



CITY OF PORTSMOUTH, NEW HAMPSHIRE
GOVERNANCE COMMITTEE

PUBLIC MEETING NOTICE
MONDAY, August 29, 2022
10:00 a.m.

Conference Room A
City Hall Complex, 1 Junkins Avenue
Portsmouth, NH 03801

*Members of the public also have the option to join the meeting over Zoom(See below for more details)**

1. Welcome and Call to Order
2. Roll Call
3. Approval of June 13, 2022, July 1, 2022, and July 25, 2022 meeting minutes
4. Committees/Ordinances Review
 - a. Public Art Ordinance/Public Art Review Committee
 - b. Historical Archive Blue Ribbon Committee
 - c. Cable Television and Communications Commission
5. Other Business
6. Public Comment
7. Adjournment

****Members of the public also have the option to join this meeting over Zoom using the link below:***

Join Zoom Meeting
<https://us06web.zoom.us/j/89138509162>

Meeting ID: 891 3850 9162
Passcode: 359117



**CITY OF PORTSMOUTH, NEW HAMPSHIRE
GOVERNANCE COMMITTEE
DRAFT MEETING MINUTES**

MONDAY, June 13, 2022 – 10:00 a.m.

Conference Room A

**City Hall Complex, 1 Junkins Avenue Portsmouth, NH
03801**

- 1. Welcome and Call to Order at 10:01 am**
- 2. Roll Call:** Councilor John Tabor, Councilor Vincent Lombardi and Councilor Kate Cook present. Also present were Robert Sullivan, City Attorney, Christine Friese, Library Directory and Marian Steimke.
- 3. Approval of Committee Minutes from meetings on May 31, 2022.**

Motion by Councilor Lombardi, seconded by Councilor Tabor to accept the meeting minutes of May 31, 2022. All in favor.
- 4. Further Discussion of Committees/Ordinances to Sunset**

Councilor Cook displayed the list of committees that the Governance Committee (GC) is discussing and mentioned the issues of records retention and archiving.

 - a. Discussion of Portsmouth Heritage Museum Board with Library Director Christine Friese.**

Ms. Friese gave a brief history about records and types and discussed criteria. It is a consideration of what is legally required by the State and also what would be valuable to the City years from now. She gave examples of special collections, City history and genealogy. House history, tax records and when building extensions were added were also important. She mentioned the good partnership in the City, the collection of expertise and interests, wanting to minimize duplication and storage issues.

Councilor Lombardi mentioned Portsmouth Historical Society (PHS) and the Athenaeum and how these records were connected. Those present discussed a Portsmouth-controlled storage facility and it being a service to the community as well. Issues discussed were: space being an issue; who pays for it; special collections needing climate control and fire proofing. Councilor Tabor said sometimes State universities take on that task.

Councilor Cook asked Ms. Friese's opinion regarding the future for the Portsmouth Museum Heritage Board. Ms. Friese said between the City library, PHS and Athenaeum there is great expertise, records and interest. It will be a matter of property, budget and issue if going forward. The GC discussed special fire suppression.

Those present discussed applications for grants. Attorney Sullivan said the City could act as fiscal agent if a grant is received by a committee.

The GC suggested it would be most effective to have an ongoing committee, but initially to start with a blue ribbon committee or task force.

Councilor Tabor suggested having a City Archive since we have both a national and State archive. It would need to be staffed. Ms. Friese said most information can be accessed digitally. Protection of pieces is a big priority. Councilor Cook said it would be helpful to have these discussions across the three organizations. The GC discussed having a partnership rather than the City taking it all on and how that might all work. Ms. Friese left the meeting at this time.

b. Updates on Other Committees

Councilor Cook added to the list: sunset with new committee to study historical archive. The group discussed Pierce Island Committee (PIC) status as not being defunct (not sunsetted). Councilor Cook will check with their leadership. But Councilor Lombardi said the PIC sunsetted themselves, and it would be useful to have a conversation with the staff members. Attorney Sullivan said this committee is established by ordinance. Councilor Cook read the ordinance regarding this PIC, the establishment and mission. If there is money in the trust fund, the money would go to the Trustees of the Trust Fund. Councilor Cook asked what the purpose was of having a committee for just one space. Councilor Lombardi gave a history of Pierce Island issues (chaos, crimes, etc.) and said the committee was set up to address these issues. Having an overall Parks committee is a very big task. The disadvantage of having separate parks committees is some parks get more attention than others. Those present discussed a parks committee working with the Recreation Department.

Councilor Tabor discussed programming and facilities in parks. The GC discussed the large amount of park spaces and green spaces. Councilor Cook said if there is only a recreation board but not a parks committee there is no oversight. There is a lot of space they are not talking about beyond capital improvement projects driven by the City, DPW and Recreation.

Attorney Sullivan said there was \$11,458.30 in the Pierce Island Trust.

Councilor Cook said a bigger conversation is needed. If PIC sunsets, maybe the plans could be part of a larger committee; this would be a much larger commitment for people.

