

Revised Agenda to add Councilor Bagley to Councilor Cook's item regarding Meeting Notices via SMS/Email and Councilor Cook's item regarding Rule 30 Amendment is under her name only.

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: TUESDAY, JANUARY 16, 2024 TIME: 6:00PM

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_XU-SZphjT6CNY-x3k8yxBA

6:45 PM – ANTICIPATED NON-PUBLIC SESSION IS 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. **6:00PM - WORK SESSION – 2023 AUDIT RESULTS, MATT HUNT, CLA**
Zoom link: https://us06web.zoom.us/webinar/register/WN_abGZOi-AQMxCBx1fGngnkuw
- 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**

PRESENTATIONS

1. Portsmouth High School Football Team – Celebration of their Season
2. Holiday Light Contest Winners

PROCLAMATIONS

1. Harold Whitehouse
2. Stalking Awareness Month

VII. **ACCEPTANCE OF MINUTES – NOVEMBER 9, 2023; NOVEMBER 13, 2023; NOVEMBER 20, 2023 AND DECEMBER 4, 2023**

VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**

1. Safe Water Advisory Group (SWAG) (*no presentation*)

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 6, License, Article XVII – Outdoor Dining Encumbrance Permit, Section 6.1701- 6.1707 (*Sample motion – move to pass first reading and schedule a public hearing and second reading at the February 5, 2024 City Council meeting to amend Chapter 6, Licenses, Article XVII, Outdoor Dining Encumbrance Permit, Sections 6.1701 – 6.1707*)

XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager's Items Which Require Action:

1. Confirmation of City Council Goals
2. Proposed Amendment Relative to Solar Panels
3. Adoption of Legislative Principles
4. Revocable License for Arcadis U.S., Inc. for Property Located at 124 Bartlett Street
5. *City Council and Planning Board Joint Listening Session – Places to Live Study Circle Dialogue Report Out

XII. CONSENT AGENDA

- A. Request from Chet Schrader, Rounders Brewing Company d/b/a Lithermans Brewing Company, to install a Projecting Sign at 103 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. Letter from Maria Stephanou of Alzheimer's Association requesting to hold 2024 Annual Seacoast Walk to End Alzheimer's on Sunday, October 6, 2024.

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- A. *Community Policing Facility Update – Suzanne Woodland, Deputy City Manager; Peter Rice, Public Works Director; and Mark Newport, Police Chief
- B. Letter from Mike Comeau, Portsmouth Water Taxi, requesting permission to attach sign to the chain link fence next to the public docks ramp, also placement of a sandwich board sign on the dock (***Sample motion – move to refer this request to the City's Legal Department for a report back***)

- C. Letter from Marcia MacCormack regarding appeal to eliminate the Waterfront Business designation from Salter Street (***Sample motion – move to refer this request to the City’s Legal Department for a report back***)
- D. Email Correspondence (***Sample motion – move to accept and place on file***)
- E. Request for Public Hearing Pursuant to RSA 673:13 for the Removal of Mr. James Hewitt from the Planning Board (***Sample motion – move to schedule a Public Hearing at the February 5, 2024, City Council meeting to determine if Mr. James Hewitt should be removed from the Planning Board pursuant to RSA 673:13***)

XIV. MAYOR McEACHERN

- 1. *Ethics Committee Drawing by Lot
- 2. Approval of City Council Rules and Orders
- 3. Ratification of City Council Policies
- 4. Ratification of Blue Ribbon Committees
 - African Burying Ground Memorial Park Blue Ribbon Committee
 - Citywide Neighborhood Committee
 - Governance Committee
 - Housing Committee
 - Portsmouth Energy Advisory Committee
 - Safe Water Advisory Group
 - Sister Cities Committee
 - Task Force on Portsmouth Historical Archives
- 5. *Reappointments to the Rockingham County Planning Commission:
 - Beth Moreau, City Council Representative
 - Peter Britz, Planning and Sustainability Director (Alternate member)
- 6. Appointments to be Considered:
 - Donald Brabant as a regular member of the Audit Committee
 - Jeff Abrams as a regular member of the Cable and Broadband Internet Commission
 - Gary Lowe as a regular member of the Cable and Broadband Internet Commission
 - Talia Sperduto as an alternate member of the Conservation Commission
 - Jody Record reappointment as an alternate member of the Zoning Board of Adjustment

XV. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR KELLEY AND COUNCILOR TABOR

- 1. Housing and Sherburne School Next Steps

B. COUNCILOR BLALOCK

1. *Report Back on Potential Sister City or Friendship City with the City of Nelson, New Zealand (***Sample Motion – move to refer to Sister Cities Blue Ribbon Committee for a report back to the City Council***)

