

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: TUESDAY, FEBRUARY 20, 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_HlfPgMvSRYiRu0IOJ6AbTw

6:00PM – ANTICIPATED NON-PUBLIC SESSIONS ARE BEING HELD IN CONFERENCE ROOM A

1. COLLECTIVE BARGAINING AGREEMENT IN ACCORDANCE WITH RSA 91-A:3 II (a)

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**

PRESENTATION OF MAYOR'S AWARD

VII. **ACCEPTANCE OF MINUTES** – *(There are no minutes on for acceptance this evening)*

VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**

A. *Recognition of Nathan Lunney, NH School Business Administrator of the Year

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 and Adoption of Resolutions:

A. Public Hearing and Adoption of Resolution Pursuant to RSA 72:39-b the City hereby amends the elderly exemption based on assessed value for qualified taxpayers, such that the exemption shall be available only when the qualifying taxpayers(s) have a net income *(Sample motion – move to adopt the Elderly Exemption Resolution as presented)*

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

OPTION 1:

Proposed increase of Elderly Exemption by the Social Security cost-of-living increase

Single \$51,741 (increase of \$1,604)
Married \$70,793 (increase of \$2,195)
Asset Limit \$500,000

OPTION 2:

Proposed increase of Elderly Exemption by the November to November consumer price index

Single \$51,486 (increase of \$1,349)
Married \$70,443 (increase of \$1,845)
Asset Limit \$500,000

OPTION 3

Proposed increase of Elderly Exemption

Do Nothing

The elderly exemption shall remain unchanged except as amended hereby.

- B. Public Hearing and Adoption of Resolution Pursuant to RSA 72:39-b the City hereby amends the disabled exemption based on assessed value for qualified taxpayers, such that the exemption shall be available only when the qualifying taxpayers(s) have a net income of not more than ***(Sample motion – move to adopt the Disabled Exemption Resolution as presented)***

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

OPTION 1:

Proposed increase of Disabled Exemption by the Social Security cost-of-living increase

Single \$51,741 (increase of \$1,604)
Married \$70,793 (increase of \$2,195)
Asset Limit \$500,000

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Proposed increase of Disabled Exemption by the November to November consumer price index

Single	\$51,486 (increase of \$1,349)
Married	\$70,443 (increase of \$1,845)
Asset Limit	\$500,000

OPTION 3

Proposed increase of Disabled Exemption

Do Nothing

The disabled exemption shall remain unchanged except as amended hereby.

- C. Public Hearing and Adoption of Resolution Appropriating Thirty-Four Thousand Five Hundred Seventy-Four (\$34,574) Dollars from American Rescue Plan Act (ARPA) Grant to Pay Costs Associated with Pandemic Response Supplies and for the Payment of Costs Incidental and Related Thereto (***Sample motion – move to adopt the Resolution as presented***)
- **PRESENTATION**
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Third and Final Reading of Ordinance:

- D. Third and Final Reading of Ordinance amending Chapter 6, License, Article XVII – Outdoor Dining Encumbrance Permit, Sections 6.1701-6.1707 (***Sample motion – move to pass third and final 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. Adoption of Outdoor Dining Design Standards/Best Practices and to repeal City Council Policy 2012-02, Policy Regarding Use of City Property for Sidewalk Café’s Providing Alcohol Service (***Sample motion – move to pass the City of Portsmouth Outdoor Dining Design Standards/Best Practices and to repeal City Council Policy 2012-02, Policy Regarding Use of City Property for Sidewalk Café’s Alcohol Service***)

2. *Adoption of Outdoor Dining Encumbrance Permit Fees (***Sample motion – move to approve the Outdoor Dining Encumbrance Permit Fees as recommended by the Fee Committee as follows:***
Per square foot costs: \$5.00
Minimum fee: \$750.00)
3. Auction of Excess Granite Materials (***Sample motion – move to recommend the City Manager be authorized to sell excess granite materials***)

XII. CONSENT AGENDA

- A. Request from Tod O’Dowd, Avery Insurance, to install a Projecting Sign at 51 Islington Street, Unit 103 (***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***

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- A. Email Correspondence (***Sample motion – move to accept and place on file***)
- B. Request from the NH Society of the Sons of the American Revolution to hold a grave marking ceremony at the North Cemetery (***Sample motion – move to refer to the City Manager with Authority to Act***)