Councilor Cook said it would be nice to have a committee looking at all the park spaces. There would have to be a close relationship with the Recreation Board. Walking versus biking spaces would need to be considered.

Councilor Lombardi suggested letting PIC sunset, moving the money to the Trustees of the Trust Funds and begin to work on a parks and recreation committee which would entail a new ordinance for parks. Councilor Tabor said it would be helpful to know what the Master Plan says about Parks and Recreation programming in the parks. Councilor Cook would like to hear from Peter Rice about maintenance. Councilor Tabor said by default DPW is running the parks. Attorney Sullivan mentioned that Peter Britz would be good to talk to. Councilor Cook could try to set up that discussion. She will start that process for the next meeting.

Councilor Cook changed Pierce Island to yellow and said "I'm going to say voted to sunset discussion around parks and recreation committee."

Personnel Advisory Board. It is in the Charter at Section 3.15. This was set up to be a place where employees could grieve disciplinary actions against them. Mostly it is done by bargaining unit now, but there are still some employees not in the union, Attorney Sullivan said, and added he did not recall this being used. He said in the Charter it is actually the Personnel Appeals Board and advised to keep it active as needed. This was used more than 40 years ago. Attorney Sullivan said if the Charter is to be amended, the process should start soon.

Portsmouth Housing Endowment Fund Board: Believed to be defunct. Councilor Cook will contact the Portsmouth Housing Authority (PHA). Attorney Sullivan discussed the source of the money for this, and Councilor Cook will double check with PHA on this. Councilor Cook read the related ordinance. There is money in the trust fund, but there have not been appointments since 2013.

Seacoast MPO Technical Advisory Committee is not a City committee. It is a Rockingham Planning Commission committee. It is listed because there was a representative from the City. Councilor Cook removed this from the City listing.

All committees in yellow are the ones the GC discussed sunsetting.

The Vaughn Mall Committee and Strategic Planning Committee for Vaughn Worth Bridge Revitalization was recommended to sunset.

Building Commission does not exist anymore, according to the staff.

Councilor Cook said we have several ordinances that can be recommended to remove.

Public Access Financial Advisory Committee was added. Councilor Lombardi is on it. It meets once per year, he was appointed to it by the City Council. It relates to the public access television channel. Funding comes from Comcast although it is channeled through

a Trust. The committee is established by the Trust to determine how much money should be released from the trust annually to support the PPMTV budget.

5. **Committee Appointment Rotation Schedule**

Councilor Cook shared the list of City Council appointed boards and commissions which is also available on the website, and she gave updates.

Audit Committee she discussed rotation in number of years. Councilor Lombardi said it may be best to have Council or staff deal with this rotation schedule. This will be on the list for the next committee meeting. She said the stagger of the rotation does not line up.

Building Code Board of Appeals. This has five year terms. It is not clear if the rotation schedule is accurate. There is a need to rework this one.

Cable TV and Communications Commission. Believes there are only two members instead of the five required members, so there is no quorum. Concern on how to staff this.

Cemetery Committee. This is fine. The terms coincide with Council terms.

Citizens' Advisory Committee. Needs to talk to City Clerk to see if people still serving.

The Citywide (Neighborhood?) Blue Ribbon Committee. This has been around a long time. The rotation schedule is fine and coincides with the Council term.

Conservation Commission. The rotation should be three, three and three. But there are six rotating off in 2023, so that stagger is way off.

Economic Development Commission. This should have a better rotation.

Historic District Commission rotation stagger is off as well.

Housing Authority is right on track.

Library Trustees are short by one member, and the stagger is off just a little.

Parking Traffic Safety. This one is skewed.

Planning Board has challenges. There are no appointments in 2022 but five due to end in 2024.

Councilor Cook said the challenge is how to fix the staggered rotations

Recreation Board is on track.

Sustainable Practices Blue Ribbon Committee. This is a challenge. It has people that were appointed in 2006. It is unclear how this was established and why there is no rotation.

Trees and Public Greenery Committee. There is no rotation in 2023 but five in 2024.

Councilor Cook commented there were lots of appointments done in 2021. These should have finished to the original terms.

Trustees of the Trust Fund rotation is fine.

Veterans Organization. The rotation schedule is not clear.

Zoning Board of Adjustment. It is not clear what adjustment needs to happen.

Councilor Cook stated wanting to highlight making an appropriate recommendation for all committees established by ordinance. It would be important to determine when they were established and to follow those terms out. In the case of an early resignation, the replacement person should finish out the term rather than serving the beginning of a new term. We should readjust the terms as they should be and suggested that instead of having people appointed, having a position appointed.

Councilor Tabor said Part 1 is the look up. Part 2 is the policy change. Councilor Cook said that would be more in line with the spirit of the Ordinance. This ensures conservation of expertise with a healthy rotation of members.

Land use boards are by Statute. Councilor Cook would like to approach all in the same way so that there is no bias and to base it on historical appointments. Establishing a healthy rotation with a fair process is her goal. This will require a lot of research. At this time, across the board when someone replaces an early resignation, they get appointed to a new full term rather than finishing out the remainder of the term. This should be changed, and Councilor Cook discussed challenges of not making the changes.

