

## CITY COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: MONDAY, MARCH 20, 2023

PORTSMOUTH, NH  
TIME: 7:00PM

**On a unanimous voice vote 9-0, Councilor Moreau moved to close the Non-Public Session and seal the minutes. Seconded by Assistant Mayor Kelley and voted.**

### **III. CALL TO ORDER**

Mayor McEachern called the meeting to order at 7:05 p.m.

### **IV. ROLL CALL**

**PRESENT:** Mayor McEachern, Assistant Mayor Kelley, Councilors Tabor, Denton, Moreau, Bagley, Lombardi, Blalock and Cook

### **V. INVOCATION**

Mayor McEachern asked everyone to join him in a moment of silent prayer.

### **VI. PLEDGE OF ALLEGIANCE**

Mayor McEachern requested Councilor Denton to lead the Pledge of Allegiance to mark the 20<sup>th</sup> anniversary of the invasion of Iraq, and his service to our Country during that war.

Councilor Denton led in the Pledge of Allegiance to the Flag.

### **PROCLAMATION**

#### 1. Youth Art Month

Mayor McEachern read the Proclamation declaring March as Youth Art Month and urged all to celebrate the contributions of art educators and their students to the rich heritage of Portsmouth's past, present and future. Anna Nutall accepted the Proclamation with thanks and appreciation. She announced that the K-12 Exhibit is on display at the Library for the community to view.

Mayor McEachern said some of the art pieces can be viewed on the 4<sup>th</sup> floor of City Hall outside of the School Department offices.

### **VII. ACCEPTANCE OF MINUTES – MARCH 11, 2023 SPECIAL CITY COUNCIL MEETING**

**Assistant Mayor Kelley moved to accept and approve the minutes of the March 11, 2023 Special City Council meeting. Seconded by Councilor Lombardi and voted.**

## VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

### A. Portsmouth Energy Advisory Committee – Kevin Charette and Peter Somssich

Mr. Charette provided a report regarding the Portsmouth Energy Advisory Committee. He advised the City Council that the Community Power Coalition has made great strides with 30 communities now participating as members. He stated that the Coalition has gone out for procurement with 10 communities which will be going live shortly. He announced that the default rate is 15.8 cents and represents a 20% reduction. Mr. Charette said if we remain on schedule, we go out for procurement on April 11<sup>th</sup> for the City. Mr. Somssich spoke to the legislation for community power. He said Portsmouth joining the Coalition was important for the city and will make an impact for the city to choose greener energy.

### B. Sijia Chen, Artist, PNH400 Legacy Project Sculpture Garden, Bohenko Gateway Park

Barbara Massar, PNH400 Sculpture Review Committee, introduced Sijia to the City Council and community.

Sijia spoke regarding the art she creates and stated that her work is driven by community engagement. She explained the sculpture she will be creating for Portsmouth has two sails joining together in a dance and the cutouts will be translated into maritime themes. She spoke to creating a website for the collaboration of her work with the people of Portsmouth.

Councilor Cook announced March 21, 2023 at the Library in the Levenson Room, Sijia is holding a free community engagement workshop to suggest the maritime themes she plans to incorporate in her design.

## IX. PUBLIC COMMENT SESSION

Roy Helse spoke to the city being at an impasse with the developer regarding the McIntyre project. He said the city should have moved forward with Bill Binnie as the developer. He also addressed community power and that the taxpayers have to opt out rather than in. He said the Council needs to consider the elderly having a voice on some of these items.

Mark Brighton spoke to ethical matters of the City Council.

Francis Cormier spoke regarding hate and how that disrupts people and communities.

Esther Kennedy spoke to the process for holding public sessions prior to non-public sessions. She spoke to the session held on Saturday regarding the McIntyre and not having a public comment session for residents.

Petra Huda said the meeting held on March 11<sup>th</sup> was the most transparency the public has seen regarding the McIntyre. She asked the City Manager announce the members of the negotiating team for the McIntyre. She also asked what is the percentage of the cost the city has committed residents and taxpayers to fund. Ms. Huda also addressed community power and asked why the cost sharing agreement is before the Council when authorization has not been given.