XIV. MAYOR McEACHERN

1. Appointments to be Considered:
 - Appointment of Chuck Raye to the Citywide Neighborhood Committee
 - Appointment of Elisabeth “Betsy” Blaisdell to the Energy Advisory Committee
 - Appointment of Tracey Cameron to the Energy Advisory Committee
 - Appointment of Herb Lloyd to the Energy Advisory Committee
 - Appointment of Thomas Nies to the Zoning Board of Adjustment

2. *Appointments to be Voted:
 - Appointment of Jessica Dickey as an Alternate to the Arts & Cultural Commission
 - Appointment of Andrew Samonas as a regular member of the Planning Board
 - Appointment of Ernie (Ernestine) Greenslade to the Public Art Review Committee
 - Appointment of Robin Lurie-Meyerkopf to the Public Art Review Committee
3. *Appointments to Blue Ribbon Committees:
 - Appointment of Megan Corsetti to the Housing Blue Ribbon Committee
 - Appointment of Tracy Kozak to the Housing Blue Ribbon Committee
 - Appointment of Mary Loane to the Housing Blue Ribbon Committee
 - Appointment of Byron Matto as the School Board Representative to the Housing Blue Ribbon Committee
 - Appointment of Dagan Migirditch to the Housing Blue Ribbon Committee
 - Appointment of John O'Leary to the Housing Blue Ribbon Committee
 - Appointment of Jen Stebbins Thomas to the Housing Blue Ribbon Committee
4. Resolution regarding Staffing Mandate for Nursing Homes (***Sample motion – move to refer to the Legislative Subcommittee with the Authority to Act***)

XV. CITY COUNCIL MEMBERS

A. COUNCILOR COOK & COUNCILOR MOREAU

1. *State Street Two-Way Redesign CIP Recommendation

B. COUNCILOR BAGLEY

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

XVI. APPROVAL OF GRANTS/DONATIONS

- A. Approval of Hazard Mitigation Plan Grant - \$15,000.30 (***Sample motion – move to the terms of the Hazard Mitigation Grant Program as presented in the amount of \$15,000.30 for updating the local hazard mitigation plan. Furthermore, the City acknowledges that the total cost of this project will be \$16,667.00, in which the city will be responsible for a 10% match \$1,666.70***)

XVII. CITY MANAGER'S INFORMATIONAL ITEMS

1. *FY25 Budget Intentions
2. Report Back on Home Occupation Zoning
3. *Market Square Master Plan Working Group

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: February 15, 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 February 20, 2024

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

- A. **Public Hearing and Adoption of Resolution Pursuant to RSA 72:39-b the City hereby amends the elderly exemption based on assessed value for qualified taxpayers, such that the exemption shall be available only when the qualifying taxpayer(s) have a net income of not more than:**

Attached please find a [memorandum outlining three options for setting the annual Elderly Real Estate Exemption](#).

Option 1: (3.2%) – 2023 Social Security COLA Adjustment:

- Single \$51,741 increase of \$1,604
- Married \$70,793 increase of \$2,195
- Assets \$500,000

Option 2: (2.69%) – November to November ten-year rolling average of the Boston-Cambridge-Newton, MA-NH Consumer Price Index:

- Single \$51,486 increase of \$1,349
- Married \$70,443 increase of \$1,845
- Assets \$500,000

Option 3: Do nothing. Current income limits would not change, no move to adopt required.

- Single \$50,137
- Married \$68,598
- Assets \$500,000

I recommend that the City Council move to adopt Option 1 or Option 2. If Option 1 or Option 2 is adopted, the elderly exemption shall remain unchanged except as amended hereby.

B. Public Hearing and Adoption of Resolution Pursuant to RSA 72:39-b the City hereby amends the disabled exemption based on assessed value by qualified taxpayers, such that the exemption shall be available only when the qualifying taxpayer(s) have a net income of not more than:

Attached please find a [memorandum outlining three options for setting the annual Disabled Real Estate Exemption](#).

Option 1: (3.2%) – 2023 Social Security COLA Adjustment:

- Single \$51,741 increase of \$1,604
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I recommend that the City Council move to adopt Option 1 or Option 2. If Option 1 or Option 2 is adopted, the disabled exemption shall remain unchanged except as amended hereby.