Attorney Sullivan suggested specifying in the Ordinance neutrality, unbiasedness and objectivity – at least on the ones that are quasi-judicial like Planning Board. Councilor Cook discussed an approach on how to do this. For instance, she could sit with the Clerk to determine a feasible process. Some committees go a long way back. Councilor Cook can invite the Clerk to the next meeting since she would be the expert on these appointments. Councilor Cook will send the GC the work sheet to study.

6. Public Comment

No one from the public wished to speak.

7. Other Business

The GC discussed having scheduling the next meeting for June 28, 2022 at 10:00 am. **(Post Meeting Note: That meeting was cancelled. The next meeting will be held Friday, July 1, 2022 at 11:00 a.m.)** The next meeting after that will be July 11th **(Post Meeting Note: That meeting for the 11th was cancelled)**. After that there will be a meeting on July 25th. The GC discussed potential meetings in August.

Councilor Tabor suggested a parks discussion and how to monitor and enforce the many easements the City has to the water. Attorney Sullivan said there are some dedicated easements. There are places in the City where the City has a paramount claim – for example paper streets, with approximately 14 in the City. They are monitored informally via complaint system. He said Jason Page and Peter Britz have investigated complaints.

The Mayor had been interested in putting together a list of these, but it did not happen, so a list does not exist. The City has lots of public access to the water but most of it is unknown, and Councilor Tabor wants to ensure protection of that access. Attorney Sullivan said if a paper street goes to the water then the City owns the access to the water.

8. Adjournment

Councilor Lombardi moved to adjourn, seconded by Councilor Tabor. All in favor, the meeting adjourned at 12:04 p.m.

Meeting Minutes prepared by
Marian Steimke
Legal Secretary

Approved by Governance Committee on: _____



CITY OF PORTSMOUTH, NEW HAMPSHIRE
GOVERNANCE COMMITTEE

DRAFT MEETING MINUTES

FRIDAY, July 1, 2022

11:00 a.m.

Conference Room A

City Hall Complex, 1 Junkins Avenue

Portsmouth, NH 03801

1. Welcome and Call to Order at 11:00 a.m.
2. Roll Call: Councilor John Tabor, Councilor Vincent Lombardi and Councilor Kate Cook present. Also present was Suzanne M. Woodland, Deputy City Manager/Deputy City Attorney (DCM); City Attorney Robert Sullivan; Environmental Planner Peter Britz and Recreation Director Todd Henley (by Zoom)
3. Committees/Ordinance Review:

Discussion of Parks/Recreation Options – The DCM, Henley and Britz provided background and input with regard to the current function and responsibilities of the Recreation Board, the Peirce Island Committee, Trees and Greenery Committee, and the Conservation Commission. Topics included pros and cons of creating a Parks and Recreation Committee or other entity with a broader vision beyond athletic fields and formal programs to better support and evolve passive recreation and greenspace management and acquisition. Discussion that rail-trail will open up more recreation opportunities.

Councilor Lombardi offered comment on membership of any newly established committee; namely it should include individual(s) with park management or similar experience.

Councilor Tabor indicated his support for a committee that could support the thoughtful acquisition of more greenspace and improve water access.

Councilor Cook emphasized the need to steward all our existing parks and greenspaces and not just Prescott Park or a few. Further discussion amongst staff and Committee members regarding need for good stewardship.

No action taken but staff to (1) identify/provide list or map of current municipal properties that are parks, fields, greenspace or conservation land to help facilitate next conversation on the topic and (2) develop a draft mission statement to help Governance Committee further explore this potential.

Audit Committee – Councilor Lombardi shared his view that the Audit Committee should be comprised of City Councilors only and not citizen members. Reference was made to the

Government Finance Officers Association (GFOA) guidelines for audit committees. Chair Councilor Cook asked the City Attorney to opine on whether Councilor Tabor and she could share their views on the Audit Committee membership given that they also sit on the Audit Committee. The City Attorney agreed that they may speak to the issue.

Thereafter, both shared their view that given the City's Council's responsibility for governance and finance, the Audit Committee should be comprised of only City Councilors. It should be a subcommittee of the City Council. Councilors Cook, Tabor and Lombardi all otherwise indicated support for continuation of an Audit Committee.

Brief discussion that Subcommittee could engage an expert in municipal finance if it were to become necessary.

City Attorney will draft a proposed ordinance change for the next Governance Committee meeting.

4. Committee Rotation Schedule – Councilor Cook distributed information to the Committee members from the City Clerk's office relative to current appointments and terms as background. No action taken.
5. Mid-Year Council Report – Councilor Cook reviewed the draft slides she prepared for the Mid-Year Council Report. Councilor Tabor made a suggestion to include in the future work the evaluation of how to handle appointments between the time of election results being received and swearing in of Councilors in January. Councilor Lombardi moved to accept the presentation with the amendment suggested by Councilor Tabor. Seconded by Tabor and all in favor.
6. Public Comment: Petra Huda (re audit committee); Sue Polidura (re audit committee); Liza Hewitt (re audit committee and statements made at last meeting); Zolita Morgan (re use of acronyms, meeting times); Petra Huda (additional statement re membership of Planning Board); and Claire Kittridge (re appointment of members to land use boards).
7. Other Business – Brief discussion of the additional items as outlined in the agenda that will be discussed at future meetings. Councilor Tabor asked when the Governance Committee would discuss timing of appointments.

