

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, OCTOBER 7, 2024

PORTSMOUTH, NH
TIME: 7:00 PM

III. CALL TO ORDER

Mayor McEachern called the meeting to order at 7:10 p.m.

IV. ROLL CALL

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

V. INVOCATION – n/a

VI. PLEDGE OF ALLEGIANCE

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

PROCLAMATIONS

1. Children’s Environmental Health Day – October 10, 2024

Councilor Denton read a Proclamation declaring October 10, 2024, Children’s Environmental Health Day. Rebecca O’Brien, Sustainability Committee, accepted the proclamation.

2. Fire Prevention Week October 6-12, 2024

Mayor McEachern read a Proclamation declaring the week of October 6 – 12, 2024 “Fire Prevention Week.” Fire Chief McQuillen accepted the proclamation and urged residents to change the batteries on their smoke detectors and carbon monoxide detectors.

3. Domestic Violence Awareness Month

Councilor Moreau read a Proclamation declaring the month of October “Domestic Violence Awareness Month” in the City of Portsmouth. Ryan Grogan, Jean Reed, Natalie Belleville, and Steve Gahan accepted the proclamation.

VII. ACCEPTANCE OF MINUTES

There were no minutes to be accepted this evening.

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

IX. PUBLIC COMMENT SESSION

Frank Desper – Addressed the City Council regarding the Wall of Healing (item XVIII. G. on the agenda) requesting permission to bring the display from Washington, D.C. to Portsmouth in the Summer of 2025.

Petra Huda – Requested that City Manager item “XVII. 2. Revaluation Update” be moved forward on the agenda. Ms. Huda also questioned the proposed tax rate and whether the commercial values were factored into the numbers.

Councilor Moreau moved to suspend the rules to move forward on the agenda the City Manager’s Informational Items under section XVII. Councilor Cook seconded the motion. The motion passed by a unanimous voice vote.

1. Update on Public Informational Meeting for Community Policing Facility

City Manager Conard reported that Thursday, November 7 at 6:00 PM has been set as the date for the public information session requested at the prior City Council meeting. There has been no time limit set for the meeting, and it will allow an opportunity for questions, answers, and feedback as well as presentations by staff and review of the work done to date.

City Manager Conard stated that City Staff expect to have contract details worked out within the next week with the firm who will be conducting the staffing needs assessment.

2. Revaluation Update

Rosann Lentz, City Assessor, gave a brief update on the City’s commercial assessment and preliminary values. She presented a comparison between the 2023 and 2024 valuation, and further broke down the percentage of commercial increase by neighborhood as well as the increase in value by property usage.

City Assessor Lentz illustrated the percentage of increase in taxes based upon the percentage change in property value and the number of parcels within the City affected by each category.

City Assessor Lentz referenced a question posed during public comment regarding why the commercial values had not been posted or calculated as part of the estimated tax rate. She clarified that these values had been considered as part of the tax rate, and are all posted on the Assessing page of the City website. Physical notices are being sent out within the next couple days. She stated that for those who would like to discuss their assessments, the Assessing office is currently accepting appointments. She explained that although the property cards are not yet available for residential properties, the commercial cards are available in office for review.

City Assessor Lentz clarified that the rate is a preliminary estimate and will not be final until the tax rate is set by the State of New Hampshire. The results of the hearings currently taking place could change values and cause an adjustment in the estimated rate as well.

Councilor Cook referenced the elderly and disabled exemptions which Council had voted to increase the month prior. She questioned if these exemption levels would not be equivalent considering the increase in valuations. Assessor Lentz explained that when reviewing the exemptions prior to the increase, they had looked at the median assessed value which was \$750,000 at the time. This median has now increased to \$762,000. She speculated that many of the people who qualify for these exemptions are not falling with the income and asset range which would be affected by the increased valuations. Councilor Cook inquired if there would still be time to increase the limits for the elderly and disabled exemptions at the next City Council

meeting. Ms. Lentz responded that the amount of exempt value could be amended, but not who would qualify for said exemptions; the City Council would need to wait until next year to change these numbers if desired.

