

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: SEPTEMBER 18, 2023

PORTSMOUTH, NH
TIME: 7:00PM

Assistant Mayor Kelley 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 7:00 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 that we hold the family of Keshawn Perkins in our hearts who recently passed away from a motorcycle accident.

VI. PLEDGE OF ALLEGIANCE

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

PROCLAMATIONS

1. CONSTITUTION WEEK

Mayor McEachern read the Proclamation declaring the week of September 17 through September 23, 2023 as Constitution Week and ask our citizens to revisit and reaffirm the ideals the framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this declaration of our rights and liberties.

VII. ACCEPTANCE OF MINUTES – SEPTEMBER 5, 2023

Councilor Tabor moved to accept and approve the minutes of the September 5, 2023 City Council meeting. Seconded by Councilor Blalock and voted.

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

A. Dedication of POW/MIA Chair – Robert McGuigan, Rolling Thunder

Robert McGuigan, Rolling Thunder presented the POW/MIA Chair to Mayor McEachern and City Council to be displayed in the Chambers representing the more than 80,000 missing in action. Mr. McGuigan stated the chair is an extension of our voices to represent the POW/MIA and thanked the City Council and City of Portsmouth for joining their voices with Rolling Thunder.

B. Economic Development Commission Outdoor Dining Report – Phil Cohen, Chair

Chairman Cohen stated the EDC recommends that the new outdoor dining ordinance supersede the existing Sidewalk Café Policy No. 2012-02 adopted in 2012 and as subsequently amended but that most of the provisions of Policy 2012-02, not inconsistent with the recommendations contained herein (e.g., insurance requirements, alcohol service, etc.) be incorporated in the new ordinance and associated design standards. He spoke regarding City Staff input on outdoor dining for specific areas of traffic, ground floor business approval, fee recommendations, design standards, and partnerships.

Councilor Bagley moved to refer the framework of the Economic Development Commission to the Legal Department to come back to the City Council with a draft ordinance. Seconded by Councilor Denton and voted.

Councilor Bagley moved to suspend the rules to bring forward XV. D.1. – “Spirit of Portsmouth” KC-46A Pegasus. Seconded by Councilor Moreau and voted.

Councilor Bagley advised the City Council that the Pease Air National Guard Base gifted an aircraft panel of the original KC-46A as a thank you to the City of Portsmouth for their dedicated support. The aircraft panel will be hung in the Portsmouth Room.

IX. PUBLIC COMMENT SESSION

Zelita Morgan – spoke regarding setting a tone of civility and respect of those running for election. She suggested a motion of what principles will be upheld in the election.

Roy Helsel said the city needs to consider that we are overdeveloped. He spoke regarding how some developments are affecting how much some residents are paying in taxes.

Peter Whelan said he is waiting for the update on the McIntyre and that we are at a crossroads. He said McIntyre is the most valuable piece of property in the city and the Council has a duty to the residents to get something done.

Joan Hamblet as an election official urged the City Council to accept the recommendation of the City Clerk and not extend the polling hours. She said the day begins much earlier than 8:00 a.m. and goes into the night long after the polls close. She stated we do not have a pool of people that are able to extend their hours to work longer shifts.

Francis Cormier spoke regarding the \$64,000.00 question.

Sue Polidura said the Council should suspend the rules to bring forward the discussion on the McIntyre. She spoke to issues she finds with the Ethics Ordinance.

Irish Mike said everyone knows where they were during 9/11 and he feels there should be a week in honor of that day.

Petra Huda spoke on the CAFR and PAFR and said she feels the budget is misleading when it comes to actual spending.

Esther Kennedy spoke regarding the number of new employees brought on by the city in the last year. She spoke regarding the impact of bringing these employees on in terms of costs. She urged the city to look at the whole puzzle.

Paige Trace spoke regarding the number of Non-Public Sessions that have been held by the City Council. She said in two years the city has added \$22 million to the budget which is an increase of 10%.

Peter Harris said perception has meaning. He said Councilor Cook is voting on decisions that impact her financially.

Mark from the Park spoke regarding City Council Rule 43 and feels like he is being silenced from speaking.