C. Public Hearing and Adoption of Resolution Appropriating Thirty-Four Thousand Five Hundred and Seventy-Four (\$34,574) Dollars from American Rescue Plan Act (ARPA) Grant to Pay for Costs Associated with Pandemic Response Supplies and for the Payment of Costs Incidental and Related Thereto:

[Attached please find a resolution appropriating \\$34,574](#) from the City’s ARPA allocation to pay costs associated with pandemic response supplies and related incidentals.

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

D. Third and Final Reading of Proposed Ordinance Amending Chapter 6 – License – Article XVII – Outdoor Dining Encumbrance Permit, Section 6.1701 – 6.1707:

[A proposed ordinance creating an Outdoor Dining Encumbrance Permit](#) is being presented at this evening’s meeting. 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 move to pass third reading of this ordinance, and adopt the ordinance as presented.

XI. City Manager’s Items Which Require Action:

1. Adoption of Outdoor Dining Design Standards/Best Practices and to Repeal City Council Policy 2012-02, Policy Regarding Use of City Property for Sidewalk Café’s Providing Alcohol Service:

The Economic Development Commission (EDC) created [Outdoor Dining Design Standards/Best Practices \(Design Standards\)](#) to address safety concerns, ADA compliance and standardize certain design standards for outdoor dining throughout the City. The EDC recommends that these Design Standards be approved separately, outside the ordinance as a stand-alone policy, so that the Standards can be more easily amended in the future to allow for periodic revision in response to changes in safety standards and design recommendations/best practices. The adoption of the Outdoor Dining Encumbrance Permit Ordinance and the adoption of these Designed Standards will make City Council Policy 2012-02, Policy Regarding Use of City Property for Sidewalk Café’s Providing Alcohol Service, obsolete. The Council is being asked to adopt the Design Standards and repeal Policy 2012-02.

I recommend that the City Council move to pass the City of Portsmouth Outdoor Dining Design Standards/Best Practices and to repeal City Council Policy 2012-02, Policy Regarding Use of City Property for Sidewalk Café’s Alcohol Service.

2. **Adoption of Outdoor Dining Encumbrance Permit Fees:**

The EDC recommends that fees for the Outdoor Dining Encumbrance Permit be established by the Fee Schedule Study Committee (Fee Committee) this year. It is not possible for the Council to adopt this year’s fees through the City Council budget resolution process because outdoor dining will begin before the budget is adopted. The Fee Committee met on February 15, 2024 and have recommended and approved the fees set forth below. These fees are being brought forward for Council approval tonight and will be effective immediately.

I recommend that the City Council move to approve the Outdoor Dining Encumbrance Permit Fees as recommended by the Fee Committee as follows:

Cost per square foot: \$5

Minimum fee: \$750

3. **Auction of Excess Granite Materials:**

The City currently has a surplus of granite from various City projects with an approximate weight of 17-20 tons per lot. The granite has been separated into 22 lots of similar pieces located at the City’s storage location at 300 Constitution Avenue. The lots will be sold independently. As in the past, we have disposed of surplus equipment, cars, and materials through GovDeals, an online auction site in which items are sold to the highest bidder.

According to City Ordinance Section 1.505, any sale of property valued at or above \$500.00 must be authorized by the City Council and may be conducted by competitive bidding, public auction, or any other means authorized by a 2/3 vote of the City Council.

We have used GovDeals in the past and it has shown that the City receives more money from our surplus property than through a sealed bid process.

I recommend that the City Manager be authorized to sell the excess granite as presented through Gov Deals.

XII. Consent Agenda

A. **Projecting Sign Request – 51 Islington Street Unit 103:**

Permission is being sought to install a projecting sign at 51 Islington Street Unit 103 that extends over the public right of way, as follows:

Sign dimensions: 30” x 30”

Sign area: 6.25 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. Approval of Hazard Mitigation Plan Grant - \$15,000:

The City is required to have and maintain a Hazard Mitigation Plan. This Plan is designed to assist the City in reducing and mitigating losses from natural hazard events and was developed by the Rockingham Planning Commission and participants from the City of Portsmouth Hazard Mitigation Committee. The Plan contains the tools necessary to identify specific hazards and aspects of existing and future mitigation efforts and was last completed in 2017. It requires an update every five years.

The City has been working with the NH Homeland Security and Emergency Management Hazard Mitigation team to get funding and a contractor (Rockingham County Planning Commission) selected to update the plan.

Typically NHHSEM awards grants in blocks by County with other municipalities and pays the contractor directly. In this case, in an effort to expedite completion of the plan, the City will be awarded the grant in the amount of \$15,000 and pay the contractor directly.

