

## CITY COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: JULY 10, 2023

PORTSMOUTH, NH  
TIME: 7:00PM

**On a unanimous voice vote 8-0, Councilor Moreau moved to close the Non-Public Session and seal the minutes. Seconded by Councilor Lombardi and voted.**

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

Mayor McEachern called the meeting to order at 7:15 p.m.

### **IV. ROLL CALL**

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

**ABSENT:** Assistant Mayor Kelley

### **V. INVOCATION**

Mayor McEachern asked for a moment of silent prayer in memory of Bryan Young, a Federal Express Pilot who recently passed away.

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

Mayor McEachern led in the Pledge of Allegiance to the Flag.

### **PROCLAMATIONS**

#### 1. Parks and Recreation Month

Mayor McEachern read the Proclamation announcing that July 21<sup>st</sup> is Parks and Recreation Professionals Day and July 31<sup>st</sup> is Lifeguard Appreciation Day. He declared July as Parks & Recreation Month in Portsmouth and called upon our community to observe this month by thanking our Parks and Recreation staff and taking advantage of their programs and facilities that so enhance our quality of life here in Portsmouth.

Recreation Director Henley accepted the Proclamation on behalf of the staff with thanks and appreciation.

#### 2. Plastic Pollution Reduction Month

Mayor McEachern read the Proclamation declaring July as Plastic Pollution Reduction Month in Portsmouth and encouraged all citizens and businesses to reduce their plastic consumption and waste by choosing reusables and an opt-in versus opt-out model for single-use items.

A member of the Surfrider Foundation accepted the Proclamation with thanks and appreciation.

### **VII. ACCEPTANCE OF MINUTES – JUNE 5, 2023 AND JUNE 20, 2023**

**Councilor Moreau moved to accept and approve the minutes of the June 5, 2023 and June 20, 2023 City Council meetings. Seconded by Councilor Tabor and voted.**

## VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

*(There are no items under this section of the agenda)*

## IX. PUBLIC COMMENT SESSION

David Fine spoke opposed to the removal of the locks from the Prescott Park fence. He said he has a petition with over 500 signatures from individuals opposed to the removal of the locks. He said that the locks represent the love people have for one another and asked the City Council to reconsider the removal of the locks.

Ted Jankowski said he is glad the city is thinking of pursuing the acquisition of the McIntyre Federal Building. He asked the city to continue to fight for the building.

Joel Brown thanked the City Council and staff for their work on the Council and said a sports complex is needed in the city. He encouraged the Council to go out and review some of the sport complexes built by Edge.

Francis Cormier spoke regarding the love locks at Prescott Park and his opposition to removing them.

Robert Najjar asked the City Council to implement resident parking stickers which could be provided when a resident registers their vehicle. He said that residents should have priority of parking over tourists.

Sue Polidura spoke in support of pursuing the McIntyre building through the legislature.

Irish Mike spoke to flag etiquette and expressed his frustration with the Portsmouth Athenaeum hanging the Pride flag above the American flag which is against etiquette.

Paige Trace said respect is a two-way street and focusing on the small projects of the city instead of the large projects which affect the residents is troubling. She spoke about some of the large projects in the city which require immediate attention. She said the Council needs to respect the city and not just what you want.

Denise Sensiba asked the City Council to move the Ruth Street easement item up in the agenda for action to be taken earlier in the meeting because she is unable to stay until late in the meeting.

Esther Kennedy said in the City Council packet Mark McNabb used the wording “we” instead of the City Council opinions on his request. She also addressed the Mechanic Pumping Station and said the pipe is outside of the building and there is a strong odor. She asked that the City Council consider the residents of the community when making decisions.

Petra Huda spoke regarding Mr. McNabb’s request and said that this is a way to circumvent the request. She said Mr. McNabb wants to move the center of the city and wants to avoid going through the land use boards. She said this feels more like an ultimatum to the city rather than a request for consideration.

Mark from the Park played the Johnny Cash song Old Ragged Flag for the City Council.

Councilor Denton moved to suspend the rules to bring forward Item XII. A. & B. – Consent Agenda. Seconded by Councilor Blalock and voted.

## **XII. CONSENT AGENDA**

- A. Letter from Trent and Denise Sensiba regarding Property Located at 12 Ruth Street ***(Anticipated action – move to refer to the Legal Department for report back to the City Council)***
- B. Request from Candace & Steven Byrnes, Dripbar, to install a Projecting Sign at 77 Hanover 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***

Councilor Blalock moved to adopt the Consent Agenda. Seconded by Councilor Bagley and voted.