Councilor Tabor reported that he has heard concerns from constituents regarding the increase to their taxes and questioning on whether this was common throughout the City. Ms. Lentz reviewed the categories presented earlier of percentage change in value and the resulting percentage in tax increase. She stated that those whose values increased between 46% - 60% would experience between a 5.4% - 11% increase in their taxes. Those whose properties have increased between 61% - 80% will experience an increase between 11.6% – 25.3%. These categories comprise over 2/3 of the City's properties, both residential and commercial. Councilor Tabor suggested it might be beneficial to have a breakdown of just the residential properties and the percentage of those whose taxes remained the same or increased, which might give a better sense of how the revaluation is impacting constituents.

Councilor Moreau spoke about the billing structure for some commercial utilities which charge a flat rate. She asked if there could be a similar method used for tax payments to distinguish rates between residential and commercial. City Assessor Lentz stated that there is not a way to differentiate between residential and commercial properties as far as the tax rate is concerned.

There was a discussion regarding tools available on the assessing page and how they can be utilized by residents.

Mayor McEachern inquired if there were zoning changes to office/professional buildings, would these zoning amendments and the updated use be taken into consideration when the valuation of a commercial property was determined. Assessor Lentz responded that it was difficult to answer due to multiple criteria that come into consideration such as the location, development, and sales price on properties; even with identical zoning and usage, market value could be different dependent on the location of a property.

Mayor McEachern asked if there was a possibility that there could be an extension to the hearing deadline on commercial properties if multiple requests are received due to owners who may not have been aware of the deadline. Assessor Lentz stated that the deadline would need to be maintained closely to allow time for the assessing team to review and make the changes based upon the hearings.

Mayor McEachern inquired how many commercial property owners went through the hearing process as opposed to utilizing a lawyer to navigate an abatement. Assessor Lentz estimated that there would be fewer than 100 commercial owners taking advantage of hearings, with the total number of both residential and commercial property owners requesting hearings falling between 3%-5%.

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

First Reading of Ordinance:

- A. First Reading of Ordinance amendment to Chapter 7, Vehicles, Traffic and Parking, Article X, Towing, Section 7.1004, Towing or Immobilization of Motor Vehicles for Non-Payment of Parking Fines by amending the ordinance to reflect current procedures, delete and revise outdated language, change notice provision and increase fine for violation for removing immobilization device

Councilor Bagley moved to pass first reading and schedule a public hearing and second reading for the October 21, 2024 City Council meeting. Councilor Tabor seconded the motion. The motion passed by a unanimous voice vote.

Mayor McEachern clarified that this ordinance amendment would allow for a sticker to be placed on the window of relevant vehicles informing the owner of the fines and fees as opposed to the current practice of sending certified letters which could be missed or ignored.

Public Hearing/Second Reading of Ordinance:

- B. PUBLIC HEARING AND SECOND READING of Ordinance Amending Chapter 1, Article XVII, Sections 1.1700-1.1709 – Funding, Review, and Acquisition of Public Art as shown in Exhibit A
- **PRESENTATION**
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Cook reminded the Council that the presentation on this agenda item had taken place at the September 23, 2024, City Council meeting. However, Chris Dwyer, Chair of the Public Art Review Committee, is present if there are further questions.

Petra Huda – Felt that there was some contradictory language with how the ordinance is written regarding where public art is and is not allowed. Ms. Huda also inquired if the percentage of permitting fees allocated to public art on infrastructure projects would increase the cost to utility ratepayers.

Chris Dwyer, Chair of the Public Art Review Committee, clarified that there would not be art placed on every infrastructure project, however this ordinance would allow for art to be placed on the more visible sites.

Councilor Bagley inquired if adoption of this ordinance would restrict future Councils' ability, if desired, to reduce the percentage of funding allocated for public art on the higher cost projects. Mayor McEachern stated that adoption of the ordinance would not restrict future Councils. He clarified that there are monetary limits detailed in the ordinance.

Councilor Cook clarified that the proposed ordinance does not change the public art commitment, which is already designated in the City code, it just amends the dollar amounts to

be allocated and clarifies language within the ordinance to outline what does and does not qualify.

Councilor Moreau inquired if the legal department had reviewed the language of the proposed ordinance and approved. Deputy City Attorney McCourt confirmed that the legal department had reviewed and approved of the proposed language. He explained that his understanding was that the intent of Council is to clarify within the ordinance which projects can include public art; to exclude roadway and utility infrastructure projects, but to include pump stations and water treatment facilities. As proposed, the ordinance language fulfills that intent.