I recommend that the City Council move to the terms of the Hazard Mitigation Grant Program as presented in the amount of \$15,000.30 for updating the local hazard mitigation plan. Furthermore, the City acknowledges that the total cost of this project will be \$16,667.00, in which the City will be responsible for a 10% match \$1,666.70.

XVII. City Manager's Informational Items:

1. FY25 Budget Intentions:

After meeting with staff to discuss potential changes to the Planning Board adopted CIP FY25-FY30, I would like to suggest the following reductions in the requested Capital Outlay and Information Systems request for FY25.

Suggested Changes to Capital Improvement Plan FY25-FY30

CIP Page	FY25 Capital Outlay	Planning Board Adopted 12/21/2023	Suggested Reductions for FY25 Budget	Suggested Use Of ARPA	Proposed FY25 Budget
78	Permanent Records Storage Facilities	\$25,000	(25,000)		-
83	Sheltering and Public Health Resources	\$250,000		(250,000)	-
87	City of Portsmouth Master Plan Update	\$150,000	(150,000)		-
90	Existing Outdoor Recreation Field and Facility Improvements	\$75,000	(25,000)		50,000.00
95	Pierce Island Recreation Improvements	\$150,000	(150,000)		-
102	City Hall HVAC Improvements	\$200,000	(200,000)		-
107	Sound Barriers in Residential Area Along I-95	\$50,000	(50,000)		-
Total Capital Outlay suggested reductions or use of ARPA Funding			(600,000)	(250,000)	
FY25 Information Systems		Planning Board Adopted 12/21/2023	Suggested Reductions for FY25 Budget	Suggested Use Of ARPA	Proposed FY25 Budget
116	Citywide Information Technology Upgrades & Equipment Replacements	\$829,038	(261,858)		567,180
Total Information Systems suggested reductions or use of ARPA Funding			(261,858)	-	
Total suggested reductions to Planning Board Adopted CIP FY25-FY30			(861,858.00)	(250,000.00)	
Total Combined Reduction			(1,111,858.00)		
		Budget FY24	After Reduction Proposed FY25	\$\$ Change from FY24	% Change from FY24
	Capital Outlay	\$1,820,000	\$1,638,000	(\$182,000)	-10%
	Information Systems	\$1,172,336	\$992,180	(\$180,156)	-15%

With these reductions and use of ARPA funding totaling \$1,111,858, the FY25 Budget for Capital Outlay and Information Systems will be \$362,156 less than the FY24 Budget.

In addition, funding for the ambulance replacement will be changed from cash rolling stock to bond/lease rolling stock.

In addition, I propose to use the \$2,183,054 (Two Million One Hundred Eighty-Three Thousand Fifty-Four Dollars and 00/100) in the remaining Revenue Loss portion of ARPA funds as revenue in the general fund in FY 25 to obligate and expend on general government services, which include but are not limited to maintenance or building of infrastructure, including roads, modernization of cybersecurity, protection of critical infrastructure, health services, environmental remediation, school and educational services and fire, safety and other public safety services. The City’s External Auditors, CLA, have confirmed that under ARPA guidelines, Revenue Loss ARPA funds can be recorded as revenue in the general fund and expended on general government services.

2. Report Back on Home Occupation Zoning:

At the January 16, 2024 meeting, the City Council requested a report back on the options for moving forward with an amendment to the Zoning Ordinance relative to home occupation and artists. Outlined below are short-term and a long-term steps for consideration.

As a short-term step, a minor amendment could be made to the existing definition of "Home Occupation 1" as set forth in Article 15, Section 10.1530 to allow "no more than 2 client, vendor or general public visitations at one time." See attached showing the new language highlighted in red and bolded and deleted language stricken. The likely objections to this change could impact parking or traffic, particularly in our more congested neighborhoods.

If the City Council would like to take this short-term action, it can refer this suggested amendment to the Planning Board for consideration and to the Legal Department for putting such an amendment into the proper form.

As part of a longer-term evaluation, the Planning Department recommends that home occupations be part of the discussion during the master planning process. Considering the changes in work brought on by the pandemic, it would be appropriate to give this subject a close and renewed look.

3. **Market Square Master Plan Working Group:**

I will provide a verbal update on a proposed working group for the Market Square Master Plan at this evening's meeting.