Councilor Lombardi will work staff to draft a mission statement/purpose section with staff for recommended Historical Archive Blue Ribbon Committee and bring back to next meeting.

8. Adjournment – Motion by Councilor Lombardi to adjourn and seconded by Councilor Tabor. All in favor. Meeting adjourned at 12:12 p.m.

Date of the next Governance Committee meeting: July 25, 2022 at 10:00 am

Meeting Minutes prepared by Suzanne M. Woodland, Deputy City Manager/Deputy City Attorney

Approved by Governance Committee on: _____



**CITY OF PORTSMOUTH, NEW HAMPSHIRE
GOVERNANCE COMMITTEE
DRAFT MEETING MINUTES
MONDAY, July 25, 2022 – 10:00 a.m.
Conference Room A
City Hall Complex, 1 Junkins Avenue
Portsmouth, NH 03801**

- 1. Welcome and Call to Order at 10:05 am**
- 2. Roll Call:** Councilor John Tabor, Councilor Vincent Lombardi and Councilor Kate Cook present. Also present were Robert P. Sullivan, City Attorney, and Suzanne M. Woodland, Deputy City Manager/Deputy City Attorney. Also in attendance City Clerk Barnaby by Zoom.
- 3. Committee Rotation Schedule**
 - a. Rotation of Appointments**

Introduction by Councilor Cook to the issue of rotation of committee and board appointments and how to return to staggered terms for those committees and boards that are no longer properly staggered. Committee's discussion started with the Parking Traffic and Safety Committee. Background and input provided by Clerk Barnaby. It appears that when the Parking Traffic and Safety Committee was updated in 2012 there was no stagger of terms implemented. Councilor Cook explained that the benefit of a stagger is to preserve expertise and experience on the committee and board as members cycle on and then off.

Ordinance change is needed to improve the stagger. Attorney Sullivan opined that the change could be made ordinance by ordinance. Alternatively, maybe a single ordinance could be passed to give the Mayor power, when a vacancy occurs, to correct the stagger/adjust terms as needed for those committees that are established by ordinance alone (and not subject to State statute or such).

Councilors discussed the merits and concerns of various approaches to remedy the situation. Councilors expressed concern for sitting committee members.

Discussion that an ordinance change could have a trigger, namely that whenever there is a vacancy or term ending, the Mayor would have the authority to adjust the terms.

This would be slow/gradual process to gradually rebuild a stagger of terms. It would also require that a sitting mayor be willing to appoint someone for less than the full term (example one year instead of three years).

Attorney Sullivan will draft a proposed ordinance for the Committee's consideration relative to staggering of terms. The draft ordinance would require that when a vacancy or term ends for a member of a board, committee or commission the Mayor shall look at the composition of the board, commission or committee and, as may be needed, make such new or reappointments to effect a stagger of terms if none exists on the board. Also discussion that maybe the new ordinance would require that alternatives should be considered first, if the committee has alternates.

a. Timing of Appointments

Councilor Cook introduced the issue with regard to appointments between an election and the swearing in of a new City Council/Mayor.

Attorney Sullivan opined that with regard to board, committees and commissions established by City Ordinance, it can be handled by ordinance change. With State statutes involved the issue is more complex. Committee members can serve as a hold over after term expires.

Discussion of the end of term for the members of the Planning Board, Conservation Commission, Historic District Commission and Board of Adjustment?

Kelly Barnaby reported that the Planning Board members have a three year term has four committee members whose terms expire 12/31/2023 and five committee members whose terms expire 12/31/2024. The terms of the Board of Adjustment members are five years. All terms end December 1. Three members' terms expire December 1, 2022. The Council representative term expires December 1, 2023 and finally two members' terms expire in 2024, one in 2025, and one in 2026.

City Attorney opined that the Legal Department would have to look at the extent to which the City Council has the authority under State law to change the dates of appointment.

The Committee also reviewed the terms of the Historic District Commission. The terms of the members expire in June of various years, one members' term expires in 2023, one in 2022, two in 2024 and four expiring in 2025. Council representative expires in 20203.

Brief discussion of the other committees that have committee members whose terms expire in November, December or January including: Cemetery Committee; City Wide Neighborhood Committee; Ethics Board; Fee Schedule Committee;

Legislative Subcommittee; PDA (one member expires in December); Peirce Island Committee; Rockingham Planning Commission; Sustainability Committee; and Trustees of Trust Funds (Jan 1).

Councilor Cook recommends consultation with the Legal Department and see how it may make the most sense to proceed.

