

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, APRIL 15, 2024

PORTSMOUTH, NH
TIME: 7:00PM

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, Cook, Denton, Blalock, Bagley and Moreau

ABSENT: Councilor Lombardi

V. INVOCATION

Mayor McEachern asked everyone to join in a moment of silent prayer in memory of Joanne Grasso, who passed away on March 21st. Joanne was a loyal, faithful, and dedicated daughter of the City of Portsmouth. Born and raised here, she was a teacher of our children, 6-time member of this Council and known Citywide as a person on kindness and compassion. It is people like Joanne who have made this City the beacon which it has become.

VI. PLEDGE OF ALLEGIANCE

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

MAYOR'S AWARD

1. Recognition of Alexander Maillet for life saving event

Mayor McEachern presented a Mayor's Award to Alexander Maillet in recognition of his extraordinary and quick thinking in saving the life of an employee in his workplace. Mayor McEachern said that Alexander is an inspiring example to our community.

VII. ACCEPTANCE OF MINUTES – FEBRUARY 12, 2024; FEBRUARY 13, 2024; FEBRUARY 20, 2024; MARCH 4, 2024; MARCH 18, 2024, AND APRIL 1, 2024

Assistant Mayor Kelley moved to approve and accept the minutes of the February 12, 2024; February 13, 2024; February 20, 2024; March 4, 2024; March 18, 2024, and April 1, 2024, City Council meetings. Seconded by Councilor Moreau and voted.

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

2. Recognition of High School Future Business Leaders of America

Assistant Mayor Kelley, Advisor of the FBLA recognized the following students James Johnston, Henry Honeyman, Cam Patterson, Mason Patterson, Ben Gotlieb, and Joe Zingariello who competed in State competitions for Future Business Leaders of America representing Portsmouth High School. She announced that Mason Patterson came in 2nd for Healthcare Administration and Ben Gotlieb came in 1st for accounting.

In recognition of their achievements Assistant Mayor Kelley on behalf of Mayor McEachern and the City Council presented the students with a gift bag and tokens of our appreciation for their success.

IX. PUBLIC COMMENT SESSION

Erik Anderson reported that the Housing Committee has received a variety of comments. He spoke of the need for a letter outlining the process.

John Logan said the housing issue needs to be addressed globally and not focused on one site. He stated he would like to see all ten sites used to create workforce housing because this is a citywide problem.

Sue Polidura expressed concern regarding solar panels in the historic district of the city. She said we need to be careful what is allowed within the historic district and possibly look at allowing this for other parts of the city.

Petra Huda spoke regarding the March 18th meeting when Councilor Tabor apologized for what he said regarding the McIntyre matter. She stated that this is Councilor Tabor's third time that he has done something similar and suggested that he either resign or be removed from the City Council.

Paige Trace said the Housing Committee posted minutes that were not reviewed for errors, she indicated her name was listed incorrectly and needs to be corrected. She spoke regarding Councilor Tabor speaking on matters that should be left confidential. She stated that solar panels do not belong in the historic south end of the city.

Francis Cormier said the City Council needs to consider what the residents said regarding workforce housing for the Sherburne School site. He said the athletic field should remain.

Genevieve Becksted Muske spoke opposed to workforce housing at the Sherburne School site. She said the residents of Pannaway Manor are feeling this is an unwanted guest coming into their neighborhood. She stated how the Council approached the neighborhood was wrong and the City Council needs to stop talking and start listening to the residents.

Esther Kennedy spoke regarding the city adding boat slips that never received permits for the installation of steps. She stated that the city did not follow the rules when installing the steps and the city is charging less for the boat slips, which is under cutting other local small businesses nearby.

Rick Becksted (via Zoom) expressed concern regarding a statement that the previous City Council was doing housing at Community Campus but did not want to act. He asked Mayor McEachern and the City Council to be honest with Pannaway Manor. He stated the Portsmouth Housing Authority has on their website that workforce housing would be created at the Sherburne site.