Peter Officer asked why the questions asked at the Sherburne School Neighborhood meeting have not been made available on the website. He spoke to the recording equipment coming from the Portsmouth Housing Authority and not the city. He also addressed the list of city land available as prepared by the Land Use Committee, and how he feels it is not a complete list. Mr. Officer suggested that the lower lot of City Hall should be used for work force housing.

Sue Polidura said discussion regarding the McIntyre should take place sooner in the agenda this evening. She spoke to there being no escape clause as part of the McIntyre contract. Ms. Polidura said that the City Council needs to keep the best interest of residents in mind when making a decision regarding McIntyre.

Liza Hewitt spoke against the lack of a public hearing before moving forward with community power. She asked who has reviewed the contracts and that she does not understand why residents should have to opt out of community power.

Zelita Morgan (via zoom), spoke to the condition of the pathway along the South Mill Pond. She spoke against emails residents have sent to the city being forwarded to various staff. She said that there should be a link on the website to send messages to the City Manager, Facilities Manager, and the Planning/Sustainability Director.

Jacqueline Cali-Pitts (via zoom), said she has concerns surrounding community power.

**Councilor Blalock moved to suspend the rules and bring forward City Manager's Informational Item regarding the McIntyre Update. Seconded by Assistant Mayor Kelley and voted.**

## **XVII. CITY MANAGER'S INFORMATIONAL ITEMS**

### **1. McIntyre Update**

City Manager Conard reported that we remain at an impasse with our development partner. She said we continue to communicate with our development partner in an attempt to move past the impasse. She stated we continue to collect and analyze data generated by our two outside consultants, Cummings and RKG. She reported that the negotiation team consists of herself and City Attorney Susan Morrell and any city staff that seem appropriate. City Manager Conard said there has been no commitment of funding for the project amount, as it is not defined in the Settlement Agreement. She stated there is no commitment made or will be made before a public hearing or some type of work session is held where we can hear from the public. She said we had a check-in with the General Services on March 13<sup>th</sup> and we apprised them of the impasse and they thanked us for the information and asked for a copy of the vote taken, which we provided and our next check-in with them will be on March 31<sup>st</sup>.

City Attorney Morrell reported that our impasse involves the Development Agreement, which in 2019 was signed by both parties and the previous plan. She stated in that Development Agreement it had termination rights that was signed by the developer and the City. She said when the new project and the Settlement Agreement was signed in April of last year the new project needed a new Development Agreement. She said we had every expectation that those termination rights would be in that agreement, however the developer has not signed a version of the Development Agreement with those termination rights in it and that is one of the reasons why we are at an impasse.

## **X. PUBLIC HEARINGS AND VOTE ON ORDINANCES AND/OR RESOLUTIONS**

### First Reading of Ordinance

1. First reading of Ordinance amending Chapter 10 – Accessory Dwelling Unit - Use Regulations, Accessory Dwelling Units, Site Development Standards and Terms of General Applicability

**Councilor Moreau moved to pass first reading and schedule a public hearing and second reading at the April 3, 2023 City Council meeting. Seconded by Councilor Lombardi.**

Councilor Moreau said a great amount of time has been spent on this by the Planning Board. She stated there are changes for administrative approvals in the ordinance.

Councilor Blalock thanked Councilor Moreau and the Planning Board for their work on this ordinance.

Councilor Bagley said there are more adjustments to be made to the ordinance which will take place at second reading.

Mayor McEachern requested if there are any amendments to bring forward at second reading that they be provided in the City Council packet for the Council and public to review.