4. **Committees/Ordinances Review**

a. **Audit Committee/Boards-Commissions-Committee Ordinances**

Motion to move public comment forward by Tabor and second by Councilor Lombardi, all in favor.

Petra Huda (comment-question re process/view of the committee on ordinance changes); Gerry Duffy (support audit committee changes); Sue Polidura (against audit committee changes); Bill Downey (against audit committee changes); Liza Hewitt (against audit committee changes); Petra Huda (against audit committee changes); Doug Roberts by Zoom (support audit committee changes); and Duncan McCallum (against audit committee changes).

Motion to recommend to the City Council changes to Chapter 1, Article III regarding boards as presented and send to the City Council for first reading. Councilor Tabor moved, seconded by Councilor Lombardi. All in favor.

Motion to recommend to the City Council changes to Chapter 1, Article IV regarding commissions as presented and send to the City Council for first reading. Councilor Lombardi moved, Councilor Tabor offered a friendly amendment to change the terms from three year to two year terms to which Councilor Lombardi concurred and Councilor Tabor seconded.

Councilor Lombardi explained his position with regard to the membership of the Audit Committee - including that the governing body is elected to perform this responsibility under the Charter and as recommended by GFOA guidance.

Councilor Tabor also explained his position being in favor of an Audit Committee but concurring that membership should be comprised of members of the elected body as the relationship is between the governing body and the auditor. Also referenced GFOA guidance. Prefers no gap between the governing body and the audit firm. Municipal accounting is much different than private sector accounting.

Councilor Cook explained her position in favor of changing membership of the Audit Committee noting that the City Council is elected every two years to serve in an oversight role and one of the major roles is to oversee the finances.

Amendment by Councilor Tabor, and seconded by Councilor Lombardi to add an additional sentence of the draft ordinance (with two friendly amendments from Councilor Cook which were accepted): The audit committee will be able to retain the services of professionals, as necessary, in municipal finance and audits, and experts hired will have no past employment as City staff or current relationships therewith, or employment with the auditing firm or current relationships therewith and shall be independent. All in favor.

Attorney Sullivan recommends additional language to the draft ordinance make the City Council terms co-terminus with the term of the City Council. Motion to amend by Councilor Lombardi, seconded by Councilor Tabor and all in favor.

Move by Lombardi to adopt all amendments and recommend to the City Council changes to Article 1, Chapter IV and forward to the City Council for first reading. Seconded by Councilor Tabor and all in favor.

b. Discussion of Parks Options

Public Works Director Peter Rice appeared before the committee and was asked his opinion about existing committees relative to parks, greenery and recreation and whether there was need for an additional committee or re-envisioning of any committee(s). Particular discussion around passive recreation needs and preserving green space. Director Rice indicated that he did not see a need for an additional committee given what the Recreation Committee and Trees and Greenery Committee already does as well as Conservation Commission.

Councilor Lombardi – The existing committees do cover a lot of responsibilities already – discussion of invasive species and other challenges. Councilor Cook noted that parks with passive recreation and greenspaces don't seem to have a voice.

Peter Rice Conservation Commission may be the best place for conversations about acquisition of green space. Peter could envision a joint work session among the committees to talk about the intersections and roles.

Councilor Tabor – We know we want more open/green space. Do we have the best governance structure to obtain and manage the green space/park space? Discussion of Jones Avenue and Great Bog areas and their uses.

Councilor Cook – maybe we should hold/set up a joint meeting with the committees? Maybe a conversation with the heads of the committees?

Director Rice weighed in with additional comment that he thinks the committees are working reasonably well and there are some more opportunities coming for recreation and greenspace opportunities with the development of the skateboard park. He also mentioned that long-time residents tend to find the quieter greenspaces over time for their recreational needs.

Deputy City Manager suggested that maybe the Governance Committee look at the mission of the Recreation Board and examine if there is a way to give some additional emphasis or public discussion about passive recreation opportunities in our greenspaces, or maybe to add additional members who might have a greater interest and sensitivity to passive recreation.

Deputy City Manager also shared that staff do become aware from time to time of opportunities to acquire land for recreation and conversation and explore those.

Councilor Cook likes the suggestion to arrange for a joint work session with Recreation Board, Conservation Commission, and Trees and Greenery with a map of the current greenspaces and parks, and look holistically at the use. Also likes the idea of looking at the Recreation Board and their mission, getting their input. Councilor Tabor also likes the idea of a joint work session.

c. Public Art Ordinance/Public Art Review Committee

Councilor Cook provided a brief overview of the following:

- potential change to the public art ordinance at Chapter 1, Article XVII, Section 1.704.
- draft revisions to Public Art Referral and Acquisition Policy
- new, draft ordinance to establish a Public Art Review Committee (PARC).

Councilor Tabor – Does the PARC need to meet quarterly? Otherwise likes Committee for handling art related referrals. Councilor Lombardi – Also questioned need for quarterly meetings.

Discussion of bringing guest speakers for next meeting to discuss PARC draft.

5. Public Comment

Sue Polidura (clarification requested).