Rick Becksted said he would like the plaque he received while Mayor to be hung in the Portsmouth Room next to the aircraft panel from the National Guard.

Assistant Mayor Kelley moved to suspend the rules to bring forward Mayor McEachern's McIntyre Update. Seconded by Councilor Bagley and voted.

XIV. MAYOR McEACHERN

2. McIntyre Update

Mayor McEachern provided a brief update on McIntyre. He reported that the General Services Administration (GSA) feels because they did not build a new federal building that they are not required to provide the McIntyre building to the city. He stated the city is looking for a clear answer from the GSA on what their position is regarding McIntyre.

X. PUBLIC HEARING AND VOTE ON ORDINANCES AND/OR RESOLUTIONS

First Reading of Ordinance:

- A. First Reading of Ordinance amending Chapter 7, Article III, Section 7.321 – Snow Emergency Parking Ban and Chapter 7, Article X – TOWING, Section 7.1002 – Snow Removal Operations

Councilor Lombardi moved to pass first reading and schedule a public hearing and second reading at the October 2, 2023 City Council meeting. Seconded by Councilor Blalock and voted.

Public Hearing/Second Reading of Ordinance:

- B. PUBLIC HEARING/SECOND READING of Ordinance amending Chapter 1, Article VIII – Code of Ethics, Section 1.802 – Conflicts of Interest, amending Subsection F – Gifts and Favors: No officer or employee shall accept any gift over \$100.00 per calendar year
 - **PRESENTATION**

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

Councilor Cook moved to pass second reading and hold third and final reading at the October 2, 2023 City Council meeting. Seconded by Assistant Mayor Kelley.

- **CITY COUNCIL QUESTIONS**

Councilor Bagley thanked the Governance Committee. He said he feels the ordinance is too cumbersome and will not be able to support the motion.

- **PUBLIC HEARING SPEAKERS**

Mark Brighton said he feels this denies first amendment rights.

Paige Trace spoke regarding the ordinance and said Councilors Moreau and Bagley are affected by the Ethics Ordinance. She said Councilor Moreau serves as a volunteer and Councilor Bagley should not be penalized for what a family member may say regarding matters. She said the ordinance infringes on first amendments and their right to speak.

Tom Nies said he supports the efforts to change the Ethics Ordinance and the changes will fix some things. He stated the changes are necessary and should be adopted and moved forward.

Esther Kennedy said the problem is with the word “any”, it is too broad. She said an ordinance should be considered for public board members and employees.

Petra Huda said on item “J” you need to keep in mind that they are all volunteers. She said we are having a hard time getting volunteers to serve and this could impact that.

Dick Bagley spoke in support of the amendment to \$100.00 and said he is concerned that we do not have a whistle blower policy.

Zelita Morgan said the City Council needs to consider what you are trying to solve. She also spoke to first amendment rights. She said there needs to be official training on this ordinance and its meaning.

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

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Mayor McEachern said that this will not affect Councilor Moreau. He said this is to make sure we have the appearance of being ethical.

Councilor Moreau said the Zoning Board of Adjustment hears different applications from what is heard at the Planning Board level.

Councilor Cook said Section 1.902 is in the packet and what is coming forward in the future and is separate from this ordinance.

Councilor Bagley said family is defined differently in the ordinance. He said his family does not come and speak here.

Councilor Tabor said land use boards should be impartial.

Councilor Cook said it is important to be creative here, it would not prevent someone from speaking but it would require the person on the board to recuse themselves from the matter. She said the goal was to codify the rules.

Motion passed. Councilors Denton and Bagley voted opposed.

At 9:05 p.m., Mayor McEachern declared a brief recess. At 9:15 p.m., Mayor McEachern called the meeting back to order.

XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Request for Street Naming – Grapevine Run

City Manager Conard said that this is from 8 residences approved on Woodbury Avenue with a private street.

Assistant Mayor Kelley moved to authorize the use of Grapevine Run as the private street name for the development at 212, 214, 216 Woodbury Avenue. Seconded by Councilor Moreau and voted.

2. Authorization to Facilitate Installation of Dock

City Manager Conard said we will facilitate a private dock which is located in Atlantic Heights and has approval from the State and City.