**Motion passed.**

**Councilor Cook moved to suspend the rules to bring forward Item XV. B.2. – Changes to Cemetery Committee Ordinance. Seconded by Assistant Mayor Kelley and voted.**

## **XV. CITY COUNCIL MEMBERS**

### **B. COUNCILOR COOK**

2. Changes to Cemetery Committee Ordinance

**Councilor Cook moved to schedule first reading of the ordinance change at the April 3, 2023 City Council meeting. Seconded by Councilor Moreau.**

Councilor Cook said that these recommended changes are coming from the Cemetery Committee and the Chair of the committee is available via zoom to answer any questions this evening. She indicated that the number of members is being amended because the committee is having difficulty making a quorum.

Susan Sterry, Cemetery Committee Chair, via zoom, thanked the City Council for creating this committee which is made up of dedicated individuals. She asked the Council to approve the request to have a first reading of the ordinance at the next City Council meeting.

Mayor McEachern thanked Sue for her work and the work of the committee.

**Motion passed.**

## **XII. CONSENT AGENDA**

- A. Letter from Ken La Valley, Chair, Out of the Darkness, requesting permission to hold the Out of the Darkness Community Walk on Saturday, September 30, 2023 from 10:00 a.m. to Noon (***Anticipated action – move to refer to the City Manager with Authority to Act***)
- B. Letter from Annie Zampitella, Leukemia & Lymphoma Society, requesting permission to hold the 2023 Light the Night New Hampshire on Saturday, September 16, 2023 from 5:00 p.m. to 8:00 p.m. (***Anticipated action – move to refer to the City Manager with Authority to Act***)
- C. Letter from Peter Splaine, Worshipful Master, St. John's Lodge, requesting permission to hold the annual St. John's Sunday Parade on Sunday, June 25, 2023 (***Anticipated action – move to refer to the City Manager with Authority to Act***)
- D. Letter from JerriAnne Boggis, Executive Director, Black Heritage Trail Juneteenth celebration, requesting permission to hold a Reggae Festival, Saturday, June 17<sup>th</sup> from Noon to 10:00 p.m. at Strawberry Banke and the African Burying Ground Memorial on Monday June 19<sup>th</sup> from 11:00 a.m. to 1:00 p.m. The Healing Rhythm of the Drums (***Anticipated action – move to refer to the City Manager with Authority to Act***)

**Assistant Mayor Kelley moved to adopt the Consent Agenda. Seconded by Councilor Bagley and voted.**

## **XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS**

- A. Email Correspondence

**Assistant Mayor Kelley moved to accept and place on file. Seconded by Councilor Moreau and voted.**

- B. Letter from Courtney Perkins, Prescott Park Arts Festival, requesting an exception to the City/Prescott Park Arts Festival lease agreement, to add a special tribute performance outside of the season, celebrating seminal musicians in Portsmouth's musical history, the Shaw Brothers on Saturday, September 11, 2023 (*rain date – September 12, 2023*)

Assistant Mayor Kelley said that the event dates are incorrect and that it is taking place on Saturday, September 9<sup>th</sup> with a rain date of Sunday, September 10<sup>th</sup>.

**Assistant Mayor Kelley moved to approve. Seconded by Councilor Moreau and voted. Councilor Tabor abstained from voting on this request because he is Chair of the Prescott Park Arts Festival.**

- C. Letter from Robert McGuigan, Rolling Thunder NH, requesting establish a POW/MIA Chair of Honor program in Portsmouth

**Assistant Mayor Kelley moved to refer to the City Manager with Authority to Act. Seconded by Councilor Bagley.**

Councilor Denton said having a POW/MIA Chair of Honor program is very important and he would work with the city on this request.

**Motion passed.**

#### **XIV. MAYOR McEACHERN**

1. Appointments to be Considered:
  - Ernest Carrier appointment as alternate to the Planning Board
  - Daniel Main reappointment to the Portsmouth Housing Authority
  - Jacqueline Cali-Pitts reappointment to the Recreation Board
  - Richard Duddy reappointment to the Recreation Board
  - Lauren Krans reappointment to the Recreation Board
  - Jessica Blasko appointment to the Blue Ribbon Sustainability Committee
  - John Patrick Carty appointment to the Blue Ribbon Sustainability Committee
  - Jeffrey Mattson appointment as regular member to the Zoning Board of Adjustment
  - ML Geffert appointment as alternate to the Zoning Board of Adjustment
  - Jody Record appointment as alternate to the Zoning Board of Adjustment

The City Council considered the appointments outlined above, which will be voted upon at the next City Council meeting.

