

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, OCTOBER 16, 2023

PORTSMOUTH, NH
TIME: 7:00 PM

III. CALL TO ORDER

Mayor McEachern called the meeting to order at 7:00 p.m.

Assistant Mayor Kelley moved to leave Non-Public Session and seal the minutes. Seconded by Councilor Moreau and voted.

IV. ROLL CALL

Present: Mayor McEachern, Assistant Mayor Kelley, Councilor Tabor, Councilor Denton, Councilor Moreau, Councilor Bagley, Councilor Lombardi (via Zoom), Councilor Blalock and Councilor Cook.

V. INVOCATION

Mayor McEachern stated that Brandon Clark passed away unexpectedly and will be missed.

VI. PLEDGE OF ALLEGIANCE

Mayor McEachern led the Pledge of Allegiance.

PROCLAMATION

1. DOMESTIC VIOLENCE AWARENESS MONTH

Councilor Moreau read the Proclamation declaring the month of October as Domestic Violence Awareness Month and asked our citizens to come together to reaffirm our commitment to ending domestic violence and supporting survivors.

2. ITALIAN HERITAGE MONTH

Mayor McEachern read the Proclamation declaring the month of October as Italian American Heritage Month and called upon the residents of Portsmouth to celebrate the Italian Heritage our citizens have come to share with us and to embrace our Friendship City of Santarcangelo with Portsmouth's welcoming, always-open door.

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

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

IX. PUBLIC COMMENT SESSION

Mayor McEachern opened the public comment session:

Roy Hesel – spoke regarding development stating that people from other places that come to Portsmouth want to see a unique little town, but it is becoming over-developed and losing that quality.

Mike Daigle of the Friends of Italian Americans, a newly-formed non-profit organization, discussed the recent events held by the organization celebrating and remembering the Italian heritage and history of the Italian immigrants and residents of the north end during the urban renewal in the 1970's. He also requested that the Council approve the donation of the antique fire truck that is on the agenda for approval.

Elyse Gallo – thanked the Council for the Proclamation recognizing Italian Heritage Month. She also expressed her concern with the loss of Columbus Day holiday and being replaced with Indigenous People's Day stating that both can be celebrated and perhaps on different days and asked that Columbus Day be restored.

Rick Becksted – stated he hopes that Keno gets approved at the upcoming election. He also spoke to the collective bargaining non-public session stating that we have already emptied the well on the Police and Fire contracts. Next, he stated that the previous Council allocated funds for the skate park at the 12/22/2021 meeting on a 9-0 vote and the current Council bonded \$2.8 million for it, so wonders where the \$2.2 million from 2021 vote went. He stated the residents and taxpayers deserve to know where it went.

Petra Huda – discussed the upcoming presentation from the Finance Department stating she was looking for information in the Council packet but there was none. She stated she wants to know if the figures being presented tonight are going to be audited numbers or estimates. Next, she discussed the surplus stating that she was blown away that it is the largest it has been in 10 years and the money should go back to the taxpayers. Finally, she discussed the Audit Committee which hasn't met since the Auditor was selected and feels that the city is misrepresenting how the hiring of a new auditor came about.

Paige Trace – stated that the RSA cited for the Non-Public Session for Collective Bargaining Agreements was incorrect. She continued that she is concerned that the public is not being updated on various court cases including the Webber case which the city won on appeal back in June. She concluded stating that she was unable to find Fire Commission minutes on the website and asked when the Audit Committee would be meeting again.

Esther Kennedy – stated she feels the Council should hold an information meeting on the pipeline going across Great Bay as well as the migration of chemicals from Tolend Road to the Madbury Well site. She stated that there needs to be an update given on all of our drinking water sources.

Zelita Morgan – stated she watched the most recent candidates' forum and heard people saying that Accessory Dwelling Units (ADU's) are affordable but she does not agree that they are affordable to working people. She stated she is also disappointed with the process of the Governance Committee in that it is at 10:00 a.m. during a work-day and feels that people aren't able to participate. She concluded stating that there have been 3 votes requesting information on the Climate Action Plan but there has been no follow-up.

