – move to refer to the City Manager with Authority to Act)
- B. Letter from John Mortimer, Millennium Running, requesting permission to hold the St. Paddy's 5k/10k on Sunday, March 10, 2024
(Anticipated action – move to refer to the City Manager with Authority to Act)
- C. Letter from Cullen Madden, Millennium Running, requesting permission to hold the Eastern States 20 Miler & Half Marathon on Sunday, March 17, 2024
(Anticipated action – move to refer to the City Manager with Authority to Act)
- D. Letter from John Mortimer, Millennium Running, requesting permission to hold the 2024 Restore New Castle 10k on Sunday, April 28, 2024
(Anticipated action – move to refer to the City Manager with Authority to Act)

- E. Letter from Rob Cimini, Greenleaf Rec Center Teens Program, requesting permission to hold the Greenleaf Rec Challenge on Saturday, May 11, 2024 (***Anticipated action – move to refer to the City Manager with Authority to Act***)

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- A. *Presentation regarding Portsmouth 2123 Time Capsule – James Splaine & Robert Lister
B. Email Correspondence (***Sample motion – move to accept and place on file***)

XIV. MAYOR McEACHERN

1. Resignation – Richard Adams from the Trees and Public Greenery Committee effective December 31, 2023
2. *Appointments to be Voted:
 - Stephen Buzzell to the Cemetery Committee
 - Kelly DeCourcy to the Citizen Advisory Committee
 - Susan Durling to the Citizen Advisory Committee
 - Alice Carey to the Conservation Commission
 - Maria Peppas to the Library Board of Trustees
 - Tyler McLaughlin to the Library Board of Trustees
 - Rick Chellman to the Planning Board
 - Paul Giuliano to the Planning Board
 - Peter Weeks to the Trustees of the Trust Fund
 - Emma Stratton to the Arts & Cultural Commission
 - Courtney Perkins to the Arts & Cultural Commission
 - Karen Rosania to the Arts & Cultural Commission
 - Robin Albert Lehman to the Arts & Cultural Commission
 - Linnea Grim to the Arts and Cultural Commission
 - John Elias “Eli” Kaynor to the Arts and Cultural Commission
 - Kenneth Goldman to the Arts and Cultural Commission
 - Jason Goodrich to the Arts and Cultural Commission
 - Genevieve Aichele to the Arts and Cultural Commission
 - Jeffrey Cooper to the Arts and Cultural Commission
 - Catherine Saarela to the Arts and Cultural Commission
 - Theresa MacDowell to the Arts and Cultural Commission
 - Lennie Mullaney to the Public Art Review Commission
3. *Holiday Lights Contest Winners

XV. CITY COUNCIL MEMBERS

A. COUNCILOR DENTON & COUNCILOR BLALOCK

1. HDC Solar Energy Panel Amendment – (***Intent to hold First Reading on Tuesday, January 16, 2024, to amend Article IV: Commissions and Authorities, Section 1.403: Historic District Commission, C. Powers and Duties, by adding the following sentence at the end of paragraph 1: “The review of solar energy panels is not within the purview of the Historic District Commission’s powers and duties.”***)

B. COUNCILOR COOK

1. Governance Committee Year-End Update

XVI. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation to the Fire Department from Brian & Suzanne Engelhardt - \$100.00 to be used at the department's discretion (***Sample motion – moved to accept and approve the donation to the Fire Department in the amount of \$100.00 to be used at the departments discretion***)
- B. Acceptance of Donation to the Fire Department from Paul Gormley & Kimi Iguchi - \$2,500.00 to be used at the department's discretion (***Sample motion – move to accept and approve the donation to the Fire Department in the amount of \$2,500.00 to be used at the departments discretion***)
- C. Acceptance of Moose License Plate Conservation Grant - \$9,695.80 (***Sample motion – move to accept and approve the Moose License Plate Conservation Grant as presented***)
- D. Acceptance of Grant to Fire Department from the Department of Safety, Division of Fire Standards & Training and EMS - \$16,575.00 (***Sample motion – move to accept and approve the grant as presented***)

VII. CITY MANAGER'S INFORMATIONAL ITEMS

1. Report Back on the Demolition Ordinance
2. Parking Signs for the McIntyre Lot

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: December 14, 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 December 18, 2023

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

A. Public Hearing and Second Reading of Ordinance Amending Chapter 1, Article IV – Commission and Authorities – Public Art Review Committee:

Attached please find an ordinance amending Chapter 1, Article IV – Commission and Authorities – Public Art Review Committee.

I recommend that the City Council move to pass second reading and suspend the rules to take up third and final reading, and move to pass third and final reading as presented.

B. Public Hearing and Adoption of Resolution of a Supplemental Appropriation from Unassigned Fund Balance for \$450,000 for Outside Counsel Legal Fees:

Attached please find a Resolution in the amount of \$450,000 for outside Counsel legal fees.