Arthur Clough said that we have seen Councilor Tabor make mistakes before. He said Councilor Tabor should be removed from the Council and that he would be refiling a case against Councilor Tabor because it was not dismissed with prejudice.

Ben VanCamp, President of Chamber of Commerce, said we are not in normal times and housing is an issue. He said zoning changes coming forward will increase density in the corridors of the city. He spoke in support of establishing workforce housing at the Sherburne site.

Mike Mulhern, Service Credit Union, said workforce housing is not currently obtainable in the city and Service Credit Union is committed to assist in providing affordable housing for the city.

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

First Reading of Ordinance:

- A. First Reading of Ordinance amending Chapter 10, Article 4 – Zoning Districts and Use Regulations, Section 10.440, Article 8 – Supplemental Use Standards, Sections 10.810 and 10.843, Article 11 – Site Development Standards, Section 10.1112.32, and Article 15 – Site Development Standards, Section 10.1530 – Various amendments relative to Electric Vehicle Charging Stations

Councilor Denton moved to pass first reading and schedule public hearing and second reading for May 6, 2024 City Council meeting. Seconded by Councilor Bagley.

Councilor Denton moved to add a Section 10.1112.23 to Section 10.1112.20 “Calculation of Number of Required Spaces” that reads, “10.1112.23 Parking spaced occupied by EV charges and support equipment may count toward minimum parking requirements. Seconded by Councilor Moreau.

Councilor Denton spoke to the lack of level 3 chargers for electric vehicles. He also addressed parking needs.

Discussion followed on defining support equipment.

Councilor Moreau said she does not feel Councilor Denton’s amendment is needed.

Amendment to motion passed.

Councilor Denton moved to delete “(including, but not limited to, generators and transformers)” from Section 10.843.34 that now reads, “Except for EV fueling space A, all above ground EV charging support equipment (including, but not limited to, generators and transformers) shall be set back 10 feet from all lot lines. Seconded by Councilor Tabor and voted.

Councilor Denton moved to add Section 10.450 “Table of Uses – Pease/Airport Districts” the following “21. Electric Vehicle Charging Stations” table:

21. Electric Vehicle Charging Stations	AIR AI PI ABC
<i>EV fueling Space A as an accessory use</i>	<i>Permitted</i>
<i>EV fueling Space B as an accessory use</i>	<i>Permitted</i>
<i>Motor vehicle service station as a principal use</i>	<i>Permitted</i>

Seconded by Councilor Cook.

Councilor Denton said none of these are requirements on Pease. He said it made sense to include Pease to give examples.

Councilor Moreau recommended sending a recommendation to Pease for consideration.

Councilor Denton withdrew his motion and Councilor Cook withdrew her second.

Councilor Denton moved to send a letter to the Pease Development Authority alerting them to zoning changes and recommend that they consider the changes to align with Portsmouth regulations. Seconded by Councilor Cook and voted.

Councilor Tabor moved to amend that we include in the Table of Uses Level B Chargers in the Office Research Zone by Conditional Use Permit. Seconded by Assistant Mayor Kelley and voted.

Main motion to pass first reading and schedule public hearing and second reading for May 6, 2024, passed as amended.

- B. Public Hearing/Second Reading of Ordinance amending Chapter 10, Zoning Ordinance, City of Portsmouth Zoning Map, be amended to change the zoning designation of the following parcels described within the ordinance pursuant to Chapter 10, Article 4, Zoning and District Use Regulations, Section 10.421, District Location and Boundaries, Section 10.421.10 of the Zoning Ordinance. That the Zoning Map be amended so that the described parcels within the ordinance are rezoned from Office Research (OR) to Gateway Neighborhood Business (G1)

Councilor Cook moved to pass second reading and schedule a third and final reading at the May 6, 2024, City Council meeting. Seconded by Councilor Blalock.

PRESENTATION

Planning Manager Stith provided a presentation outlining and explaining the differences between Gateway 1 and Gateway 2. He spoke to the goals of the master plan and areas proposed with map amendments.