Jackie Cali-Pitts – stated she is proud of her Italian-American heritage. Next, she discussed homelessness in the City of Portsmouth and asked what the arrangements will be when it gets cold.

Mayor McEachern stated that Operation Blessing has increased the amount of beds. Jackie Cali-Pitts stated there are still not enough to meet the need and the staffing is also a problem.

Gary Epler – stated he spoke several months ago regarding EV charging stations and there was a unanimous vote to send it to the Planning Board, but there has not yet been a report back. He stated 10/19/2020 there was a vote to send his letter to the Planning Board regarding a 5-acre solar panel farm and again, no action has been taken as of yet. He stated we are in a critical climate crisis and we need an ordinance for EV charging stations.

Seeing no one else wishing to speak, the Mayor closed the Public Comment Session.

Councilor Tabor moved to suspend the rules to bring forward Item X-C, Public Hearing regarding KENO within the City of Portsmouth and Item XIII-A, Financial Update as requested by Councilor Tabor. Seconded by Assistant Mayor Kelley and voted on a 9-0 roll call.

- C. Public Hearing regarding KENO within the City of Portsmouth (***No vote required***)
- **PRESENTATION**
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Michael McIntire of the NH State Lottery gave a brief presentation regarding KENO and how the money is used for various non-profit organizations.

Councilor Tabor asked what the average patron spends on Keno.

Mr. McIntire stated it is hard to track in-person spending but they feel it is not more than \$15.00 during an hour time-frame usually while eating dinner at an establishment.

Mayor McEachern opened the Public Hearing:

George Remick – thanked everyone for putting this on the ballot and explained that the question is on the bottom of the ballot. He stated that there used to be Bingo in the city and this is similar.

Eli Sokorelis – stated he has Keno at this establishment in Seabrook and most people come in and spend \$10.00. He explained that the game is played every 5 minutes and the profits support Kindergarten in the State of NH.

Frank Desper, American Legion – explained all of the different organizations the American Legion supports and that this money will help them to continue doing so.

Lonnie Cherry, Portsmouth Lodge of Elks – stated he would like voters to support Keno as they also are a charitable organization and this would help them continue to support those in need.

Tom Beaudoin – stated that Portsmouth is a wonderful place to live, but people also need help. He stated that Keno would drastically improve what the Elks and other organizations can give back to the community. He urged people to vote yes on Keno.

Paige Trace – stated that this is the third time on the ballot so not everyone is in favor of Keno in Portsmouth. She stated she feels that the time has come and it can do a lot of good for the community.

Seeing no one else wishing to speak, the Mayor closed the public hearing.

Mayor McEachern stated that this has been on the ballot three times and feels that people have many ways to gamble now and feels that this will do good for the city.

A. Financial Update as Requested by Councilor Tabor

A Financial Update presentation for FY23 and Parking Revenues was given by City Manager Conard, Finance Director Judie Belanger and Parking Director Ben Fletcher.

Councilor Bagley asked if Unassigned Fund Balance is a “rainy day” fund.

Finance Director Belanger stated it is a savings which allow flexibility and can be used as a back-up for emergencies and is not designated for any specific purpose. She stated they are trying to get away from the “rainy day” fund terminology.

Councilor Bagley congratulated the Finance Director and staff on maintaining the AAA Bond Rating. He next asked about unfunded positions.

Finance Director Belanger stated that all positions are funded but not filled. She stated there has been a stretch of long-term vacancies and has had a large impact on the surplus.

Councilor Bagley asked about the percentage of on-street parking revenue from Park Mobile. Parking Director Fletcher stated 50% of revenue on 49% of the transactions. He stated that 96% of the usage of the Park Mobile app is non-resident.

Councilor Bagley clarified that the McIntyre parking has always been kept separate from the rest of the parking and for every \$500,000 of assessed value on a home, homeowners save \$340.00 on their tax bill from services provided through the parking fund.

Councilor Blalock stated he appreciated the explanation of the expenditure surplus Skateboard Funding being returned.