Councilor Moreau moved to authorize the City Manager to negotiate and execute any agreements or approvals which are necessary for Roger and Elizabeth Trudeau, 10 Crescent Way, to construct a proposed 10' x 10' deck, 40' seasonal gangway, and 10' x 20' seasonal float as presented. Seconded by Councilor Bagley and voted.

3. Request for Extension of Temporary Construction License for 147 Congress Street

City Manager said they are constructing a 700' addition to the building. She advised the Council that the sidewalk is no longer encumbered and are asking for an extension.

Councilor Moreau moved to authorize the City Manager to execute and accept an extension of the temporary construction license to encumber the sidewalks along Maplewood Avenue that abut 147 Congress Street as requested. Seconded by Assistant Mayor Kelley and voted.

4. Request to Establish Polling Hours for the Municipal Election

Councilor Tabor moved to establish polling hours from 8:00 a.m. to 7:00 p.m. for the November 7, 2023 Municipal Election. Seconded by Assistant Mayor Kelley.

Assistant Mayor Kelley thanked everyone for working at the polls.

Councilor Bagley said the case is made here and it is a long day and encouraged residents to request an absentee ballot, if necessary.

Councilor Cook said she understands the concerns regarding the hours.

Councilor Blalock said that this is one of the most important days in democracy and encouraged residents to get absentee ballots.

Councilor Denton said City Clerk Barnaby indicated the time to extend the hours would be for the Presidential Primary or Presidential General Election.

Motion passed.

XII. CONSENT AGENDA

- A. Letter from Marcia Leach, North Church of Portsmouth, requesting permission to hold the annual Crop Walk for Hunger on Sunday, October 15, 2023 beginning at 12:30 p.m. ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Letter from Matt Junkin, Seacoast Rotary, requesting permission to hold the 15th Annual Seacoast Rotary Turkey Trot 5k on Thanksgiving, November 23, 2023 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- C. Letter from Barbara Massar, Pro Portsmouth, Inc., requesting permission to hold the following events:
 - First Night Portsmouth 2024 – Sunday, December 31, 2023
 - Children’s Day – Sunday, May 5, 2024
 - 47th Annual Market Square Day Festival & 10K Road Race – Saturday, June 8, 2024
 - 21st Annual Summer in the Street – Saturday evenings – June 29, July 6, 13, 20, 27, 2024***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- D. Letter from Effie Malley, Portsmouth Climate Action, requesting use of the Bridge Street Lot on Sunday, October 22, 2023, for the 4th Annual Electric Vehicle Show ***(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

Councilor Moreau moved to accept and place on file. Seconded by Councilor Blalock and voted.

- B. Letter from Tina Sawtelle, The Music Hall, requesting permission to close a portion of Portwalk Place, but to allow alcoholic beverages (wine, beer, and spirits) to be served inside the event's enclosure for the New Hampshire Film Festival Hospitality Party on October 14, 2023 from 9:00 a.m. – 3:30 p.m.

Councilor Tabor moved to refer to the City Manager with Authority to Act. Seconded by Councilor Blalock and voted.

- C. Letter from Riah & Chris Zaremba & Petition from 9 homes requesting that a small portion of Islington Street have the sidewalk repaired and maintained, with the safety of pedestrians on a busy street taken into consideration or to rip up the old sidewalk to the curb, re-grade and loam, and lay seed down to redirect pedestrians to the side of the street with the appropriate sidewalk

Councilor Tabor moved to refer to the City Manager with Authority to Act. Seconded by Assistant Mayor Kelley and voted.

XIV. MAYOR McEACHERN

1. Appointments to be Voted:
- Jen Scumaci to the Economic Development Commission
 - Erica Wygonik as a Regular Member to the Parking & Traffic Safety Committee
 - David Allen as an Alternate to the Parking & Traffic Safety Committee
 - Larry Booz to the Historic District Commission

Councilor Bagley moved the appointment of Jen Scumaci to the Economic Development Commission filling unexpired term of Alan Gold until October 1, 2025. Erica Wygonik as a Regular Member to the Parking & Traffic Safety Committee filling unexpired term of Harold Whitehouse until September 17, 2024. David Allen as an Alternate to the Parking & Traffic Safety Committee until August 4, 2026. Larry Booz as an Alternate to the Historic District Commission filling the unexpired term of Johanna Landis until June 1, 2025. Seconded by Councilor Blalock and voted.