Councilor Denton moved to suspend the rules to bring forward Item XIII. C. – Letter from Seth Berg, Student at Portsmouth High School, regarding EPA Regulations of PFAS Chemicals. Seconded by Councilor Blalock and voted.

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

- C. Letter from Seth Berg, Student at Portsmouth High School, regarding EPA Regulations of PFAS Chemicals

Councilor Denton moved to refer the letter to the Safe Water Advisory Group. Seconded by Councilor Blalock and voted.

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

**First Reading of Ordinances:**

- A. First reading of Ordinance amending Chapter 1, Article III – BOARDS and Article IV – COMMISSIONS AND AUTHORITIES

**Councilor Moreau moved to pass first reading and schedule a public hearing and second reading at the August 7, 2023 City Council meeting. Seconded by Councilor Cook and voted.**

- B. First reading of Omnibus Ordinance amending Chapter 7, VEHICLES, TRAFFIC AND PARKING:
- Amend Chapter 7, Article III – TRAFFIC ORDINANCE, Section 7.336, A: One-Way Streets:

24. Raynes Avenue: westerly from Vaughan Street to Maplewood Avenue

35. Vaughan Street: northerly from Maplewood Avenue to Raynes Avenue

- Amend Chapter 7, Article IVA – BUS STOPS AND TAXICAB STANDS, Section 7A.408: Taxi Stands Designated

The following areas are hereby designed as Taxi stands:

A. Pleasant Street: easterly side, first parallel parking space north of State Street

- Amend Chapter 7, Article XI – SPEED LIMITS, Section 7.1100, E: Speed Limits: 25 MPH

Section 7.1100: SPEED LIMITS:

E. Speed Limits: 25 MPH

7. Islington Street

10. Middle Road, from Peverly Hill Road to Middle Street

12. Parrott Avenue

17. Summit Avenue

**Councilor Lombardi moved to pass first reading and schedule a public hearing and second reading at the August 7, 2023 City Council meeting. Seconded by Councilor Blalock and voted.**

- C. First reading of Ordinance amending Chapter 7, Article VI – LOADING ZONES, Section 7.601- LIMITED HOURS LOADING ZONES

**Councilor Lombardi moved to pass first reading and schedule a public hearing and second reading at the August 7, 2023 City Council meeting. Seconded by Councilor Bagley and voted.**

- D. First reading of Ordinance amending Chapter 7, Article X – TOWING, Section 7.1004 – TOWING OR IMMOBILIZATION OF MOTOR VEHICLES FOR NON-PAYMENT OF PARKING FINES:

ILLEGALLY PARKED: accumulated unpaid parking violations in an amount in excess of two hundred fifty dollars (\$250.00) on any or all vehicles at any time registered to the owners of said vehicle as shown on the records maintained by the Parking Clerk.

NOTICE: At any time subsequent to the accumulation of unpaid parking fines in excess of two hundred fifty dollars (\$250.00) on any or all vehicles at the time registered to the owner of any vehicle on the records maintained by the Parking Clerk, the Parking Clerk may send a Notice by certified mail to the registered owner of said vehicle or vehicles at the address on the registration.

**Councilor Bagley moved to pass first reading and schedule a public hearing and second reading at the August 7, 2023 City Council meeting. Seconded by Councilor Blalock and voted.**

Councilor Bagley reported that the amount has been increased from \$150.00 to \$250.00 for unpaid parking violations.

#### Public Hearing/Second Reading of Ordinance:

- E. PUBLIC HEARING/SECOND READING of Ordinance amending Chapter 10 – Article 5A – CHARACTER-BASED ZONING, Section 10.5A20, **Regulating Plan**, Subsection 10.5A21.10 Contents of Regulating Plan, Map 10.5A21B – Building Height Standards, Section 100.5A43.30 = **Building and Story Heights**, Subsection 10.5A43.33, Section 10.5A43.40 – **Maximum building footprint**, Subsections 10.5A43.41-44, and Section 10.5A45 – **Community Spaces**, Subsection Figures 10.5A45.10 Community Spaces, Section 10.5A46.20 – **Requirements to Receive Incentives to the Development Standards**, Subsections 10.5A46.21-22, and Article 15 – DEFINITIONS, Section 10.1530 – **Terms of General Applicability**, of the Ordinances of the City of Portsmouth

- **PRESENTATION**

Principal Planner Cracknell provided a detailed presentation outlining the six parts of amendments to the density incentives.