6. Other Business

The following items to be addressed at future meetings:

- a. **Historical Archive Blue Ribbon Committee**
(next meeting)
- b. **Recommend Community Campus Process**
- c. **Review Sidewalk Policy**
- d. **Conflict of Interest Ordinance/Policies/Charter, including Donations Policy**
- e. **Other business**

August 29 at 10:00 am.

Statement of the Chair about public comment and speaking order and respect for another.

7. Adjournment

Councilor Lombardi moved to adjourn, seconded by Councilor Tabor. All in favor, the meeting adjourned at 12:38 p.m.

Meeting Minutes prepared by
Suzanne M. Woodland
Deputy City Manager/Deputy City Attorney

Approved by Governance Committee on: _____



CITY OF PORTSMOUTH

CITY COUNCIL POLICY No. 2009-06

PUBLIC ART REFERRAL and ACQUISITION POLICY

The City of Portsmouth is committed to acquiring public art by donation, acquisition or commission. Only original work will be considered for acceptance.

The City Council ~~desires that Art-Speak be charged with the formation of a shall~~ establish a standing committee, whose role will be to oversee the acquisition and de-accession (removal) of public art for all city departments¹. ~~This committee will consist of between 7 and 11 members and will consist of Art-Speak Board Members (minimum of two), city staff, and community members.~~

WHENEVER from any source an issue relating to Public Art should be brought to the attention of the City Council, that matter will be referred to the standing committee.

The standing committee will evaluate proposed donations, acquisitions or commissions based on the following criteria:

- The quality of the artwork.
- Appropriateness of the size, scale and materials for the site(s)
- Availability of an appropriate site.
- Costs of installation and maintenance of artwork.
- Condition and durability of the artwork.
- Aesthetic merit.
- Inclusion of a mandatory maintenance plan (including materials used and proper care for such materials)

All donated, acquired or commissioned works of *outdoor* art must-should include a cash stewardship donation of at least 10% of the cost of the artwork which will be added to the Public Art Trust for ongoing stewardship of public art. *Indoor* art may or may not require a stewardship donation, depending on the type of art. The standing committee will determine if a stewardship donation is required for a given piece of indoor art, and if so, the amount of the donation. If the artwork is donated, the committee will determine the value of the artwork.

¹ The Trustees of the Portsmouth Public Library have their own policy for art acquisition. ~~Art-speak~~The committee will defer to the Trustees of the Library for art acquisition at the Library.

~~Art-Speak~~The committee, along with recommendations from appropriate city boards, city staff, and/or committees, will review and recommend pieces of public art to the City Council for acceptance. All final decisions on acceptance shall be made by the City Council.

Suitable donations will be accepted unconditionally and free of all obligations and encumbrances. The City reserves the right to relocate donated artwork from ~~time-to-~~time; and to not display a donated piece of art. Works from the collection may be considered for removal if they are in poor condition, damaged or deteriorated beyond reasonable repair or conservation.

As pieces of public art are acquired, they will be entered into the City Art and Artifact Index maintained by Portsmouth Public Library staff. If a piece is decommissioned, the date and reason for withdrawal will also be so recorded. Changes of location, whether temporary or permanent will be recorded in the Art and Artifact Index.

This policy shall take effect upon the passage by the City Council.

Adopted by the Portsmouth City Council on **December 21, 2009**.

Ratified by the Portsmouth City Council on January 19, 2010.

Ratified by the Portsmouth City Council on January 17, 2012.

Ratified by the Portsmouth City Council on January 13, 2014.

Ratified by the Portsmouth City Council on January 11, 2016.

Ratified by the Portsmouth City Council on January 16, 2018.

Ratified by the Portsmouth city Council on January 8, 2020.

Kelli L. Barnaby, MMC, CMC, CNHMC
City Clerk



CITY OF PORTSMOUTH

CITY COUNCIL POLICY No. 2014 - 02

REMOVE

POLICY REGARDING PUBLIC ART

WHENEVER from any source an issue relating to Public Art should be brought to the attention of the City Council, that matter will be referred to ~~Art Speak~~ the Public Art Review Committee (PARC) for an advisory report.

This policy shall take effect upon the passage by the City Council.

Adopted by the Portsmouth City Council on **June 16, 2014.**

Ratified by the Portsmouth City Council on January 11, 2016.

Ratified by the Portsmouth City Council on January 16, 2018.

Ratified by the Portsmouth City Council on January 8, 2020.

Kelli L. Barnaby, MMC, CMC, CNHMC
City Clerk

PUBLIC ART REVIEW COMMITTEE (PARC) – Draft Ordinance

- A. Membership and Term: The Public Art Review Committee (PARC) will consist of between seven and eleven members. Members shall include ~~one member of library staff,~~ one member of city staff to be designated by the City Manager, ~~one member of DPW,~~ and the rest shall be community members. Members shall have demonstrated experience in the fine arts, architecture, art criticism, engineering or structural analysis, art history, graphic arts, interior design, landscape architecture, town planning, or other art and design-related fields, or who have demonstrated a strong interest in the visual arts and civic improvement. Other than the City Manager's appointment, the mMembers shall be appointed by the Mayor, with approval from the Council, to staggered terms varying from two to three years. ~~Members may serve for a total of six consecutive years.~~

The PARC shall be chaired by a member of the local arts community and shall interview or make recommendations to fill PARC openings to the Mayor, as they may determine necessary. The term of the chairperson shall be for one year, with eligibility for reelection for two additional terms.