CITY COUNCIL QUESTIONS

Discussion followed among the Council and Planning Manager Stith on the Gateway Districts and process for the master plan.

PUBLIC HEARING SPEAKERS

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

Esther Kennedy expressed concerns relative to gateway districts and feels like the city is saying we don't want industrial and commercial businesses. She stated this is being done for a few properties and opposes the changes.

Petra Huda said she questioned the area of water country and the wetlands. She asked for an explanation for the small lots.

Paige Trace said when you change Oriental Gardens you double the property. She stated you have an attorney asking to consider Commerce Way and you're doing nothing to put workforce or affordable housing in place. She stated you could locate a tremendous amount of housing on Commerce Way.

Marsha Highland spoke opposed to ordinance and said there are differences between the parcels across from Elwyn Park and she doesn't want these seven parcels changed.

John Hudson asked how he learns what is being proposed for Gateway 1 which is the area he resides in. City Manager Conard asked Planning Manager Stith to speak with Mr. Hudson to answer his questions.

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

ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS

Councilor Bagley said he would support this ordinance as presented. He said that this would allow for more properties in the city.

Councilor Tabor asked Planning Manager Stith about commercial use and that it is permitted in the gateway. Planning Manager Stith said that is correct.

Councilor Cook said regarding wetlands, changing the zoning does nothing to change the wetlands. Planning Manager Stith said that is correct.

Councilor Blalock said that Elwyn Park should remain in the same zone.

Councilor Moreau said we are taking away industrial zone, and some uses are allowed in the gateway and allows for more options for what can be put on the property.

Mayor McEachern said we need to provide housing incentives.

Councilor Moreau said she is in favor of having Commerce Way becoming gateway.

Motion passed.

Councilor Moreau moved to suspend the rules to bring forward third and final reading of the ordinance. Seconded by Councilor Bagley and voted.

Councilor Moreau moved to pass third and final reading of the ordinance. Seconded by Assistant Mayor Kelley.

Assistant Mayor Kelley said she wants to look at other parcels.

Mayor McEachern said he was impressed by Mr. Mulhern's comments regarding building affordable housing before it is a requirement.

Motion passed.

At 9:07 p.m., Mayor McEachern called for 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. Approval of Renewal of Chief of Police Newport's Employment Agreement

City Manager Conard reviewed the changes in the contract for Police Chief Newport.

The City Council discussed the salary and educational bonus in the agreement.

Commissioner Scherr said the Police Commission supports the agreement and changes. He spoke about the length of time the chief has been with the City of Portsmouth and how he was not receiving increases during his last agreement, which is the reason for the increases you are seeing now.

Mayor McEachern passed the gavel to Assistant Mayor Kelley.

Mayor McEachern said we did not go out for a nationwide search, and we found the person for the position inside the ranks of the department. He spoke about the chief's exemplary and remarkable work. He said we would not find a better example of leadership. He expressed his support for the chief and for what he has done for the department.

Assistant Mayor Kelley returned the gavel to Mayor McEachern.

Councilor Blalock spoke in support of Chief Newport and said he has not received cost of living adjustments and the new salary reflects what he would have been making if he had received the increases.

Councilor Moreau said she had a hard time with the amount, but Chief Newport has done a wonderful job and is outstanding in his position. She spoke to the money saved by promoting within and that we would be compensating him for the work he has done and will continue to do.

Councilor Bagley said the chief has done a great job and the highest paid person should be the City Manager and Superintendent of Schools and with this increase it does not leave much daylight between the positions. He spoke opposed to the educational bonus.

Councilor Tabor moved to approve and accept the agreement as presented. Seconded by Assistant Mayor Kelley.

Councilor Tabor expressed his support for Chief Newport and his agreement but shares the concerns with the salary structure.

Councilor Cook said she shares Councilor Bagley's concerns with the pay structure.

Mayor McEachern passed the gavel to Assistant Mayor Kelley.

Mayor McEachern said he would love to believe how we set the salaries is by the market, but that is not the case. He said you want to make sure we are doing the best to hire the people to do the jobs. He said we are preserving the quality of life for the city.

