

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, MAY 20, 2024 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

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AGENDA

I. 6:00PM - WORK SESSION – COMMUNITY POLICING FACILITY

Members of the public also have the option to join the work session 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

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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 – *(There are no minutes on for acceptance this evening)*

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

1. *Presentation – Energy Advisory Committee

IX. PUBLIC COMMENT SESSION *(This session shall not exceed 45 minutes) – (participation may be in person or via Zoom)*

X. PUBLIC HEARING AND VOTE ON ORDINANCES AND/OR RESOLUTIONS

First Reading of Ordinance:

- A. First Reading of Ordinance amending Chapter 10, Article 4, Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, Section 19.22 and Article 15, Section 10.1530, Terms of General Applicability, regarding Home Occupation *(Sample Motion – move to pass first reading of the proposed amendments regarding home occupation and to schedule a public hearing and second reading at the June 17, 2024 City Council meeting.)*

XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager's Items Which Require Action:

1. Water Service Access Easement for Property Located at 686 Maplewood Avenue ***(Sample motion – move to authorize the City Manager to accept and record a Water Service Access Easement Deed in substantially similar form to the easement deed from Chinburg Development, LLC contained in the agenda packet)***
2. Water Service Access Easement for Property Located at 1155 Sagamore Avenue ***(Sample motion – move to authorize the City Manager to accept and record a Water Service Access Easement Deed in substantially similar form to the easement deed from 1155 Sagamore Avenue CBC, LLC contained in the agenda packet)***
3. Sidewalk Easement for Property Located at 212 Woodbury Avenue ***(Sample motion – move to authorize the City Manager to accept and record a Sidewalk Easement Deed in substantially similar form to the easement deed from Chinburg Development, LLC contained in the agenda packet)***
4. Release of Sewer Easement and Acceptance of City Property Located at 2 Russell Street ***(Sample motion – move to authorize the City Manager to execute and record a release of the 1936 sewer easement and accept and record the fee interest in three parcels, all as shown on the drawing included in the City Council packet. These conveyances are subject to the following conditions:***
 - (1) Property owner will provide deeds to the City in a form acceptable to the Legal Department; and***
 - (2) Property owner will provide adequate evidence of title in a form acceptable to the Legal Department)***

XII. CONSENT AGENDA

- A. Request from Mark McNabb, Hearth Market, LLC, to install a Projecting Sign at 60 Penhallow 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. Letter from Bryan Curley, Pack & Boots 5K Road Race, requesting permission to hold the 2024 Veterans Count 5K Road Race, Sunday, September 22, 2024 (***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 Meganne Fabrega, Library Board of Trustee member, regarding Library Budget (***Sample motion – move to accept and place on file***)

XIV. MAYOR McEACHERN

1. Responses Received from Neighboring Communities re: Affordable Housing
2. Appointments to be Considered:
 - Appointment of Amy-Mae Court to Recreation Board
3. Acceptance of Resignation:
 - Robert Bogardus from the Recreation Board
4. *Appointments to be Voted:
 - Reappointment of Luis Rodriguez to the Cable and Broadband Internet Commission
 - Reappointment of Stewart Sheppard to the Conservation Commission
 - Reappointment of Daniel Brown to the Historic District Commission
 - Reappointment of Michael Griffin to the Trees & Public Greenery
 - Reappointment of Dennis Souto to the Trees & Public Greenery

XV. CITY COUNCIL MEMBERS

A. COUNCILOR TABOR

1. Renewable Power for City Wastewater Treatment Plants (***Sample Motion – Move that the city engage the National Renewable Energy Lab under the Clean Energies to Communities program to do a feasibility analysis and provide funding options for wind and/or solar power at the city's two wastewater treatment plants, at no cost.***)

B. COUNCILOR COOK AND COUNCILOR BAGLEY

1. *Report back on changing zoning to permit overnight parking in commercial lots at owners' discretion