C. COUNCILOR COOK AND COUNCILOR BAGLEY

1. *Meeting Notices Via SMS/Email (***Sample motion – move to request a report back from the City Manager on the possibility of an SMS or email triggered notice system, based on sign-up by keyword, to alert residents of topics of interest on any public meeting agenda to drive increased resident participation and attendance at city meetings***)

D. COUNCILOR COOK

1. Rule 30 Amendment (***Sample motion – move to adopt Rule 30 as proposed in the attached memorandum from the Deputy City Manager***)

E. COUNCILOR BAGLEY

1. **Action Item Needing Approval by City Council:**
 - Woodbury Avenue Speed Cushion Plan (***Sample motion – move to approve revised speed cushion plan for Woodbury Avenue, with 6 speed cushions***)
2. Parking & Traffic Safety Committee Action Sheet and Minutes of the November 29, 2023 meeting (***Sample motion – move to approve and accept the action sheet and minutes of the November 29, 2023 Parking & Traffic Safety Committee meeting***)
3. **Action Item Needing Approval by City Council:**
 - 2 Russell Street (***Sample motion – move to approve requested changes to on-street parking on Deer Street and Russell Street as presented on approved site plans for project with modifications as proposed by DPW, with the inclusion of bicycle signage at locations as approved by the DPW traffic Engineer, and the continuation of sharrows on Russell Street to Market Street***)
4. Parking & Traffic Safety Committee Action Sheet and Minutes of the January 4, 2024 meeting (***Sample motion – move to approve and accept the action sheet and minutes of the January 4, 2024 Parking & Traffic Safety Committee meeting***)

F. COUNCILOR MOREAU

1. Gateway Rezoning (***Sample motion – move to request that an ordinance amendment be drafted to change the zoning of the “consensus properties” as described in the memorandum and that the drafted ordinance amendment be sent to the Planning Board for its consideration and recommendation in February with the intention to bring back an ordinance amendment for first reading at the City Council meeting in March***)

2. *Home Occupation Definition and Regulations – Zoning Ordinance (***Sample motion – move to request a report back from the City Manager on how we might continue to advance the discussion during this next City Council session recognizing and balancing the City Council priorities such as housing, other ordinance amendments that are already further along in the development process, and staff workload***)

XVI. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation to Department of Public Works from Mark Falzone, Scenic America - \$1,500.00 for the Planting of a Memorial Tree in Recognition of Dr. Geoffrey Clark (***Sample motion – move to accept and approve the donation to the Public Works Department in the amount of \$1,500.00 for the planting of a Memorial Tree in the right of way of 152 Middle Street in Recognition of Dr. Geoffrey Clark***)
- B. *Acceptance of Grant for the Senior Center – \$10,000.00 (***Sample motion – move to approve and accept the grant as presented***)
- C. *Grant for the Police Department – \$12,499.00 (***Sample motion – move to approve and accept the grant as presented***)
- D. *Grant for the Police Department – \$14,403.29 (***Sample motion – move to approve and accept the grant as presented***)
- E. Donation for the Police Department – \$7,000.00 (***Sample motion – move to approve and accept the donation as presented***)
- F. Donation for the Police Department – \$2,500.00 (***Sample motion – move to approve and accept the donation as presented***)
- G. *Acceptance of Violence Against Women Act (VAWA) Grant – \$25,025.00 (***Sample motion – move to approve and accept the grant as presented***)

VII. CITY MANAGER’S INFORMATIONAL ITEMS

1. Report Back on Jones Avenue Scrapyard
2. * 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: January 11, 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 January 16, 2024

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

A. First Reading of Ordinance Amending Chapter 6, License, Article XVII- Outdoor Dining Encumbrance Permit, Section 6.1701 – 6.1707:

For First Reading is an ordinance creating an Outdoor Dining Encumbrance Permit. This re-drafted ordinance was reviewed and endorsed by the Economic Development Commission (EDC) at its January 5, 2024 meeting. In summary, the proposed ordinance creates an Outdoor Dining Encumbrance Permit that will be administered through the City's online permitting system. Outdoor dining will be permitted on sidewalks, in parking spaces, and in loading zones. It will be prohibited on streets, except on streets if traffic is less than 1,000 vehicles per day and the design and location is approved by City Staff, including the Fire Department, for public safety. If a dining area is proposed in front of an abutter, permission from the abutter is required. Fees are to be established by the Fee Schedule Study Committee. Suspension or revocation of a permit may occur due to special events, construction projects, or emergencies. A penalty structure is also included to encourage compliance.

[The Outdoor Dining Encumbrance Permit Ordinance](#), if adopted, should be accompanied by a [City Council policy setting forth the Outdoor Dining Design Standards/Best Practices \("Design Standards"\)](#). These Design Standards were also reviewed and endorsed by the EDC at its January 5, 2024 meeting. The EDC recommended that the Design Standards not be included in the ordinance, and stand as a policy, to allow a faster process and more flexible approach to address changing conditions.