On a roll call 5-3, voted to approve and accept the agreement as presented. Mayor McEachern, Councilors Tabor, Blalock, Moreau and Assistant Mayor Kelley voted in favor. Councilors Cook, Denton and Bagley voted opposed.

Assistant Mayor Kelley returned the gavel to Mayor McEachern.

2. Request for 3-Month Extension of Existing Franchise Agreement with Comcast

Councilor Blalock moved to authorize the City Manager to finalize and execute the Extension Agreement as presented. Seconded by Assistant Mayor Kelley and voted.

XII. CONSENT AGENDA

- A. Letter from Michelle James, Yoga in Action, requesting permission to use Prescott Park for the annual series, "Yoga in the Park" Tuesday at Noon for the months of June, July, and August ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Letter from Allan Scholtz, Portsmouth Professional Firefighters Local 1313, requesting permission to hold Fill-the-Boot Drive on Saturday, August 3, 2024, from 8:00 a.m. to 4:00 p.m. for Muscular Dystrophy Association ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- C. Letter from Debra Smith, Friends of the South End, requesting permission to hold the 20th Annual Fairy House Tour on Saturday, September 21, 2024, and Sunday, September 22, 2024, from 10:00 a.m. to 3:00 p.m. ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- D. Letter from Tina Sawtelle, The Music Hall, requesting permission to close Chestnut Street to vehicular traffic for outdoor live music, special events, and festivals taking place in 2024 ***(Anticipate action – move to refer to the City Manager for development and execution of a License Agreement)***
- E. Letter from Bruce Hurley, Seacoast Half Marathon, requesting permission to hold the 19th Annual Seacoast Half Marathon on Sunday, October 27, 2024 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***

- F. Letter from Mike Effenberger, Seacoast Jazz Society, requesting permission to hold Jazz In The Streets on six Saturdays this summer with street performances in three locations (Vaughan Mall stage, Tugboat open area, Market Square in front of North Church) and to set up musicians on the Vaughan Mall stage and allow light-volume percussion and light amplifications (***Anticipated action – move to refer to the City Manager with Authority to Act***)

Councilor Cook moved to remove Items C. & F. from the Consent Agenda. Seconded by Councilor Moreau and voted.

Councilor Moreau moved to adopt the Consent Agenda without Items C. & F. Seconded by Councilor Denton and voted.

- C. Letter from Debra Smith, Friends of the South End, requesting permission to hold the 20th Annual Fairy House Tour on Saturday, September 21, 2024, and Sunday, September 22, 2024, from 10:00 a.m. to 3:00 p.m.

Councilor Moreau moved to refer to the City Manager with Authority to Act. Seconded by Councilor Blalock and voted. Councilor Cook recused from voting on this matter.

- F. Letter from Mike Effenberger, Seacoast Jazz Society, requesting permission to hold Jazz In The Streets on six Saturdays this summer with street performances in three locations (Vaughan Mall stage, Tugboat open area, Market Square in front of North Church) and to set up musicians on the Vaughan Mall stage and allow light-volume percussion and light amplifications

Councilor Moreau moved to refer to the City Manager with Authority to Act. Seconded by Councilor Tabor and voted. Councilor Cook recused from voting on this matter.

XIII. PRESENTATION AND WRITTEN COMMUNICATIONS

- A. Email Correspondence

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

- B. Letter from Mark Gianniny, McHenry Architecture, requesting the City Council consider a full refund of the building permit fee associated with permit number BLDG-220961

Assistant Mayor Kelley moved to place on file and refer back to the building inspector to exercise his authority under the building code. Seconded by Councilor Bagley.

City Manager Conard explained the cost of the building permit was \$25,000.00 and Mr. Gianniny would consider receiving \$12,500.00 in return. She reported that he has a second building permit for a smaller project.

Mayor McEachern said he would support looking at what these costs the city to issue.

Motion passed.