C. COUNCILOR DENTON

1. Memorial Day events

D. COUNCILOR BAGLEY

1. Parking & Traffic Safety Committee Action Sheet and Minutes of May 2, 2024 (***Sample motion – move to approve and accept the action sheet and minutes of the May 2, 2024 Parking & Traffic Safety Committee meeting***)

XVI. APPROVAL OF GRANTS/DONATIONS

1. *Acceptance of Community Development Block Grant in the amount of \$527,797.00 from the U.S. Department of Housing and Urban Development. (***Sample motion – move to accept and expend a Community Development Block Grant in the amount of \$527,797.00 from the U.S. Department of Housing and Urban Development***)

XVII. CITY MANAGER'S INFORMATIONAL ITEMS

1. *Sherburne School Disposition Update
2. Fiscal Year 2025 Draft Budget Resolutions

X VIII. 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**



Karen S. Conard
City Manager

CITY OF PORTSMOUTH

City Hall, One Junkins Avenue
Portsmouth, New Hampshire 03801
kconard@cityofportsmouth.com
(603) 610-7201

Date: May 16, 2024

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 20, 2024

X. Public Hearing and Vote on Ordinances and/or Resolutions:

A. **First Reading of Ordinance Amending Chapter 10, Article 4, Section 10.440 Table of Uses – Residential, Business and Industrial Districts, Section 19.22 and Article 15, Section 10.1530, Terms of General Applicability, regarding Home Occupation:**

At the April 25, 2024 meeting, the Planning Board held a public hearing on zoning amendments related to home occupation after a referral from City Council on February 20th.

The Master Plan speaks to expanding the opportunities for home-based businesses. This trend was realized in the Master Plan and became more prevalent during the pandemic. Goal 3.1.3 below appears in several sections of the Master Plan with the goal of enhancing economic development, enriching the urban and suburban neighborhoods, and to encourage the creative use of existing housing stock.

The initial amendment allowed up to two (2) clients at one time for a home occupation, 1 or 2. This would allow, for example, someone to teach art or give music lessons as a home occupation and have clients come to their house.

The Planning Board held a public hearing and heard from several members of the public in favor of any changes that would allow client visitation for a home occupation. The Planning Board added language to allow up to six (6) clients to a home occupation 2, and to change the use tables where a Special Exception is currently required to a Conditional Use Permit.

The Planning Board voted to recommend that the City Council hold first reading on the zoning amendments for home occupation as presented.

At the May 6, 2024 meeting, the Council voted to schedule first reading of the [proposed amendments](#) regarding home occupation for the May 20, 2024 meeting.

I recommend the City Council move to pass first reading of the proposed zoning amendments regarding home occupation and to schedule a public hearing and second reading at the June 17, 2024 City Council meeting.

XI. City Manager's Items Which Require Action:

1. Water Service Access Easement for Property Located at 686 Maplewood Avenue:

At its regularly scheduled meeting on February 15, 2024, the Planning Board granted Site Plan Review approval and a Conditional Use Permit for development within the Highway Noise Overlay District for the construction of a six-unit, single family residential condominium with associated infrastructure to be located at 686 Maplewood Avenue. As a part of the site plan approval, the Planning Board recommended the City Council accept a Water Service Access Easement over the parcel. This Water Service Access Easement will permit City staff to access the property for the purpose of leak detection and to turn valves in the case of an emergency.

Approvals were granted to the Islamic Society of the Seacoast Area, which has since sold the parcel to Chinburg Development, LLC. The applicants have provided the [attached deed](#) which conforms with the City's ordinary form for water service access easements. The Legal and Planning Departments have reviewed this document for form and recommend acceptance.

I recommend that the City Council authorize the City Manager to accept and record a Water Service Access Easement Deed in substantially similar form to the easement deed from Chinburg Development, LLC contained in the agenda packet.