I recommend that the City Council vote to pass first reading and schedule a public hearing and second reading at the February 5, 2024 City Council meeting to amend Chapter 6, Licenses, Article XVII, Outdoor Dining Encumbrance Permit, Sections 6.1701-6.1707.

Assuming the Council passes second reading of the Ordinance at its meeting of February 5, 2024, the Council will be asked to adopt the Design Standards as a City Council policy and rescind City Council Policy No. 2012-02, Policy Regarding Use of City Property For Sidewalk Cafés Providing Alcohol Service.

By way of background, at its September 18, 2023 meeting, the City Council reviewed the Economic Development Commission’s Recommendations Regarding Outdoor Dining on Municipal Property (“EDC’s Recommendations”) and voted to refer the EDC’s Recommendations to the Legal Department for the purpose of drafting an ordinance. The EDC’s Recommendations sought to balance the competing interests for use of the public realm, with the goal of enhancing the economic vitality of the City, ensuring ADA accessibility, preserving access to downtown businesses and maintaining the safe flow of vehicular and pedestrian traffic. The EDC’s Recommendations also included incorporating staff recommendations.

Staff from Inspections, Fire, Health, Planning, Public Works, Legal and Economic Development Departments reviewed the EDC’s Recommendations and drafted a proposed ordinance that was brought forward for first reading at the November 13, 2023 City Council meeting. Staff had made several recommendations that differed from the EDC’s Recommendations, namely prohibiting outdoor dining in loading zones and not allowing any exceptions to the prohibition against outdoor dining in the travel way.

The City Council did not pass first reading at its November 13, 2023 meeting and requested City staff re-write the ordinance to make the language more user-friendly and to reincorporate the recommendations of the EDC.

Staff will be available at the meeting to answer questions.

XI. City Manager’s Items Which Require Action:

1. Confirmation of City Council Goals:

As the City begins to prepare and plan for the FY25 Budget, I would like to request confirmation from the City Council of their Citywide Goals for this upcoming fiscal year. These Goals should be reviewed and evaluated by each City Council to ensure they remain relevant to the City and adhere to City priorities. The [Citywide Goals for FY24](#) are attached and also outlined in the [FY24 Budget document](#) on the City’s website.

I recommend that the City Council move to confirm the FY25 Budget goals as presented.

2. Proposed Amendment Relative to Solar Panels:

[Attached you will find a memorandum from Deputy City Attorney Trevor McCourt](#) relative to the City Council’s consideration in December 2023 of a proposed ordinance amendment to limit the Historic District’s Commission review of solar panels. Attorney McCourt will be available to speak to his recommendation to move an ordinance change forward.

I recommend that the City Council refer to the Planning Board the proposed ordinance amendment language described by Attorney McCourt for review and report back at the February 5th City Council meeting.

3. **Adoption of Legislative Principles:**

Attached please find the [City Council Principles for Legislative Positions and the Legislative Subcommittee’s Procedures for Submission of Testimony](#) that were adopted by the 2022-2023 City Council. I recommend that the City Council readopt these policies because it will allow the City to continue to be proactive and have a voice on important legislative matters until such time as the Legislative Subcommittee has an opportunity to meet and to bring forward to the 2024-2025 City Council any updates to these policies.

I recommend that the City Council move to approve the City Council Principles for Legislative Positions and the Legislative Subcommittee’s Procedures for Submission of Testimony as presented.

4. **Revocable License for Arcadis U.S., Inc. for Property Located at 124 Bartlett Street:**

Property located at 124 Bartlett Street has monitoring wells on-site to assess water quality. The Department of Public Works and the State of New Hampshire have determined that installing two additional monitoring wells near the site will supplement the existing monitoring wells and provide data regarding environmental impacts to the site. Licensee, Arcadis U.S., Inc., (“Arcadis”) is requesting the City’s permission to locate two monitoring wells in the City’s right-of-way. One monitoring well will be located in the Woodbury Avenue right-of-way adjacent to property located at Tax Map 162, Lot 63 (82 Woodbury Avenue). The second will be located under the City’s sidewalk on Morning Street, Tax Map 163, Lot 17 (39 Morning Street). [The well locations are depicted as blue dots in the attached Plan entitled “Proposed Monitoring Well Locations - Morning Street and Woodbury Avenue.”](#)

Because these wells will be located under a City sidewalk and a City right-of-way, a license from the City is required for Arcadis to install, maintain and access the wells for sampling. Arcadis agrees to comply with specifications from the Department of Public Works and the State of New Hampshire, including but not limited to requirements regarding size, location and timing of the installation of wells and repair to sidewalk and hardscape after installation.

I recommend that the City Council move to authorize the City Manager to negotiate, execute and deliver a Revocable License in a form similar to the attached, to allow Arcadis to install monitoring wells to benefit property located at 124 Bartlett Street.

