

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, AUGUST 22, 2022

PORTSMOUTH, NH
TIME: 5:30PM

Councilor Tabor moved to leave the Non-Public Session and seal the minutes. Seconded by Councilor Blalock 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 everyone to join in a moment of silent prayer in memory of Donna Miller, daughter of former School Board member Tara Kennedy and Councilor Vince Lombardi's brother Allen, both who recently passed away.

VI. PLEDGE OF ALLEGINANCE

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

VII. ACCEPTANCE OF MINUTES – JUNE 21, 2002 AND JULY 11, 2022

Councilor Lombardi moved to accept and approve the minutes of the June 21, 2022 and July 11, 2022 City Council meetings. Seconded by Councilor Cook and voted.

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

1. Fire Chief Germain

Mayor McEachern recognized Fire Chief Germain and his years of service to the City of Portsmouth and Fire Department. He spoke to Chief Germain's attention to detail and outstanding work in the department. Mayor McEachern presented a City of Portsmouth Coin to Fire Chief Germain in recognition of his excellence and upcoming retirement from the Fire Department. Fire Chief Germain thanked Mayor McEachern and the City Council for this recognition and the kind words expressed. He also thanked Mayor McEachern and the City Council for always supporting the Fire Department throughout the years.

Councilor Denton moved to suspend the rules in order to bring forward Item XI. A.1. – Approval of Deputy Fire Chief Contract. Seconded by Councilor Tabor and voted.

Councilor Denton moved to approve the agreement with Deputy Fire Chief Patrick R. Howe as presented. Seconded by Councilor Bagley and voted.

IX. PUBLIC COMMENT SESSION

George Dempsey spoke regarding the previous election and ethics.

Jim Lee spoke against the movement to remove the three Audit Committee members. He said volunteers bring expertise to the table and that is needed. He spoke to the City using the same auditor for 27 years and how that needs to change.

Peter Whelan spoke against removing the three members from the Audit Committee. He said we have a rich history in this City of volunteers that have served on various Boards and Commissions. He urged the City Council to allow the Committee to do what is needed.

Mark Brighton spoke regarding ethics complaints and its process. He expressed concern with the City Manager being the person to appoint the Ethics Officer and feels that needs to change.

Sue Polidura spoke regarding the Audit Committee and that qualified individuals should not be replaced with staff members. She stated audits need to be conducted by different auditors.

Liza Hewitt spoke to the Audit Committee Ordinance and spoke against removing the three residents from the Committee. She said that removing these residents would limit public involvement. She said she feels the Council only wants to hear from residents that support their idea.

Esther Kennedy said the Ethics amendments are significant and there should be another public hearing on the ordinance. She asked the City Council to think about what Portsmouth is and what we are known for.

Paige Trace spoke on the recent CSO event and thanked City Engineer Desmarais for all his work for the City. She thanked him for all of her interaction with her and said the City should have been able to bypass and blend for the recent CSO.

Rick Becksted thanked Fire Chief Germain for all his work for the department. He stated that Chief Germain was the best man for the job. He spoke to the need for an alternate on the Planning Board and would like to be considered for that appointment to serve the board.

X. PUBLIC HEARINGS AND VOTE ON ORDINANCE AND/OR RESOLUTIONS:

A. Public Hearing/Second reading of Ordinance amending Chapter 1, Article III – Boards

- **PRESENTATION**
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Mayor McEachern read the Legal Notice, declared the public hearing open and called for speakers.

Rick Becksted spoke to the difficulty in finding individuals to serve on boards and commissions. He said the three members serving on the Audit Committee should remain in place. He said if the Council removes the three current members, it will send a message to voters and residents regarding serving on boards and commissions.

Esther Kennedy expressed her disappointment with the Peirce Island Committee being dissolved. She addressed other committees and their value to the City.

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

Councilor Denton moved to pass second reading and hold third and final reading at the September 19, 2022 City Council meeting. Seconded by Councilor Cook.

Councilor Cook said the Governance Committee reviewed the boards and commissions and this ordinance pertains to those no longer meeting.

Motion passed.

B. Public Hearing/Second reading of Ordinance amending Chapter 1, Article IV – Commissions and Authorities

- **PRESENTATION**
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

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

Liza Hewitt said removing the three residents that make up the Audit Committee is wrong. She has attended the meetings of the Governance Committee and has not heard from them why they want the residents removed.

Duncan MacCallum spoke against the amendments and feels that the City Council should reject them. He stated that there are funds that are sitting in accounts such as money market accounts doing nothing. He said the City is losing money on these accounts. He also addressed the Audit Committee membership and how the three residents should remain in place.