2. Water Service Access Easement for Property Located at 1155 Sagamore Avenue:

At its regularly scheduled meeting on December 21, 2023, the Planning Board granted Site Plan Review approval for the demolition of an existing structure and the construction of a four-unit, residential condominium with associated infrastructure to be located at 1155 Sagamore Avenue. As a part of the site plan approval, the Planning Board recommended the City Council accept a Water Service Access Easement over the parcel. This Water Service Access Easement will permit City staff to access the property for the purpose of leak detection and to turn valves in the case of an emergency.

Approvals were granted to Maureen Oakman and Michael Valinski, who have since sold the parcel to 1155 Sagamore Avenue CBC, LLC. The applicants have provided the [attached deed](#) which conforms with the City's ordinary form for water service access easements. The Legal and Planning Departments have reviewed this document for form and recommend acceptance.

I recommend that the City Council authorize the City Manager to accept and record a Water Service Access Easement Deed in substantially similar form to the easement deed from 1155 Sagamore Avenue CBC, LLC contained in the agenda packet.

3. **Sidewalk Easement for Property located at 212 Woodbury Avenue:**

At its regularly scheduled meeting on April 20, 2023, the Planning Board granted preliminary and final subdivision approval for a lot relocation plan and site plan approval for the construction of an eight-unit condominium development with associated infrastructure to be located at 212 Woodbury Avenue. Following approval and the start of construction, it was discovered that a portion of the public sidewalk which was to be constructed by the applicant within the public right of way needed to be relocated to private property. This relocation was memorialized in amended site plan approval.

The Planning Board granted its original approval to Maple Heights Realty, LLC, who then conveyed the property to Chinburg Development, LLC.

The sidewalk easement area is depicted on the [attached drawing](#). The applicants have provided the [attached deed](#) which conforms with the City's ordinary form for sidewalk easements. The Legal and Planning Departments have reviewed this document for form and recommend acceptance.

I recommend that the City Council authorize the City Manager to accept and record a Sidewalk Easement Deed in substantially similar form to the easement deed from Chinburg Development, LLC contained in the agenda packet.

4. **Release of Sewer Easement and Acceptance of City Property Located at 2 Russell Street:**

At its regularly scheduled meeting on December 15, 2022, the Planning Board granted lot line revision approval to adjust boundary lines on three lots collectively located at 2 Russell Street to Port Harbor Land, LLC. As a part of the lot line adjustment approval, the Planning Board recommended the City Council release an existing sewer line easement and to accept three separate parcels of land which will facilitate the realignment of the intersections of Russell Street and Deer Street, and Russell Street and Market Street.

These conveyances are shown on the [attached drawing](#). The existing sewer easement to be released was granted to the City in 1936. The sewer line has since been relocated and a new easement granted, which is also shown on the attached drawing.

The text of each of these deeds are not included in the City Council packet as the specific terms are still being finalized by the property owner. The underlying approval will expire on June 15, 2024, and therefore the Legal Department requests the City Council approve the release of the 1936 sewer line easement and accept the three additions to the public right of way subject to the property owner (1) providing deeds to the City in a form

acceptable to the Legal Department and (2) providing adequate evidence of title in a form acceptable to the Legal Department.

I recommend that the City Council authorize the City Manager to execute and record a release of the 1936 sewer easement and accept and record the fee interest in three parcels, all as shown on the drawing included in the City Council packet. These conveyances are subject to the following conditions:

- (1) Property owner will provide deeds to the City in a form acceptable to the Legal Department and;*
- (2) Property owner will provide adequate evidence of title in a form acceptable to the Legal Department.*

XII. Consent Agenda:

A. Projecting Sign for 60 Penhallow Street:

Permission is being sought to install four projecting signs at [60 Penhallow Street](#) that extend over the public right of way, as follows:

Two signs as follows:

Sign dimensions: 42” diameter per sign

Sign area: 9.6 sq. ft. per sign

Third sign as follows: Sign dimensions: 36” diameter Sign area: 7.1 sq. ft.

Fourth sign as follows:

Sign dimensions: 2’ 2 ¾” x 5’ 4 ½” Sign area: 12 sq. ft.