Finance Director Belanger clarified the \$2,000,000.00 was part of the expenditure surplus in 2022 of \$4.4 million with \$2 million directly related to the supplemental appropriation that this Council voted to put into the Capital Improvements Plan.

Councilor Cook also congratulated the Finance Department for the 30th year of AAA Bond rating. Next, she asked about stabilization funds which help make sure we don't have large increases depending on costs or spikes. She stated that the Fund Balance also serves as an overall budget stabilization fund.

Finance Director Belanger stated that all of the stabilization funds are sub funds of the General Fund. She stated if there is a surplus in the stabilization funds, they are zeroed out at the end of the year and returned to the general fund.

Councilor Tabor discussed the recent trends of expenses and revenues and the impact on fund balance.

Mayor McEachern called a brief recess at 8:50 p.m. and reconvened at 8:55 p.m.

Councilor Cook moved to suspend the rules to bring forward XVI-A, Acceptance of Donation to the Fire Department of 1920 American LaFrance Fire Truck. Seconded by Assistant Mayor Kelley and voted on an 8-0 roll call vote (Councilor Lombardi did not respond to roll call via Zoom)

- A. Acceptance of Donation to the Fire Department of 1920 American LaFrance Fire Truck (Estimated Value \$40,000.00 - \$60,000.00 subject to final appraisal) to the Portsmouth Fire Department

Assistant Mayor Kelley moved to accept and approve the donation of a 1920 American LaFrance Fire Truck to the Portsmouth Fire Department. Seconded by Councilor Bagley and voted on a 9-0 roll call vote.

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

Public Hearing of Ordinances:

- A. Public Hearing/Second Reading of Ordinance amending Chapter 1, Article IX – Conflict of Interest/Mandatory Financial Disclosure, Section 1.902, Election Candidate Financial Disclosure

Councilor Cook moved to pass second reading and hold third and final reading at the November 13, 2023 City Council meeting, seconded by Councilor Blalock.

- **PRESENTATION**

Councilor Cook explained that this will close loopholes and provide more transparency and provide penalties to non-elected individuals that do not comply.

- **CITY COUNCIL QUESTIONS**

Councilor Denton thanked the Governance Committee for bringing this forward and likes the amendments to the ordinance that was last changed 6 years ago. He stated he does have 3 additional amendments that he is looking to bring forward. He stated the first one mirrors State RSA which requires that campaign signs and literature must state the PAC; secondly, full itemization, not just total amount spent; and 3rd, eliminate the \$100.00 threshold and disclose all donations.

Councilor Cook clarified that this ordinance amendment will not be in affect for the upcoming Municipal Election.

Councilor Blalock stated that any transparency is better and people should know if PAC's are involved.

- **PUBLIC HEARING SPEAKERS**

Mayor McEachern read the public hearing notice and called for speakers:

Paige Trace – stated that she has reviewed the previous election Candidate Disclosure forms and found that not all candidates filed the forms. She stated that candidates who are not elected don't always file after the election. She discussed that there are also discrepancies between what a PAC reported in contributions to candidates and what the candidates reported. She stated she feels that this change will make the process more transparent.

Petra Huda – spoke to Councilor Denton's proposed amendments to the ordinance and is unclear why they are needed and how this will be enforced.

Esther Kennedy – stated that if the amendments are brought forward this will have to go to another public hearing. She stated that she feels that RSA requirements should be incorporated as well. She concluded stating that receiving contributions is a right of a candidate and is not an ethical issue other than who do you owe for what is given.

Seeing no one else wishing to speak at the public hearing, Mayor McEachern closed the public hearing.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Discussion ensued regarding the proposed amendments brought forward by Councilor Denton. A motion made by Councilor Denton and seconded by Councilor Bagley regarding the amendments was withdrawn.

Councilor Denton moved to refer to legal department to bring back a draft for another 2nd reading at the November 13, 2023 City Council meeting which will be referred to an additional public hearing at the December 4, 2023 City Council meeting. Seconded by Councilor Bagley and passed on a 9-0 roll call vote.