#### **XV. CITY COUNCIL MEMBERS**

##### **A. COUNCILOR TABOR**

1. Community Power

**Councilor Tabor moved that the Portsmouth City Council hereby authorizes the City Manager to enter into the Cost Sharing Agreement and Member Services Contract for the Complete Service Bundle with the Community Power Coalition of New Hampshire (CPCNH) with City Manager Karen Conard as the Authorized Officer and with elections on p. 19 of the Agreement being “yes”; and be it further moved, that the Portsmouth City Council hereby approves CPCNH’s Data Security and Privacy, Energy Portfolio Risk Management, Rates, and Financial Reserves Policies, as presented. Seconded by Councilor Cook.**

Councilor Tabor said Kevin Charette provided a great summary on this matter earlier this evening. He said this could be a game changer in putting us in a more sustainable position as a community. He asked City Attorney Morrell if the documents have been reviewed by the Legal Department. City Attorney Morrell stated that the Legal Department has reviewed the documents before the City Council this evening. Councilor Tabor said this would do a great deal of good for the residents. He said that the risks are low because any resident can exit the program at any time.

Councilor Denton spoke to the importance of this program and benefit to residents.

Councilor Bagley thanked Councilors Tabor, Denton, Cook and the Energy Committee. He said that the Council is doing this in the best optional way for residents.

Councilor Blalock said he thanked everyone for their work done. He said it is a great opportunity for residents to save some money.

Councilor Cook said it is a great honor to sit on this committee that is made up of great experts. She said the committee has met every month on this program and that there were two public hearings held on this matter and a work session with the Council. She indicated the Council is giving the City Manager authority to move forward and if everything remains on target we could have the program in place on April 11<sup>th</sup>.

Mayor McEachern said he would support this motion and we are looking at a 22% reduction in costs. He stated the worse that could happen with this is that we opt out of the program as a community.

Councilor Moreau asked if we would start with the basic plan.

Mayor McEachern stated that it is the City Council's responsibility to look at these types of issues and act. He said he feels it is in the best interest of the city.

**Motion passed.**

## **B. COUNCILOR COOK**

1. City Council Donation Policy

**Councilor Cook moved to bring forward the draft donation policy passed by the Governance Committee, included in the City Council packet. Seconded by Councilor Lombardi.**

Councilor Cook said this policy has been worked on since last fall. She said we started drafting a policy with a great deal of research being done by Deputy City Manager/Deputy City Attorney Woodland. She requested that this be moved forward for the next City Council meeting to take action.

Mayor McEachern said this allows a second look before voting on this matter.

Discussion followed on the process for donations.

**Motion passed.**

## **XVII. CITY MANAGER'S INFORMATIONAL ITEMS**

### **2. Pease Development Authority Update**

City Manager Conard reported that she attended her first PDA meeting last week. She outlined the various committees that she sits on as part of the appointment to the PDA. She informed the Council that Director Ferrini pointed out at the meeting that when the Millionaire Project comes forward all information be made available one week in advance.

## **XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING**

Councilor Moreau announced that the Land Use Committee meeting held on March 10<sup>th</sup> narrowed down the properties to 9 and staff is now looking at those parcels with boots on the ground.

Councilor Blalock said the meeting of the Land Use Committee was three hours and part of the meeting voiced why we need work force housing in the city.

## **XIX. ADJOURNMENT**

**At 8:40 p.m., Councilor Moreau moved to adjourn. Seconded by Assistant Mayor Kelley and voted.**



KELLI L. BARNABY, MMC/CNHMC  
CITY CLERK