Petra Huda said the Governance Committee is looking to eliminate the three residents that have expertise in finances. She spoke to the auditing process and how the City requires an independent audit which does not report to staff. She asked why the Audit Committee is being singled out because it is an advisory committee.

Paige Trace said the three residents serving on the Audit Committee should remain in place. She said they provide a great deal of knowledge and would provide free advice. She said you must do what is in the best interest of the City.

Esther Kennedy spoke regarding funding for the City. She stated the Council needs to think about the budget and funding. She said the Audit Committee makes a recommendation for the City Council to make a decision.

Dick Bagley said the decision on an auditor resides with the City Council. He said the Audit Committee is there to make sure your reports are sufficient with internal controls. The only job for the Audit Committee is to recommend an audit firm.

Peter Whelan spoke against not having residents on the Audit Committee. He said this is about good governance and the decision is about transparency. He urged the City Council to reject the ordinance as presented.

Sue Polidura said the Audit Committee will not last because there is an alternate goal. She asked that the Council not move the ordinance forward.

Christopher White (via zoom) said he does not support the amendments the City Council is seeking for this ordinance. He said removing the three residents is a key issue. He stated the City Council and the Audit Committee are unable to conduct an audit of the City. He spoke to the audit remaining independent.

Sheridan Lloyd (via zoom) asked that the City Council review the amendments for the ordinance. She said we need independence for a new auditing company.

Zelita Morgan (via zoom) asked the City Council to review the current amendments to the Audit Ordinance. She said you are creating a problem and the auditor should be independent. She asked what the City Council has against independence and balances to a process. She stated the rationale of putting three City Councilors and removing the three residents is a problem. She said the Council is creating a problem where none exists currently.

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

Councilor Bagley said the GFOA book states that an Audit Committee should be made up of the governing body. He suggested making up the committee with three City Councilors with one as Chair and the three existing residents.

City Attorney Sullivan said it is possible for an amendment to be done at second reading.

Councilor Bagley moved to amend the ordinance that the Audit Committee be made up of three City Councilors appointed by the Mayor with one as Chair and three existing residents. Seconded by Councilor Lombardi.

Councilor Denton said he would like to make a motion to adopt all the changes and then bring forward the amendment by Councilor Bagley.

Councilor Bagley rescinded his motion and Councilor Lombardi agreed as second to the motion.

Councilor Denton moved to adopt the changes as presented. Seconded by Councilor Bagley.

Councilor Bagley moved that the three existing members remain on the Committee throughout their term as appointed by the Mayor with the addition of three City Council members. Seconded by Councilor Moreau.

Councilor Cook said if we are going to change the ordinance we need to remove the redlines accordingly.

Councilor Denton moved to amend and not make proposed changes to the Audit Committee. Seconded by Councilor Bagley.

Councilor Bagley rescinded his motion and Councilor Moreau agreed as second to the motion.

Assistant Mayor Kelley said she feels we need to table and bring back changes to the Governance Committee with suggested amendments.

Mayor McEachern said he does feel we need to table the ordinance to come back with the changes for voting by the City Council. He said it needs to be something clear to accomplish the goals of the Council.

Councilor Lombardi moved postpone any action on Section 1.410 – Audit Committee until the September 19, 2022 City Council meeting and pass second reading of the proposed amendment as presented. Seconded by Assistant Mayor Kelley.

Discussion followed regarding membership.

On a unanimous roll call vote 9-0, motion to postpone passed.

Councilor Blalock moved to suspend the rules to take up third and final reading. Seconded by Councilor Moreau and voted.

Councilor Cook moved to pass third and final reading of those portions which have passed second reading with the exception of Section 1.410 – Audit Committee. Seconded by Councilor Moreau.

On a unanimous roll call vote 9-0, motion passed.

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

- C. Public Hearing/Adoption of Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or participation in the State Revolving Fund (SRF) Loan of up to One Million Two Hundred Thousand Dollars (\$1,200,000.00) for costs related to Sewer Service Connections related to the Sagamore Avenue Area Sewer Extension Project

- **PRESENTATION**
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Moreau moved to adopt the Resolution as presented. Seconded by Assistant Mayor Kelley.

Mayor McEachern said we spent a great deal of time on why would we do things in a certain way. He said we need to appreciate the professionalism of the Finance Department. He said he has always been impressed with the Finance Department and how they bring items forward that are in the best interest of the City.