Councilor Tabor explained that this ordinance had come before the Governance Committee several times. He stated that the proposed iteration clears up some language from the prior ordinance; it clarifies how art is defined and what can be rejected, it clarifies the duties of the Public Art Review Committee, and it talks about maintenance of art and the funding thereof.

Councilor Cook move to pass second reading and schedule a third and final reading for the October 21, 2024 City Council meeting. The motion was seconded by Councilor Lombardi. The motion passed by a unanimous voice vote.

Councilor Cook moved to suspend the rules to pass third and final reading of the of Ordinance Amending Chapter 1, Article XVII, Sections 1.1700-1.1709 – Funding, Review, and Acquisition of Public Art. Councilor Moreau seconded the motion. The motion carried by a unanimous 9-0 voice vote.

Councilor Cook moved to pass third and final reading of the of Ordinance Amending Chapter 1, Article XVII, Sections 1.1700-1.1709 – Funding, Review, and Acquisition of Public Art. Councilor Moreau seconded the motion. The motion carried by a unanimous 9-0 voice vote.

Councilor Denton moved to suspend the rules to inquire about which item an audience member was present to hear. City Manager Conard stated that the gentleman was present to hear City Manager's action item #2 (Temporary Construction License Extension for 238 Deer Street, LLC), which could be handled first under City Manager's items. *

XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager's Items Which Require Action:

2. Temporary Construction License Extension for 238 Deer Street, LLC

City Manager Conard explained that the property owner is seeking an extension on the encumbrance which includes four license areas. They are seeking a 5-month extension of the original October 31 deadline: from November 1, 2024 - March 31, 2025, due to unexpected project delays. There is an additional fifth encumbrance including the two parking spaces located across the street from the property at 161 Deer Street. She stated that City staff, along with the property owners and abutting owners meet weekly and that all parties are supportive of the

request and all departments have agreed to the terms of the extension.

Councilor Tabor moved to authorize the City Manager to execute and accept the temporary construction license extension to encumber the five license areas for 238 Deer Street as presented. Seconded by Councilor Blalock.

Councilor Moreau asked for what this fifth encumbrance, which is not abutting the property, will be used. Stuart Mitchell, SJM Construction, answered that these spaces will be utilized for parking, staging, and offloading of materials following the loss of spaces that were previously used for these purposes.

Councilor Bagley praised the construction crew for the work they have been able to accomplish with minimal disruption or complaints from constituents.

There was clarification given on the precise area in question. Councilor Cook stated that she supported the proposal as long as there was a clear path for travel to the Foundry garage.

The motion passed by a unanimous voice vote.

1. Report Back from Fee Schedule Study Committee Regarding Right to Know Policy

City Manager Conard reported that Fee Committee had met on October 2nd to handle the referral of the Right-to-Know policy from the prior City Council meeting. In response to new legislation altering how municipalities are allowed to respond to these requests, City staff have proposed a new policy, which is included in the packet, as well as a revised fee schedule. The proposed policy would allow a charge of \$1 per record, regardless of whether the records are delivered in hard copy or electronically, when the number of records exceeds 250. There has been additional language added to reflect that all responses must be provided in the timeframe as required by law.

Councilor Denton moved to adopt the draft City Council Policy for Unique Electronic Records as presented with the additional language referenced and add the fee of \$1.00 for unique electronic records to the Fee Schedule as shown. The motion was seconded by Councilor Moreau. The motion passed by a unanimous voice vote.

3. Drinking Water Groundwater Trust Fund – Grant Extension

City Manager Conard stated that on July 10, 2023, the City Council had authorized the City to enter into a grant agreement with the State to accept a grant in an amount of \$739,000 from the NH Drinking Water and Groundwater Trust Fund. This grant would assist the City in the purchase of 45-acres of conservation land with an easement on a parcel of land which abuts the Bellamy reservoir. She reported that the City has encountered unexpected delays in the easement purchasing process. Based on communications with the State, it has been determined that it would be most beneficial to request a 1-year extension on this grant.

Assistant Mayor Kelley moved to authorize the City Manager to enter into Amendment No. 1 of the Grant Agreement to extend the completion date of the \$739,000.00 grant from the State of New Hampshire Drinking Water and Groundwater Trust Fund by one year, to a completion date of December 31, 2025. Seconded by Councilor Denton. The motion passed by a unanimous voice vote.