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

XI. City Manager's Items Which Require Action:

1. Temporary Construction License for 70 Maplewood Avenue:

EightKph, LLC, ("Owner") is making improvements to property it owns at 70 Maplewood Avenue, shown on the City of Portsmouth's Assessor's Map as Tax Map 125, Lot 17-3 ("Property"). The Owner is constructing a 4-story mixed-use building with a penthouse, commercial space and 14 residential units. To construct the foundation, install conduit under the sidewalk and maintain safe buffer zones for the public, *the Owner is seeking a license to encumber the sidewalks that abut the Property along Maplewood Avenue and Deer Street.* The Owner currently has an encumbrance permit to encumber the sidewalks that will expire on January 10, 2023 (ENCM 23-88). The requested term of the license is approximately 180 days, from January 11, 2024 through July 8, 2024.

Encumbrances for longer than 30 days are subject to the City Council’s policy entitled “License Fee for Encumbrance of City Property.” Under this policy, a daily fee of \$0.05 per square foot of encumbered city property would be assessed for 1,722 square feet of sidewalk for a fee of \$86.10 per day x 180 days for a total license fee of \$15,498.

The License Area is depicted in yellow in the Exhibit attached to EightKph, LLC’s letter requesting the license. This Exhibit will be incorporated as Exhibit A to the license. Note that the sidewalks will not have pass-through staging. The Owner has worked with the Department of Public Works to locate and stripe temporary pedestrian crosswalks along Maplewood Avenue and Deer Street as depicted in the Exhibit in orange. The Owner will ensure appropriate signage is posted to redirect pedestrians when the sidewalk is closed.

The Legal, Planning and Public Works Departments have reviewed and approved the form of the attached License.

If the Council agrees to grant the temporary construction license to encumber the sidewalks along Maplewood Avenue and Deer Street for property located at 70 Maplewood Avenue, 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 Maplewood Avenue and Deer Street that abut 70 Maplewood Avenue as requested.

2. Lease Extension for Community Campus Tenants:

The City purchased the Community Campus, property located at 100 Campus Drive, Portsmouth, New Hampshire (“Property” or “Community Campus”) on March 14, 2022 from The Foundation for Seacoast Health (“Foundation”). As was required by the terms of the Purchase and Sales Agreement, the Foundation assigned its interest in its leases with all tenants of Community Campus to the City by entering into an Assignment and Assumption Agreement on March 14, 2022. At the time of the Assignment, there were five tenants at Community Campus, of which four remain: Child Advocacy Center of Rockingham County, Inc., (“CAC”); Krempels Center; Seacoast Outright and The Community Daycare Center, Inc., d/b/a Seacoast Community School (“Community School”).

Under the Lease Agreements, the term for all tenants, except the Community School, expires on December 31, 2023. The City, and the above referenced three tenants, wish to extend the term of the existing Lease Agreements for six (6) months from January 1, 2024 through June 30, 2024 by entering into an Amendment to Lease Agreements. An Amendment for each tenant is attached for Council consideration. Please note that there is only one copy of the original Lease Agreement for CAC attached as the Lease Agreements for the other tenants are similar in format. The attached Amendments only amend the term and all other terms and conditions of the Lease Agreements will remain in full force and effect.

It is beneficial to the City and the tenants to extend the term of the existing Lease Agreements for six (6) months for several reasons. On August 21, 2023, the City Council passed a resolution to use ARPA funds for costs associated with capital improvements to Community Campus. Some of those capital improvements will include reconfiguring the tenants' leased space. Extending the existing Lease Agreements for six months will give the City and its tenants time to assess their needs and finalize the plans for the reconfigured leased space. After the plans are finalized, the City and the tenants will enter into new Lease Agreements. The six-month extension will also make the new Lease Agreements correspond to the City's fiscal cycle (July 1- June 30), as well as the fiscal cycle for the non-profits.

I recommend the City Council move to accept the Amendments to the Lease Agreement(s) with the Child Advocacy Center of Rockingham County, Inc., the Krempels Center and Seacoast Outright to extend the terms through June 30, 2024 as presented.

3. Revocable License for 320 Union Street:

320 Union Realty, LLC, is the owner of property located at 320 Union Street, Tax Map 134, Lot 34 ("Owner"). The Owner proposes to reface an existing retaining wall and to construct a new retaining wall along the border of its property which abuts Union Street. After review of the deed and the City's GIS data, it appears a portion of these retaining walls lie outside the property's boundaries and are within the City's right-of-way (Union Street sidewalk).

The Planning, Public Works and Legal Departments have reviewed the Owner's request (as presented in its building permit BLDG 23- 642) and would support the granting of a revocable license allowing the Owner to reface the existing retaining wall and to construct a new retaining wall consistent with plans submitted with BLDG 23- 642. [Attached as Exhibit A is a proposed Revocable License](#) which will allow the Owner to reface and construct these retaining walls, be responsible for any liability associated with these walls and to remove them if required by the City. [See attached Plans as Exhibit B.](#)

I recommend that the City Council move to authorize the City Manager to execute and deliver a Revocable License allowing the Owner of 320 Union Street to reface their existing retaining wall and construct a new retaining wall on City property.