- B. Public Hearing/Second Reading of Ordinance amending Chapter 1, Article IV, Section 1.413 – Sustainability Committee

Councilor Denton moved to pass second reading and hold third and final reading at the November 13, 2023 City Council meeting, seconded by Councilor Cook and voted.

- **CITY COUNCIL QUESTIONS**

Councilor Cook stated that this is an important move as the City Council moves toward adopting a Climate Plan and they will be able to implement the plan as a standing committee.

Councilor Tabor stated that the Energy Advisory Committee would also be a good resource for this committee to work with as they have experts in various fields.

- **PUBLIC HEARING SPEAKERS**

Mayor McEachern read the public hearing notice and called for speakers. Seeing no one wishing to speak, Mayor McEachern closed the public hearing.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Denton moved to suspend the rules to pass 3rd and Final reading. Seconded by Councilor Cook and passed on a 9-0 roll call vote.

- C. Public Hearing regarding KENO within the City of Portsmouth **(No vote required)**
(Previously acted upon)

Third and Final Reading of Ordinance:

- D. Third and Final 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 Moreau moved to pass third and final reading of the ordinance. Seconded by Councilor Bagley and voted on a 9-0 roll call vote.

- E. Third and Final 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

Councilor Tabor moved to pass third and final reading of the ordinance, seconded by Councilor Cook.

Councilor Bagley stated he will be voting against the ordinance based on the definition of “family”.

Motion passed on a 7-2 roll call vote. Councilor Denton and Councilor Bagley voted opposed.

XI. CITY MANAGER’S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Request to Sell Surplus Water Meters

Councilor Moreau moved to authorize the sale of the surplus equipment as presented. Seconded by Assistant Mayor Kelley and voted on a 9-0 roll call.

2. Temporary Construction License for Peirce Block

Councilor Moreau moved to authorize the City Manager to execute and accept the temporary construction license to encumber the sidewalk and roadway along High and Ladd Streets and 6 parking spaces on High Street that abut the Peirce Block as requested, seconded by Councilor Bagley.

Councilor Moreau asked if this is completely blocking parking on High Street.

Public Works Director Rice stated that it was initially going to be walk-under scaffolding but it was unsafe due to debris so the staging is going into the parking spaces and pedestrians will have to go to the other side of the street.

Councilor Lombardi asked if fire and safety vehicles are able to get through. City Manager Conard answered in the affirmative.

Motion passed on a 9-0 roll call vote.

3. Approval of PILOT agreement for Betty's Dream
4. Approval of PILOT agreement for Friends of Lafayette House

City Assessor Lentz explained that PILOT agreements between the city and otherwise exempt organizations are meant to help the municipality to defray the costs of municipal, non-utility, services and relayed the report as follows.

Friends of Lafayette House is a group home facility for adults with developmental disabilities located at 413 Lafayette Road. The Assessor's Office has reviewed the Friends of Lafayette House charitable status and feels they meet the term "charitable" as set forth in RSA 72:23-l.

RSA 72:23-k states the real estate and personal property of charitable, nonprofit community housing and community health care facilities for elderly and disabled persons, if none of the income or profits is used for any purpose other than community housing or community health care, shall be exempt from taxation. This exemption shall apply to housing and health care facilities situated within New Hampshire which are sponsored or owned by nonprofit, charitable corporations or organizations, located within or outside of the state, and to projects organized, operated, or assisted under state law or pursuant to rules and regulations of the United States Department of Housing and Urban Development, the United States Department of Health and Human Services, or any successor agency.

This year, the Assessor's Office reviewed all exempt property applications. Friends of Lafayette House does qualify for charitable status but needed to follow that statute for charitable, nonprofit community housing and community health care facilities for elderly and disabled persons pursuant to RSA 72:23-k as stated above.

This was unexpected for Friends of Lafayette House as they have paid nothing in the past and were not able to budget for a PILOT payment for this year. As such, for Fiscal Year 2024, I would recommend a payment in lieu of taxes be zero. For Fiscal Year 2025 I would recommend a payment in lieu of taxes based on their annual profit before depreciation (total income minus total expenses) as shown in their most recent financial statements. This would be consistent with other PILOT agreements the city has had in the past and would allow them to budget accordingly for next year.