5. **City Council and Planning Board Joint Listening Session - Places to Live Study Circle Dialogue Report Out:**

The Places to Live Study Circle Dialogue began on January 11th and will culminate with a report out of each study circle group. This report is to occur in a joint listening session where the City Council and Planning Board will be presented with insights by each of the ten to twelve study circle groups, along with overviews by Portsmouth Listens and the City’s Housing Navigator Howard Snyder. It is expected the joint listening session will take about an hour and will also preview recommendations and strategies of the dialogue effort to improve housing choices in Portsmouth.

I recommend that the City Council move to establish a Joint Listening Session with the Planning Board on Thursday, February 22nd at 6:00 p.m. in City Council Chambers.

XII. Consent Agenda

A. **Projecting Sign License for 103 Congress Street:**

Permission is being sought to install a projecting sign at [103 Congress Street](#) that extends over the public right of way, as follows:

Sign dimensions: 24” x 24”
Sign area: 4 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.*

XIII. Presentations and Written Communications:

A. **Community Policing Facility Update:**

Deputy City Manager Woodland, Public Works Director Rice and Police Chief Newport will provide a brief update on the status of the Community Policing Facility.

XVI. Approval of Grants/Donations:

A. **Acceptance of Donation to Department of Public Works from the Mark Falzone, Scenic America - \$1,500 for the Planting of a Memorial Tree in Recognition of Dr. Geoffrey Clark:**

Attached please find a donation from the Department of Public Works, which reflects a \$1,500 contribution from Mark Falzone of Scenic America for a memorial tree planting and plaque installation in recognition of Dr. Geoffrey Clark. The Trees and Public Greenery Committee moved to recommend that the City Council accept this donation at their November 8, 2023 Committee meeting.

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

B. **Acceptance of Grant for the Senior Activity Center - \$10,000:**

The Portsmouth Senior Activity Center is the recipient of a \$10,000 grant from the Foundation for Seacoast Health for their fall Grant Focus – Older Adults: Enrichment for the Arts & Health. The funds will afford the Center the opportunity to deepen and expand its collaborations with highly skilled facilitators for various arts & health related programs, and support the continuation of our concert series that has shown to attract new membership to the Center in a relaxed environment. Together, enhancement of both initiatives will aid in the prevention of senior social isolation and bringing more members to the Senior Activity Center.

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

C. **Acceptance of Grant for the Police Department - \$12,499:**

At the regular Police Commission meeting of December 19, 2023, the Board of Police Commissioners approved and accepted a JAG Grant award from the Office of Justice Programs (OJP) for \$12,499 for the Portsmouth Police Department. This award will help the Department purchase a 'FARO 3D imaging system' to help improve investigative efficiencies relative to mapping out crime scenes.

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

D. **Acceptance of Grant for the Police Department - \$14,403.29:**

At the regular Police Commission meeting of December 19, 2023, the Board of Police Commissioners approved and accepted a 2023 Homeland Security Grant award from the Department of Safety for \$14,403.29 for Seacoast Emergency Response Team SWAT equipment.

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

E. **Donation for the Police Department - \$7,000:**

At the regular Police Commission meeting of December 19, 2023, the Board of Police Commissioners approved and accepted a donation of \$7,000 from AT&T Services for the purchase of Comfort Dog Mason from Hero Pups, Inc., and to help with his training costs. [A donation form from the Police Department is attached.](#)

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

F. **Donation for the Police Department - \$2,500:**

At the regular Police Commission meeting of December 19, 2023, the Board of Police Commissioners approved and accepted a donation of \$2,500 from Portsmouth residents. [A donation form from the Police Department is attached.](#)

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

G. **Acceptance of Violence Against Women Act (VAWA) Grant - \$25,025:**

The NH Department of Justice has approved the City's application for the 2024 Violence Against Women Act (VAWA) Grant in the amount of \$25,025. This grant pays for expenses incurred and services rendered for direct victim services, including expenses for personnel. The Grant is used to fund 45% of the Legal Department's Victim Witness Advocate position and requires a cash match contribution.

Since 1999, the City of Portsmouth has employed a Victim Witness Advocate with funding from the VAWA grant, to work with the Portsmouth Police Department to support victims of crimes against women. The position is also supported by funding from the Victims of Crime Act (VOCA) Grant.

While the position of Victim Witness Advocate was recently moved to the Legal Department, the grant is still a law enforcement program which is physically housed in the police department. However, the Legal Department now oversees the program and the distribution of the grant money.

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 Jones Avenue Scrapyard:**

[Attached please find a report back prepared by Deputy City Attorney McCourt](#) regarding the Jones Avenue Scrapyard.

2. **Pease Development Authority Update:**

I will provide a verbal update on the Pease Development Authority following their recent Board meeting.