- Part 1 – Density Incentives in the Overlay Districts
- Part 2 – Density Incentives for Large Building Footprints
- Part 3 – Density Incentives for Parcels Over 1 Acre in Size
- Part 4 – Adding New Community Space Types
- Part 5 – Exempting Community Space from Building Footprint
- Part 6 – Building Height Map Change to Bow Street

He reviewed the Planning Board recommendations with the Council.

- **CITY COUNCIL QUESTIONS**

Discussion followed among the Council regarding the square footage for workforce housing units and whether it should be 750 sq. ft. or 600 sq. ft. Mayor McEachern said we need affordable units downtown.

- **PUBLIC HEARING SPEAKERS**

Mayor McEachern read the legal notice, declared the public hearing open and called for speakers.

Esther Kennedy asked that the public hearing be continued because the changes are very confusing and the public needs time to digest the information. She said that 600 square feet is not large enough for a family.

Petra Huda said she does not feel the changes are compliant with state law. She also expressed concern regarding community spaces.

Paige Trace said 15 feet for the first-floor sounds suspiciously like the McIntyre Plan. She said that this is a confusing topic and needs to be explained in common language for everyone to understand.

Sarah & Lincoln Silverman said 600 square feet would be ok if you are a toddler, but it would be a tough fit for a family of four.

After three calls and no further speakers Mayor McEachern closed the public hearing.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Moreau spoke to the process followed by the Planning Board and said in 10 years there have not been any requests for workforce housing coming before the Planning Board.

**Councilor Moreau to suspend the rules to bring forward the Planning Board recommended changes as listed in the blue-lined ordinance contained in the City Council packet under her name. Seconded by Councilor Blalock and voted.**

Councilor Moreau said there are several additions and changes; one would be an entire multimodal way. She said she stands behind her recommendation for another second reading and public hearing at another time because the changes are considered significant.

Councilor Lombardi said he agrees with changing the square footage to 600 sq ft. and the multimodal.

**Councilor Tabor moved to adopt the Planning Board amendments as presented in the blue-lined version of the ordinance as contained under Councilor Moreau's name in the City Council packet. Seconded by Councilor Moreau and voted.**

**Councilor Lombardi moved to amend the square footage for workforce housing units from 750 sq. ft. to 600 sq. ft. Seconded by Councilor Bagley.**

Discussion followed regarding affordability and the size of the units.

**On a roll call 7-1, motion passed. Councilors Denton, Moreau, Bagley, Lombardi, Blalock, Cook and Mayor McEachern voted in favor. Councilor Tabor voted opposed.**

**Councilor Moreau moved to schedule a public hearing and second reading on the amended ordinance at the August 7, 2023 City Council meeting. Seconded by Councilor Blalock.**

Discussion followed regarding the possibility of looking at this again in a few months.

**On a unanimous roll call 8-0, motion passed.**

At 9:50 p.m., Mayor McEachern called for a brief recess. At 10:00 p.m., Mayor McEachern called the meeting back to order.

- F. PUBLIC HEARING/ADOPTION on proposed Resolution Authorizing a Bond Issue and/or Notes of up to Seventeen Million Three Hundred Fifty Thousand Dollars (\$17,350,000.00) for Costs Related to Police Station Upgrades, Land Acquisition, Outdoor Pool Upgrades, Citywide Facilities Capital Improvements, Elwyn Park Sidewalks Traffic calming, Borthwick Avenue Bike Path, Sagamore Avenue Sidewalk, Citywide Sidewalk Reconstruction Program, Street Paving; Management and Rehabilitation, Pease Tradeport Street Rehabilitation, Edmond Avenue Upgrades, Islington Street Improvements and Union Street Reconstruction

- **PRESENTATION**

Public Works Director Rice outlined the 13 projects that are part of the resolution.

- **CITY COUNCIL QUESTIONS**

There were no questions from the City Council.