- B. Powers and Duties: The PARC shall have the following responsibilities:
1. To foster development and awareness of public art within the City of Portsmouth, and advise the City Manager and City Council with respect to matters relating to the development of public art awareness within the City of Portsmouth.
 2. To assist the city as requested through referrals from the City Council and land use boards in the review of applications including public art, and preparation of planning documents ~~including guidelines, master plans, zoning ordinance, and strategic planning documents where they relate to public art.~~ ~~This shall include establishment of guidelines for a review process for art projects on private property.~~
 3. To collaborate with the city on the acquisition, maintenance and marketing of the Public Art Collection, and develop a stewardship policy.
43. Establish Guidelines for review of public art based on the Public Art Acquisition Policy.
54. Initiate public forums where appropriate for determining thematic approaches and location options for public art.
65. Determine recruitment strategies to attract qualified artists for public art projects.
76. To review applications for public art following the Public Art Acquisition Policy, select final proposals, and advise the city on issues related to Percent for Art. This should include, but is not limited to, participating in the review project briefings

organized by the city and Project Planning Committee that describe the construction project, context, timeline and funding.

87. Review all applications for sponsored works of public art following the same guidelines as those for the Percent for Art program.

98. Advise and oversee public art programs established by the City of Portsmouth in accordance with any policies and guidelines either established by the city or established by the Public Art Review Committee at the request of the City Council.

109. To recommend to the City Council, as requested, replacement members to the PARC when they arise.

~~10. To collaborate with the library, on a plan for the maintenance of the city's Public Art Collection and oversee acquisition, maintenance and marketing of the Public Art Collection.~~

~~11. To develop a stewardship policy.~~

12. Identify and solicit funds to supplement the public art budget.

13. Perform further duties related to public art within the City of Portsmouth that the City Manager may request.

C. Meeting Requirements: The PARC shall meet as necessary, but at least quarterly.

D. Reporting Responsibility: The Public Art Review Committee (PARC) shall include an annual report of their proceedings and programs to City Council. Details of the report include, but are not limited, to:

1. Assessing available and potential resources in the Public Art Trust.

2. Assessing possible and/or proposed municipal capital projects and criteria that would benefit from the inclusion of an artist in their design.

3. Emphasizing public art projects that advance economic development opportunities.

F. Revenue Development: The PARC may solicit or receive gifts, money or other to be applied to principal or interest, into the Public Art Trust, for either temporary or permanent use for the acquisition, maintenance and/or installation of public art. The PARC shall not, however, be authorized to expend any such funds without the consent of The Trustees of Trust Funds.

ARTICLE XVII: FUNDING OF PUBLIC ART

Section 1.1700: STATEMENT OF PURPOSE

It is hereby declared that it shall be the public policy of the City of Portsmouth to assist and encourage the participation of its citizens and visitors in the enjoyment of the many benefits which flow from the arts. Among other activities to this end, the City will allocate a portion of the expense of public building construction and significant building renovation projects to be spent on works of art which shall be available for the benefit of all without additional cost to those persons. Such works of art shall be called public art as defined in more detail herein.

Section 1.1701: DEFINITION OF PUBLIC ART

“Public Art” or “Public artworks” are meant to be enduring original artworks of the highest quality and craftsmanship. The artworks should be an integral part of the landscaping and/or architecture of a building or other site, considering the historical, geographical and social/cultural context of the site and constructed on a scale that is proportional to the scale of the development. “Artwork” – includes but is not limited to, painting, murals, inscriptions, stained glass, fiber work, statues, relief’s or other sculpture, monuments, fountains, arches, or other structures intended for ornament or commemoration. Also included in this definition are installations that are technological in nature, carvings, frescoes, mosaics, mobiles, photographs, drawings, collages, prints, crafts – both decorative and utilitarian in clay, fiber, wood, metal, glass, plastics and other materials. Landscape items include the artistic placement of natural materials and other functional art objects. Works of art may be portable as well as permanent.

This definition shall not include:

Objects that are mass-produced from a standard design or reproductions of original art works; decorative, ornamental or functional elements, which are designed by the building architect; landscape architecture and landscape gardening except where these elements are an integral part of the artwork by the artist; directional elements such as super graphics, signage, or color coding except where these elements are integral parts of the original work of art; logos or corporate identity.

Section 1.1702: PUBLIC ART COMMITMENT

One (1%) percent of the bid price or negotiated contract price for the construction of all new municipal buildings or for the renovation of existing municipal buildings, in which the bid price or negotiated price shall be in excess of Two Million (\$2,000,000.00) Dollars up to fifteen Million (\$15,000,000.00) Dollars (expressed in terms of actual construction costs exclusive of design and engineering fees), shall be contributed to the Public Art Trust for the purpose of funding public art. Thereafter, such funds shall be expended in accordance with the terms of this ordinance and the Public Art Trust.