For cause shown and at any time, keeping in mind the nature and purpose of the project, the municipality or the Board of Tax and Land Appeals may refund or abate all or a portion of the payment in lieu of taxes in any year.

Councilor Moreau moved that the City Manager be authorized to enter into a PILOT agreement with Betty's Dream in the amount of \$3,000.00. Seconded by Assistant Mayor Kelley and passed on a 9-0 roll call vote.

Councilor Moreau moved that the City Manager be authorized to enter into a PILOT agreement with the Friends of Lafayette House in the amount of \$0.00. Seconded by Assistant Mayor Kelley and passed on a 9-0 roll call vote.

XII. CONSENT AGENDA

(There are no items on the Consent Agenda)

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- A. Financial Update as Requested by Councilor Tabor (previously acted upon)
- B. Email Correspondence

Assistant Mayor Kelley moved to accept the email correspondence and place on file. Seconded by Councilor Blalock and passed on a 9-0 roll call vote.

XIV. MAYOR McEACHERN

- 1. Resignations:
 - Alison Hamilton from the Citizens Advisory Committee
 - Judith Bunnell from the Citizens Advisory Committee

Mayor McEachern announced the resignations of Alison Hamilton and Judith Bunnell from the Citizens Advisory Committee.

- 2. Appointments to be Considered:
 - Annelise Hartley to the Citizens Advisory Committee
 - Kirsten Barton to the Citizens Advisory Committee
 - Sachiko Akiyama to the Cultural Planning Subcommittee

The aforementioned appointments were considered and will be voted at the November 13, 2023 City Council meeting.

- 3. Reappointment to be Voted – Kelly Delekta to the Board of Library Trustees

Assistant Mayor Kelley moved to accept the reappointment of Kelly Delekta to the Board of Library Trustees with term to expire 10/01/2026. Seconded by Councilor Bagley and voted on a 9-0 roll call.

XV. CITY COUNCIL MEMBERS

A. COUNCILOR BLALOCK

1. Report back from Legal and Planning Departments on the current Demolition Ordinance and any alternatives to consider

Councilor Blalock moved to request a report back from Legal and Planning Departments on the current Demolition Ordinance and any alternatives to consider. Seconded by Councilor Moreau and voted on a 9-0 roll call.

B. COUNCILOR COOK

1. Draft Changes to the Sidewalk Policy

Councilor Cook moved to schedule discussion of the draft changes from the Governance Committee to the City Council Sidewalk Policy at the November 13, 2023 City Council meeting. Seconded by Assistant Mayor Kelley and passed on a 9-0 roll call vote.

2. Ethics and Transparency Policy

Councilor Cook moved to schedule discussion of the draft Ethics and Transparency Policy from the Governance Committee at the November 13, 2023 City Council meeting, seconded by Councilor Moreau.

Councilor Tabor stated that this is a policy not an ordinance and can be changed by future Councils.

Motion passed on a 9-0 roll call vote.

3. Municipal Officials Disclosures

Councilor Cook moved to schedule first reading of the ordinance amendments proposed by the Governance Committee to the Municipal Officials Disclosure ordinance, Chapter 1, Article IX, Section 1.901, at the November 13, 2023 City Council meeting. Seconded by Councilor Moreau and voted on a 9-0 roll call.

XVI. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation to the Fire Department of 1920 American LaFrance Fire Truck (Estimated Value \$40,000.00 - \$60,000.00 subject to final appraisal) to the Portsmouth Fire Department (Previously acted upon)

XVII. CITY MANAGER'S INFORMATIONAL ITEMS

1. Report Back on Non-Profit Filing Requirements for Property Tax Exemption

XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

XIX. ADJOURNMENT [at 10:30 p.m. or earlier]

**Councilor Denton moved to adjourn at 10:18 p.m. Seconded and voted unanimously.
(Councilor Lombardi had left the Zoom)**

Respectfully submitted:

Valerie A. French
Deputy City Clerk