- **PUBLIC HEARING SPEAKERS**

Mayor McEachern read the legal notice, declared the public hearing open and called for speakers. With no speakers, Mayor McEachern declared the public hearing closed.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

**Councilor Moreau moved to adopt the Resolution as presented. Seconded by Councilor Bagley.**

**On a unanimous roll call vote 8-0, motion passed.**

- G. PUBLIC HEARING/ADOPTION on a proposed Resolution Authorizing a Bond Issue and/or Notes of up to Two Million Three Hundred Fifty Thousand Dollars (\$2,350,000.00), Together with the Transfer of Unexpended Bond Proceeds in the amount of One Million Five Hundred Thousand Dollars (\$1,500,000.00), for a Total Appropriation of Three Million Eight Hundred Fifty Thousand Dollars (\$3,850,000.00), to pay Costs Related to School Facilities Improvements and Fit-Up of Community Campus Space for Robert J Lister Academy

- **PRESENTATION**

School Business Administrator Lunney spoke to the school items contained in the resolution for funding.

- **CITY COUNCIL QUESTIONS**

There were no questions from the City Council.

- **PUBLIC HEARING SPEAKERS**

Mayor McEachern read the legal notice, declared the public hearing open and called for speakers. With no speakers, Mayor McEachern declared the public hearing closed.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

**Councilor Blalock moved to adopt the Resolution as presented. Seconded by Councilor Bagley.**

**On a unanimous roll call vote 8-0, motion passed.**

- H. PUBLIC HEARING/ADOPTION on a proposed Resolution Authorizing the Borrowing of up to One Million Two Hundred Fifty Thousand Dollars (\$1,250,000.00) through the Issue of Bonds and/or Notes for Costs Related to the Design and Construction of Foundry Place Parking Offices

- **PRESENTATION**

Parking Director Fletcher spoke regarding the need for one space for the parking offices at the Foundry Garage.

- **CITY COUNCIL QUESTIONS**

There were no questions from the City Council.

- **PUBLIC HEARING SPEAKERS**

Mayor McEachern read the legal notice, declared the public hearing open and called for speakers.



Petra Huda asked what the benefit to the residents is and stated is it worth spending extra money for housing the staff.

Rick Becksted (*via Zoom*) spoke to the costs for the building.

Sarah Silverman asked if the city has considered how much efficiency will be gained and the revenue generate over time from parking.

With no further speakers, Mayor McEachern declared the public hearing closed.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

**Councilor Bagley moved to suspend the rules to continue the meeting beyond 10:30 p.m. Seconded by Councilor Moreau and voted.**

Councilor Cook said leasing this same space for 20 years would equal the same amount versus owning the space.

Mayor McEachern spoke on how the revenues are raised by the Parking Department.

**Councilor Bagley moved to adopt the Resolution as presented. Seconded by Councilor Lombardi.**

**On a unanimous roll call vote 8-0, motion passed.**

- I. PUBLIC HEARING/ADOPTION on a proposed Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of up to Nine Million Two Hundred Seventy-Six Thousand Five Hundred Dollars (\$9,276,500.00) Related to Annual Water Line Replacement, New Groundwater Source, Greenland Well Treatment, Dover Water Emergency Interconnection, Edmond Avenue Waterline Reconstruction, Islington Street Improvements and Union Street Reconstruction

- **PRESENTATION**

Deputy Public Works Director Goetz said these projects were originally presented during the budget process. He outlined the projects that are part of the resolution.

- **CITY COUNCIL QUESTIONS**

There were no questions from the City Council.

- **PUBLIC HEARING SPEAKERS**

Mayor McEachern read the legal notice, declared the public hearing open and called for speakers.

Paige Trace asked if the pipes under Little Bay fit into this resolution.

Deputy Public Works Director Goetz said the Little Bay project is separate from this resolution and is currently in the permitting phase.

With no further speakers, Mayor McEachern declared the public hearing closed.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

**Councilor Moreau moved to adopt the Resolution as presented. Seconded by Councilor Bagley.**

**On a unanimous roll call vote 8-0, motion passed.**

- J. PUBLIC HEARING/ADOPTION on a proposed Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of up to Six Million Nine Hundred Fifteen Thousand Dollars (\$6,915,000.00) for Costs Related to Annual Sewerline Upgrades, Long Term Control Related Projects, Woodbury Avenue Sewer Separation, Sewer Service for Sagamore Ave Sewer Extension, Fleet Street Utilities Upgrades/Streetscape, Edmond Avenue Improvement, Islington Street Improvements and Union Street Reconstruction

- **PRESENTATION**

Deputy Public Works Director Goetz spoke to ongoing needs for the pipes and the projects contained in this Resolution.

City Engineer Fiedler spoke to the odor in the south end and stated it is coming from the Peirce Island Wastewater Treatment Facility. He said there was a mechanical failure that has led to the odor and the issue will be resolved once we receive the part.