Section 1.1703: PUBLIC ART TRUST

There shall be created a Public Art Trust to serve as a repository of all public art contributions generated by application of this ordinance. Such Trust shall be administered for the purpose of implementation of this ordinance. The terms of the Trust shall be consistent with this ordinance and shall be interpreted by reference to this ordinance.

Section 1.1704: EXEMPTION

By a two-thirds (2/3) vote, the City Council may exempt a municipal building, such as a water or sewer plant, from the Public Art Commitment described in Section 1.1701~~2~~ if the purpose of this ordinance would not be fulfilled due to the building's inaccessibility to the public, location, use or other factors. In those cases, the public art associated with the project should be placed on other publicly owned property within the city, at the determination of the Council. Any Council determination to exempt a building under this provision shall be made no later than the final vote of the Council authorizing the funding for the project. (Amended 06/19/2017)

Section 1.1705: EXPENDITURE OF PUBLIC ART FUNDS

Expenditure of public arts funds shall be determined by the City Council. In authorizing such expenditures the Council shall apply the following protocol and criteria:

- A. No less than ninety (90%) percent of the principal amount of public art contribution generated by any particular building project shall be expended on the site of that project.
- B. In determining the selection of any public art project, the City Council may:
 - 1. Refer the question to any agency of a public, non-profit or private nature which might be selected by the City Council for an advisory report, or;
 - 2. Refer the question to a standing committee for public art which may be created by the City Council under such terms and conditions as it may establish, or;
 - 3. Create an ad hoc committee for any particular public art project under such terms as the Council may establish, or;
 - 4. Seek such other advisory recommendation as the City Council deems appropriate
- C. Upon the authorization by the City Council of a public arts project, the administrative and financial implementation of that authorization shall be performed by the administrative officials of the City.

Section 1.1706: MAINTENANCE AND REPAIR OF PUBLIC ART

Public art funds under this ordinance and the Public Art Trust to be created in conjunction herewith shall be available for repair and maintenance of public art, regardless of whether the public art work was initially funded by the Public Art Trust or otherwise.

Section 1.1707: FUNDING ACCEPTED

This ordinance authorizes and the Public Art Trust shall provide for the acceptance by the City of donations, grants or contributions to public art which might be approved from time to time by the City Council.

This ordinance also authorizes the Council to accept donations with a designated purpose to commission works of public art to be placed on public property. The commissioning process shall follow the same procedures outlined in the ordinance for public art associated with capital expenditures by the City.

(Adopted 9/18/2006 to become effective August 21, 2007, Edited 6/21/2022)

Section 1.408: CABLE TELEVISION AND COMMUNICATIONS BROADBAND INTERNET COMMISSION

(amended in its entirety 2/26/96)

- A. Membership, Qualifications, Tenure: The Cable Television and Communications Commission shall consist of five (5) commissioners and one alternate commissioner appointed by the Mayor subject to confirmation by the City Council. Of the initial appointments, three shall be of three (3) years and two shall be for two (2) years. Thereafter, all appointments including the alternate commissioner shall be for a term of three years. The alternate commissioner shall attend all Commission meetings and may vote at any time when there are less than five commissioners otherwise voting. (Amended 10/3/05)

Commissioners shall be residents of the City of Portsmouth at the time and during the terms of their appointments. Commissioners shall be familiar with the general concepts underlying the operation of cable television as well as the delivery of broadband internet services via multiple physical transport methods.

- B. The Commission shall have the authority to establish standing sub-committees on matters pertaining to the operation and performance of cable and broadband internet companies within the City.

Such subcommittees shall serve in an advisory capacity to the Cable and Broadband Internet Commission. ~~In the first instance, the standing Sub-committees shall consist of:~~

~~Government/Education Access Channels, I-Net System and Customer Service. The Commission shall have the right to appoint non-Commission members to subcommittees; when possible, the Commission shall attempt to use Portsmouth residents for such appointments. If the Commission wishes to appoint a non-Portsmouth resident who has skills helpful to the Commission's work; the Commission shall have the authority to make such an appointment.~~

- C. ~~Powers: In addition to establishing the standing Sub-Committees referenced above, the Commission shall have the authority to eliminate such Sub-Committees and create new ones as the Commission deems appropriate.~~ Powers: The Commission shall oversee the operation of the existing Cable Television Franchise Agreement and any future agreements, which the City Council may approve as well as assist in the negotiation of such agreements. The Commission may, as the need arises, consider the availability and quality of Broadband Internet services delivered via any physical transport (which includes physical cabling or over-the-air delivery) and work to understand the needs and desires of the citizens of the city of Portsmouth. Further, the committee may work with relevant providers to meet those needs and desires as appropriate and as guided by the City Council.

- D. The Commission shall meet as often as deemed appropriate and necessary to insure the proper operation of the Franchise Agreement. The Commission shall, upon request of the City Council, submit written or verbal reports of its activities.