XV. CITY COUNCIL MEMBERS

A. COUNCILOR TABOR

1. 10-year Spending History

Councilor Tabor reviewed the chart he created showing the 10-year spending history for the city. He stated he wanted a sheet that showed approved budgets. He said the chart includes extra appropriations the Council also approved.

B. COUNCILOR DENTON

1. Amend Rule 43 A

Councilor Denton moved to suspend the rules to vote on amendment to Rule 43 A this evening. Seconded by Councilor Blalock and voted.

Councilor Denton moved to amend Rule 43 A, by adding between the fourth and fifth sentence, a new sentence that reads, “The playing of music, videos, or the recording of others is prohibited. Seconded by Councilor Blalock.

Discussion followed.

Mayor McEachern said the most important role in the government is to be a citizen and we work for the people. He said he trusts residents, and it is difficult when we make rules, and he would support the motion.

Motion passed.

C. COUNCILOR MOREAU

1. Soundwall Construction

Councilor Moreau reported that engineering for the soundwall has been completed and construction would be completed by 2025.

E. COUNCILOR COOK

1. Request for First Reading of Election Candidate Financial Disclosure Ordinance

Councilor Cook moved to schedule first reading at the October 2, 2023 City Council meeting of the amendments proposed by the Governance Committee to Section 1.902 Election Candidate Financial Disclosure of the Administrative Ordinance, Chapter 1, Article IX – Conflict of Interest/Mandatory Financial Disclosure. Seconded by Councilor Lombardi.

Councilor Cook said that this is coming forward from the Governance Committee. She said they will be looking at both sections of disclosures for changes to reflect concerns surrounding in-kind gifts or donations and additional penalties for Political Action Committees.

Motion passed.

XVI. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant in Support of Household Hazardous Waste Collection Events - \$4,265.00

Councilor Blalock moved to accept and expend a \$4,265.00 DES grant for the purpose of household hazardous waste collection events and authorize the City Manager to execute any documents which may be necessary for this grant contract. Seconded by Councilor Lombardi and voted.

- B. Acceptance of Office of Highway Safety Grant for the Police Department - \$31,300.00

Assistant Mayor Kelley moved to approve and accept the grant for the Police Department as presented. Seconded by Councilor Blalock and voted.

XVII. CITY MANAGER'S INFORMATIONAL ITEMS

1. Community Policing Facility Public Meeting

City Manager Conard invited the public to the second Community Policing Facility Public Meeting on Thursday, September 21, 2023 at 5:30 p.m., in the Eileen Foley Dondero Council Chambers. She reported that updates on the project will be heard from City staff and our consultants, including site selection, site options, and program test fit.

2. FlashVote Survey #2 Results

Monte Bohanan, Communications and Community Engagement Director spoke to the latest FlashVote on Parking Downtown and the October FlashVote Survey will be regarding the Climate Action Plan.

XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

Councilor Denton reported there will be a Climate Action Plan discussion at the Liar's Bench on Wednesday, September 27, 2023 from 6:00 p.m. to 8:00 p.m.

Assistant Mayor Kelley extended an invitation to the New England BiPoc Fest on Sunday, September 24, 2023 from Noon to 5:00 p.m. at Vida Cantina.

Councilor Cook announced that Fairy House Tours will be held on September 23, 2023 and September 24, 2023 from 10:00 a.m. to 3:00 p.m. on the grounds of Strawberry Banke Museum, Governor John Langdon House and Prescott Park.

City Manager Conard announced that there were 94 public submissions for the Capital Improvement Plan.

XIX. ADJOURNMENT

At 10:00 p.m., Assistant Mayor Kelley moved to adjourn. Seconded by Councilor Blalock and voted.



KELLI L. BARNABY, MMC/CNHMC
CITY CLERK