4. Acceptance of Community Space Easement and Access Easement for Water Services for Property Located at 200 Chase Drive

City Manager Conard stated that on February 20, 2020, the Planning Board had granted site plan approval, lot line adjustment, and conditional use permit for parking to the Church for the construction of a 22-unit residential apartment building within the existing parking lot. There were easements which were needed as part of this approval, however the approvals were delayed by two court cases which were recently concluded at the NH Supreme Court. The recommendation is now to accept these easements.

Councilor Blalock moved to authorize the City Manager to accept and record a community space easement and an access easement for water services from Bethel Assembly of God in a substantially similar form to the easement deeds contained in the agenda packet. Seconded by Councilor Cook. The motion passed by a unanimous voice vote.

5. Revocable License for 260 Marcy Street

City Manager Conard explained that the owner's existing concrete retaining wall and curbing is deteriorating. The owners, J&L Family Trust, seek to replace them with a granite retaining wall and curbing along their property abutting both Marcy Street and Meeting House Hill Road. A portion of the original retaining wall and curbing are located outside the boundaries for the property within the City's right of way. City Manager Conard recommended that a revocable license be issued for any potential instance where the City may need this wall or curbing to be removed for any reason.

Councilor Moreau moved to authorize the City Manager to execute and deliver a Revocable License allowing Owner of 260 Marcy Street to replace their existing retaining wall with a new granite retaining wall and curbing on City property. Seconded by Councilor Bagley.

Councilor Cook asked if the original deed is taken into consideration for older homes which may have been built before the City roadways were constructed, additionally considering that the deeds of this time period were not always reliably recorded. Deputy City Attorney McCourt stated that the most likely situation was that this retaining wall was erroneously constructed on City property from the outset and this encroachment has existed for many decades. He clarified that it is best practice that when a property owner comes forward to renovate under these circumstances, the original arrangement is memorialized.

The motion passed by a unanimous voice vote.

XII. CONSENT AGENDA

- A. Request from Nissa Bagelman, Reedmor Books & Brews, to install a Projecting Sign at 67 State Street, Unit 2.

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 no cost 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

Assistant Mayor Kelley moved to adopt the Consent Agenda. Seconded by Councilor Moreau. The motion passed by a unanimous voice vote.

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- A. Email Correspondence

Councilor Denton moved to accept and place on file. Seconded by Councilor Lombardi. The motion passed by a unanimous voice vote.

- B. Letter from Jessie & Scott Rafferty requesting their residence be removed from the Historic District

Councilor Blalock moved to refer the amendment of the zoning map, removing 185 Orchard Street from the Historic District, to the Planning Board and the Historic District Commission for reports back to the City Council. Seconded by Councilor Moreau.

Councilor Bagley spoke about several other properties that technically fall within the Historic District which may also qualify for such an action. Councilor Blalock reported that the Historic District Commission will be discussing cleaning up the map in the future and acknowledged several properties which are included in this district which could potentially be removed from the map, and this Council action might jumpstart that process.

City Manager Conard reported that the Planning Board recently received a request to subdivide the lot in question. The original lot had a Middle Street address, but the rear subdivided portion of the lot has frontage on Orchard Street; this rear portion is the lot proposed to be removed from the Historic District.

There was a brief discussion on the process of updating the Historic District map.

The motion passed by a unanimous voice vote.

- C. Letter from Meg Gilman regarding eliminating pesticide use in our communities and State

Assistant Mayor Kelley moved to accept and place on file. Seconded by Councilor Cook. The motion passed by a unanimous voice vote.

- D. Letter from Abigail Gindele regarding the increasing pesticide dependency tied to an imbalance in ecosystems

Councilor Bagley moved to accept and place on file. Seconded by Councilor Blalock. The motion passed by a unanimous voice vote.

- E. Letter from Michael Capalare requesting the city place an historical marker at The Plains to signify George Washington's arrival in Portsmouth on October 31, 1789

Councilor Cook moved to refer to the Public Works Department for report back. Seconded by Councilor Bagley. The motion passed by a unanimous voice vote.

- F. Letter from Bob Corash regarding the construction of the Community Policing Facility

Councilor Moreau moved to accept and place on file. Seconded by Assistant Mayor Kelley. The motion passed by a unanimous voice vote.

- G. Letter from Francis Desper, Frank E. Booma Post 6 American Legion, requesting to host the Wall of Healing during the summer of 2025

Councilor Lombardi moved to refer to the School Board for its consideration. Seconded by Councilor Denton.