- **CITY COUNCIL QUESTIONS**

There were no questions from the City Council.

- **PUBLIC HEARING SPEAKERS**

Mayor McEachern opened the public hearing and called for speakers.

Paige Trace thanked Mr. Fiedler for providing the information pertaining to the odor. She said that the city still has not completed the items contained in the second modification ruling.

With no further speakers, Mayor McEachern declared the public hearing closed.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

**Councilor Cook moved to adopt the Resolution as presented. Seconded by Councilor Moreau.**

**On a unanimous roll call vote 8-0, motion passed.**

- K. PUBLIC HEARING/ADOPTION on a proposed Resolution Authorizing a Supplemental Appropriation from the Water Fund Unrestricted Net Position, a Grant from the NH Drinking Water and Groundwater Trust Fund, and a Grant from NHDES Local Source Water Protection Program for the Purchase of a Conservation Easement on the Fernald Property to Protect the Bellamy Reservoir Water Quality

- **PRESENTATION**

Water Resource Manager Pratt provided a presentation regarding the Resolution and preserving the property to protect the Bellamy Reservoir. He reported that with this no land use can occur on the property.

- **CITY COUNCIL QUESTIONS**

Mayor McEachern spoke about the importance of drinking water and the work to keep the water clean.

- **PUBLIC HEARING SPEAKERS**

Mayor McEachern read the legal notice, declared the public hearing open and called for speakers.

Petra Huda asked what the net amount from the unrestricted fund is.

Mayor McEachern said we are looking for \$714,000.00 if we do not receive the funding that Senator Shaheen is requesting.

Paige Trace thanked Senator Shaheen for coming up with the proposed funding for the project.

With no further speakers, Mayor McEachern declared the public hearing closed.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

**Councilor Blalock moved to adopt the Resolution authorizing a supplemental appropriation from water fund unrestricted net position, a grant from the NH Drinking Water and Groundwater Trust Fund, and a grant from NHDES Local Source Water Protection program for the purchase of a conservation easement on the Fernald property to protect the Bellamy Reservoir water quality. Seconded by Councilor Moreau.**

**On a unanimous roll call vote 8-0, motion passed.**

**XI. CITY MANAGER'S ITEM WHICH REQUIRE ACTION**

**A. CITY MANAGER CONARD**

1. Approval of Tentative Agreement with the Portsmouth School District Paraeducators

City Manager Conard said the agreement is before you for approval this evening.

**Councilor Tabor moved to approve an agreement with the Portsmouth School District Paraeducators. Seconded by Councilor Bagley and voted.**

2. Approval of a Memorandum of Agreement between the City of Portsmouth and Portsmouth City Employees AFSCME 1386A

City Manager Conard said that the agreement adds a new title to the schedule which is not a new position.

**Councilor Lombardi moved that the City Council approve the agreement with Portsmouth City Employees AFSCME 1386A. Seconded by Councilor Blalock and voted.**

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

- A. Presentation Regarding Community Policing Facility - Brief Announcement and Invitation to Attend July 11<sup>th</sup> Public Meeting – Peter Rice, Public Works Director

Public Works Director Rice announced that there will be a Community Policing Facility Public Informational meeting at Community Campus in the Movie Room at 6:00 p.m. on Tuesday, July 11, 2023.

Councilor Cook requested to see a schedule for the project and said that the public needs to be well involved in the process.

**Councilor Cook moved to suspend the rules to bring forward Item XV. A.1. – Update from Legal Department on Letter from Holland & Knight regarding McIntyre. Seconded by Councilor Moreau and voted.**

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

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

1. Update from Legal Department on Letter from Holland & Knight

Councilor Tabor said we will have a special meeting on July 17, 2023 on the topic of the Holland and Knight letter.

**Councilor Tabor moved to unseal the minutes from the Non-Public Session this evening and hold a Special City Council meeting on Monday, July 17, 2023 regarding the Holland & Knight letter relative to the McIntyre. Seconded by Councilor Moreau and voted.**

**XVI. APPROVAL OF GRANTS/DONATIONS**

*(There are no items under this section of the agenda this evening)*

**XIX. ADJOURNMENT**

**At 11:30 p.m., Councilor Tabor moved to postpone the remainder of the agenda until July 24, 2023. Seconded by Councilor Moreau and voted.**

A handwritten signature in black ink that reads "Kelli L. Barnaby". The signature is written in a cursive, flowing style.

KELLI L. BARNABY, MMC/CNHMC  
CITY CLERK