The proposed signs comply 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 signs, 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:

1. **Acceptance of Community Development Block Grant Funds:**

The U.S. Department of Housing and Urban Development (HUD) has informed the City that a Community Development Block Grant (CDBG) in the amount of \$527,797, which is a decrease of \$1,749 from the current fiscal year, will be made available to Portsmouth for FY 2025. The grant funds are awarded annually and are used to carry out a variety of social services, public facility/infrastructure improvements, accessibility projects, and other CDBG-eligible projects targeted to benefit low-income populations in the City.

Note that the slight decrease in the funding award is a result of a decrease in congressional budget allocation for the CDBG program overall at the federal level and not a reflection of the City's performance.

I recommend that the City Council move to accept and expend a Community Development Block Grant in the amount of \$527,797 from the U.S. Department of Housing and Urban Development.

XVII. City Manager's Informational Items:

1. **Sherburne School Disposition Update:**

Enhancing the supply of housing choices is an important goal of the City Council in the coming year. In consideration of this priority and following the recommendation of the Housing Blue Ribbon Committee, a Request for Qualifications (RFQ) has been issued for the creation of permanent, below market rate housing on the municipal property located at 35 Sherburne Road. This RFQ seeks Letters of Interest with Statements of Qualifications from real estate development entities regarding their capacity to design and construct a project at this site. Responses will be accepted no later than 1 pm on June 7, 2024.

Additional information may be found on the City of Portsmouth website at: <https://www.cityofportsmouth.com/planportsmouth/housing/sherburne-school>.

2. **Fiscal Year 2025 Budget Resolutions:**

On June 3, 2024, as part of the adoption of the Fiscal Year 2025 budget, the City Council must adopt six (6) resolutions. [A pro forma or draft of each resolution is attached](#) for informational purposes in advance of action at the June 3, 2024 City Council Meeting. These draft resolutions will be adjusted as may be required by City Council action at the time of budget adoption.

Resolution No. 5-2024 adopts [Municipal Fees](#) that have been recommended by the Fee Committee. Councilors Tabor, Denton and Moreau sit on the Fee Committee.

The total revenue generated from these fees is estimated at \$2,474,600 and makes up approximately 1.7% of the total FY25 General Fund Revenues. These fees and recommendations for changes are also found in Appendix III of the budget document. Changes to any fees for FY25 are highlighted in gray.

Resolution No. 6-2024 is pertinent to General Fund expenditures. In this Resolution, the proposed appropriations for General Government, Police, Fire, School, Collective Bargaining, Transfer to Indoor Pool, Prescott Park, and Community Campus, as well as non-operating appropriations are listed separately.

Resolution No. 7-2024 is for the Water Fund. Likewise with the Sewer Fund, the Water Fund is an Enterprise Fund and as such the budget must be prepared based on a full accrual basis of accounting and in order to establish user rates, this Resolution includes the cash requirements necessary to fund expenses for the operations of the water system.

Resolution No. 8-2024 is for the Sewer Fund. Because the Sewer Fund is an Enterprise Fund, the budget must be prepared based on a full accrual basis of accounting and in order to establish user rates, the resolution includes the cash requirements necessary to fund expenses for the operations of the sewer system.

Resolution No. 9-2024 allows for the expenditure of Special Revenues funds, the Debt Service Fund associated with Betterment Assessments, the Housing Endowment Trust, and expenditures from Committed Fund Balance such as Leave at Termination and the Health Insurance Stabilization Fund. Special Revenues Funds are sums received to pay for specific purposes such as federal (including ARPA) funds, and State Grants and donations. Prior to spending these funds, grants and donations are accepted by the City Council.

Resolution No. 10-2024 allows for the adoption of an annual investment policy which by State statute is required annually by every city and town. The policy sets forth cash management and investment procedures. By state law, municipal money can only be invested in 100% collateralized vehicles such as Certificates of Deposit (CDs), money markets and Treasury notes.