4. Polling Hours for 2024 Presidential Primary Election:

[Please find attached a memorandum from City Clerk Barnaby](#) requesting polling hours be established for the Presidential Primary Election on January 23, 2024.

I recommend that the City Council move to establish polling hours for the Presidential Primary Election on January 23, 2024 from 8:00 a.m. to 7:00 p.m. as presented by the City Clerk.

5. **Drainage Easement for Property Located at 700 Peverly Hill Road:**

At its regularly scheduled meeting on September 21, 2023, the Planning Board granted a site plan approval to JMK Realty, LLC for the construction of a 3,385 square foot addition to an existing commercial structure along with associated site improvements at 700 Peverly Hill Road. As a part of this vote, the Planning Board recommended the City accept a drainage easement from the property owner so the private drainage system over the property can accept City stormwater from existing City stormwater infrastructure.

The location of this drainage easement is depicted on [the enclosed drawing](#), prepared by Public Works. The City will have the right, but not the obligation, to maintain this infrastructure at the private property owner's expense. Construction and ongoing maintenance of this drainage infrastructure will be the responsibility of the private property owner. The Planning and Legal Departments have reviewed this easement for form, and [the draft negotiated with the property owners is included in the council packet](#).

I recommend that the City Council move to authorize the City Manager to accept and record a drainage easement from JMK Realty, LLC in substantially similar form to the easement provided in the agenda packet.

6. **Access Easement for 201 Kearsarge Way:**

At its regularly scheduled meeting on October 26, 2023, the Planning Board granted amended subdivision approval for a three-lot subdivision to Richard P. Fusegni for property located at 201 Kearsarge Way. As a part of this vote, the Planning Board recommended the City accept an access easement over a portion only of a private driveway for public access and turnaround off Birch Street, a 40', dead-end public right of way.

The location of this drainage easement is depicted on [the enclosed drawing](#), prepared by Public Works. The Planning and Legal Departments have reviewed this easement for form, and [the draft negotiated with the property owners is included in the Council packet](#).

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

XIII. Presentations and Written Communications:

A. **Presentation Regarding Portsmouth 2123 Time Capsule:**

Former Mayor Bob Lister and former Assistant Mayor Jim Splaine will provide a brief presentation on Portsmouth's 2123 Time Capsule project at this evening's meeting.

XVI. Approval of Grants/Donations:

A. **Acceptance of Donation to the Fire Department from Brian and Suzanne Engelhardt-\$100:**

Attached please find a donation form outlining a donation to the Fire Department from Brian and Suzanne Engelhardt in the amount of \$100.

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

B. **Acceptance of Donation to the Fire Department from Paul Gormley and Kimi Iguchi-\$2,500:**

Attached please find a donation form outlining a donation to the Fire Department from Paul Gormley and Kimi Iguchi in the amount of \$2,500.

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

C. **Acceptance of Moose License Plate Conservation Grant - \$9,695.80:**

The Finance Department is pleased to announce that the City of Portsmouth has been awarded one of the FY2023/2024 Moose License Plate Conservation Grants from the New Hampshire State Library in the amount of \$9,695.80 for the conservation project Preservation, Microfilming and Digitalization of Three Portsmouth Taxation Documents Dated 1909-1911. These monies will help preserve legally required and historically significant documents held by the Finance Department that initially were intended to be financed through the City's Capital Improvement Program.

The New Hampshire State Library's (NHSL) FY2023/2024 Conservation License Plate Grant Program is designed to help municipalities as well as other public organizations preserve their historic documents. The NHSL Grant awards up to \$10,000 to applicants to conserve publicly owned documents. The program aims to aid in the preservation of New Hampshire's historic manuscripts as well as increase their availability to the public. The Grant requires that these documents not only be professionally preserved, but also scanned to preserve microfilm as well as digitized documents.

This is the seventh Moose License Plate Conservation Grant awarded to the City for a total of \$65,473.80. In FY23, the City was awarded a grant for \$9,682 to preserve five historic documents dated 1881-1888. The City is grateful to receive this grant which will increase resident access to historic City documents, as well as offset capital dollars needed to complete this required work.

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

D. Acceptance of a Grant to the Fire Department from the Department of Safety, Division of Fire Standards, Training and EMS - \$16,575:

At the recent Fire Commission meeting, the Board of Fire Commissioners voted unanimously to accept the New Hampshire Department of Safety, Division of Fire Standards and Training and Emergency Medical Services Grant application for Trench Rescue Technician and Confined Space Rescue Technician trainings in the amount of \$16,575.

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

XVII. City Manager's Informational Items:

1. Report Back on the Demolition Ordinance:

At the request of the City Council at their October 16, 2023 meeting, [please find attached a report back on the City's Demolition Ordinance](#), along with a [memorandum dated November 15, 2023 from Deputy City Attorney McCourt to Chairperson Eldridge of the Zoning Board of Adjustment](#).

2. Parking Signs for the McIntyre Lot:

Please find attached [a report back regarding parking signage as it relates to the McIntyre Lot](#), which was requested at the December 4th City Council meeting.