XIV. MAYOR McEACHERN

1. Appointment to be Considered:
 - Anthony Coviello as a Regular member of the Planning Board

The City Council considered the appointment and will take action at the May 6, 2024, City Council meeting.

2. Appointments to be Voted:
 - Reappointment of Samantha Collins to the Conservation Commission
 - Reappointment of Kathleen Bergeron to the Portsmouth Housing Authority
 - Reappointment of Kathryn Lynch to the Recreation Board

These reappointments are duplicates and were voted upon at the April 1st City Council meeting.

3. Approval of Tom Rooney and Peter Britz as Primary and Alternate Member Representatives to the Community Power Coalition of New Hampshire to replace Kevin Charette and Peter Rice

Councilor Tabor moved to approve Tom Rooney as Portsmouth's Primary Member Representative to the Community Power Coalition of New Hampshire, along with Peter Britz, Portsmouth Planning and Sustainability Director, as Alternate Member Representative and to write a letter of thanks to Kevin Charrette and Peter Rice for their outstanding work as outgoing CPCNH board members. Seconded by Councilor Cook and voted.

XV. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR KELLEY & COUNCILOR TABOR

1. Housing Committee Update/Requests

Assistant Mayor Kelley provided an update on the Housing Committee.

Assistant Mayor Kelley moved to recommend that the City Council work towards the official disposition and land lease of the Sherburne School property for the creation of permanent below market rate housing. Seconded by Councilor Tabor.

Assistant Mayor Kelley stated the city needs to start the process for the disposition of the land and putting out an RFQ for building permanently below market rate housing or we will lose housing before we get started. She spoke to the other communities that have built affordable units and feels the Council needs to move forward and get the project started. She also said that she does not want to see some community members pitting themselves against one another.

Councilor Denton said he would prefer creating affordable housing on the lower lot of City Hall.

Councilor Moreau said we are not stating what will happen, just a direction of where to go in the future.

Councilor Bagley asked about the RFQ process. City Manager Conard said that an RFQ would slow down the process, but we could do an RFP with a strong emphasis towards qualification standards.

Deputy City Attorney Woodland said it is important to be specific and leave it open ended.

Councilor Bagley said he would like to see us enter a 100-year lease with the Portsmouth Housing Authority.

Discussion followed among the City Council regarding the importance of affordable housing and the ability to apply for credits this year.

Motion passed.

B. COUNCILOR COOK

1. Changes to Public Art Ordinances

Councilor Cook moved to request that the Governance Committee, in conjunction with the Legal Department, review the City ordinances and policies related to public art based on the memorandum presented to the City Council from the Public Art Review Committee (PARC), and combine the ordinances and policies, where possible, to create an ordinance related to public art. Seconded by Councilor Bagley and voted.

D. COUNCILOR BAGLEY

1. Parking & Traffic Safety Committee Action Sheet and Minutes of April 4, 2024

Councilor Bagley moved to approve and accept the action sheet and minutes of the April 4, 2024, Parking & Traffic Safety Committee meeting. Seconded by Councilor Blalock.

Councilor Bagley reported that Bartlett Street will have a raised intersection versus a roundabout with the addition of a cross walk and flashing beacons.

Motion passed.

XVII. CITY MANAGER'S INFORMATIONAL ITEMS

1. Update on Community Policing Facility

Public Works Director Rice reported vigorous discussions were held to try and put the pieces in the right place for the facility and that they're making good progress on the site. He stated they will be meeting with the working group to continue their work and will bring forward next steps to the City Council for siting the facility at this location.

XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

Councilor Cook announced that the Market Square Master Plan Initiative Launch will take place on April 24th.

Councilor Blalock thanked everyone that was involved in making Student Government Day a success.

Deputy City Attorney McCourt recommended postponing the Public Use and Necessity Hearing regarding Fleet Street Area and Maplewood Avenue Outfall Project scheduled for Monday, April 29th indefinitely. The City Council verbally agreed.

XIX. ADJOURNMENT

At 10:25, Councilor Moreau moved to adjourn the meeting. Seconded by Assistant Mayor Kelley 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