Councilor Moreau referenced the public comments made by Mr. Desper earlier in the evening and supported the request in using the School grounds, which are not well utilized in the summer time. She hoped that the School Board would support the request and suggested that if it does not work out, the City could potentially find an alternate location for the Wall of Hope. Mayor McEachern supported the opportunity to bring the Wall of Hope to Portsmouth for a week over the summer and agreed that if not on school grounds, there could be a location found to host the Wall within the City.

The motion passed by a unanimous voice vote.

- H. Letter from Coureur Portsmouth requesting permission to hold the 3rd Annual Halloween Skate Jam on Saturday, October 26, 2024 from 1:00 p.m. to 4:00 p.m. (Rain Date October 27th) at the Portsmouth Skatepark

Councilor Blalock moved to refer to the City Manager with Authority to Act. Seconded by Councilor Bagley. The motion passed by a unanimous voice vote.

- I. Letter from Christine Groleau, North Church of Portsmouth, extending heartfelt thanks to the City Council for granting a fee waiver related to their construction project that will benefit the broader Portsmouth community

Assistant Mayor Kelley moved to accept and place the letter on file. Seconded by Councilor Tabor. The motion passed by a unanimous voice vote.

XIV. MAYOR McEACHERN

1. Appointments to be Voted:
 - Appointment of Sean Clancy as a Regular member to the COAST Board of Directors
 - Appointment of Jillian Harris as an Alternate member to the COAST Board of Directors
 - Reappointment of Mark Syracuse to the Parking & Traffic Safety Committee
 - Reappointment of Mary Lou McElwain to the Parking & Traffic Safety Committee
 - Reappointment of Erica Wygonik to the Parking & Traffic Safety Committee
 - Reappointment of Robert Marchewka to the Economic Development Commission
 - Appointment of Brian Gibb to the Conservation Commission from an Alternate to a Regular member

Assistant Mayor Kelley moved to appoint Sean Clancy and Jillian Harris to the COAST Board of Directors; to reappoint Mark Syracuse, Mary Lou McElwain, and Erica Wygonik to the Parking & Traffic Safety Committee; to reappoint Robert Marchewka to the Economic Development Commission; and to appoint Brian Gibb to the Conservation Commission from an Alternate to a Regular member. Seconded by Councilor Lombardi. The motion passed by a unanimous voice vote.

2. **Request for first reading an ordinance amendment to exempt structures which do not require a building permit from zoning requirements.**

Mayor McEachern stated that the goal of this item is to gather feedback from the legal department regarding the exemption of structures requiring a building permit. Under the current code, the term “structure” is broad. Mayor McEachern suggested that the code be reviewed and compared to local and State regulations, and potentially revised to allow the exemption of structures which may not need a permit for safety reasons.

Councilor Blalock moved to refer to the Legal and Planning & Sustainability Departments to draft language for consideration at a future City Council meeting. Seconded by Councilor Bagley.

Councilor Bagley asked for clarification on the types of structures which may be exempted. Mayor McEachern referenced some pre-build or temporary sheds, some fences, treehouses, and similar structures. He stated that the removal of potentially unnecessary ordinances empowers and lends credibility to the existing ordinances.

The motion passed by a unanimous voice vote.

XV. CITY COUNCIL MEMBERS

A. COUNCILOR BLALOCK

1. Sister City Update – Proclamation will be read at two upcoming receptions:
 - Sister City Santarcangelo, Italy on October 9th
 - Sister City Nichinan, Japan on October 11th

Councilor Blalock reported that there are currently students and staff members visiting Portsmouth from the Sister City of Santarcangelo, Italy. These students along with the Mayor of Santarcangelo will be visiting City Hall on Tuesday, October 9. On October 11, there will be students and staff visiting Portsmouth from the Sister City of Nichinan, Japan.

XVI. APPROVAL OF GRANTS/DONATIONS

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

XVII. CITY MANAGER’S INFORMATIONAL ITEMS

1. Update on Public Informational Meeting for Community Policing Facility
2. Revaluation Update

Both of the City Manager’s informational items were discussed earlier on the agenda.

XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

There was no discussion under Miscellaneous Business.

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

Assistant Mayor Kelley moved to adjourn the City Council meeting at 7:36 PM. Councilor Bagley seconded the motion. The motion passed.

Respectfully submitted,

Cassie Givara
Deputy City Clerk