Assistant City Engineer Cronin provided a presentation regarding the Sagamore Avenue Sewer Extension. He reviewed the background of the project, cost apportionment and project costs. He reported that there are 30 properties on the North side and 9 properties on the South side for a total cost of \$1.5 million with the average cost to resident per connection of \$16,077.00. He informed the Council that approximately \$627,000.00 will be repaid to the city by residents over time. He indicated that an additional bond authorization of \$1.2 million is needed and is before you this evening for approval.

Councilor Lombardi said that this is a great project and a win win for residents and the City.

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

Petra Huda asked what the reason is behind not using the \$2.5 million and moving forward to request that after the plans come forward.

Public Works Director Rice said we locked in the price and we spent a great deal of time working on the project.

Sheridan Lloyd, (Via zoom) said this is being forced onto property owners. The matter of costs was discussed and stated there should be allowance to bring down the costs.

Discussion followed among the City Council.

On a unanimous roll call vote 9-0, motion passed.

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

D. Third and final reading of Ordinance amending Chapter 1, Article VIII – Code of Ethics

Councilor Cook moved to pass third and final reading of the ordinance. Seconded by Councilor Lombardi.

Councilor Moreau said there has been a great deal of discussion on this ordinance. She said we need to put it into practice and see how it works.

Mayor McEachern said it is hard to make and change an ordinance. He said this is one that has gone a long time and come back with an Ethics Investigation Officer. He said we have come up with a way to give it to the board to make the decision. He looks forward to not having to use the ordinance and we will deliver more fact finding.

On a unanimous roll call vote 9-0, motion passed.

XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

2. Approval of Welfare Guidelines

City Manager Conard reported that the last time the guidelines were updated was in 2015.

Councilor Moreau moved to adopt the Welfare Guidelines as presented. Seconded by Councilor Denton

Councilor Bagley spoke regarding the Standard of Need under Item 3 – Food - that food vouchers may not be used for pet food is one of those items.

Councilor Bagley moved to amend the guidelines by striking the words “pet food” under Item 3. Seconded by Councilor Denton.

Discussion followed regarding the changes outlined in red.

City Manager Conard said we could bring this back for the next City Council meeting and have Welfare Administrator Tully present to speak to the changes in the guidelines.

Councilor Bagley moved to table the guideline until the September 19, 2022 City Council meeting and have Welfare Administrator Tully present to speak to the changes in the guidelines. Seconded by Councilor Denton and voted.

3. Request to Schedule ARPA Work Session

City Manager Conard said we are looking at September 12th or September 21st to hold a work session regarding ARPA.

Councilor Tabor moved to hold the ARPA Work Session on September 12, 2022 at 6:00 p.m., in the Eileen Dondero Foley Council Chambers. Seconded by Councilor Moreau and voted.

4. Neighborhood Pilot Parking Program

City Manager Conard said we are trying to determine what is best for the program. She said your packet contains updated numbers for the City Council as part of your decision making. She advised the City Council the program is set to expire on September 6th.

Councilor Moreau moved to maintain the NPP program for 90 days during which time the City staff will bring to the Fee Committee a recommendation regarding the fees that should be adopted to sustain the program. Seconded by Councilor Lombardi.

Councilor Moreau said the way to make the program work for the entire City is to take away the two free hours and make it all paid parking, but if you live in the neighborhood you could then buy a permit and not pay for parking on the street but you would pay for the permit instead.

Mayor McEachern said we could send that to the Fee Committee. He further stated he supports the idea and test pilot with only using the application and not use kiosk.

Councilor Bagley said he supports the idea of Councilor Moreau. He said it would be a great area to test pilot and only using the application.

Councilor Tabor asked if we metered the area could it be only for streets closest to downtown.

Mayor McEachern said these are great questions for the Fee Committee and should be moved to them for consideration.

Councilor Bagley suggested that the Fee Committee look to the City of Dover when reviewing this matter.

Councilor Cook said that there are some residents not happy with the program being in place. She strongly suggests that we hear back from residents if we go back to a pay program. She said it will be interesting to see how this works in the long term. She stated we may need neighborhood parking programs in the future.

Mayor McEachern said long term we might end up with something like this. He said we need to understand the full value of the program and we need to put a price on it and obtain the hard data for those wishing to participate.

Motion passed.

5. Wayfinding Easement for City Property Location at 93 Pleasant Street

City Manager Conard said the easement has been provided and is recommended for 93 Pleasant Street.

Councilor Moreau moved to authorize the City Manager to accept and record a Sign Easement over 93 Pleasant Street in substantially similar form to the easement deed from Dagny Taggart, LLC contained in the agenda packet. Seconded by Councilor Cook and voted.

6. Renewal of Coalitions Communities 2.0 Membership Agreement

City Manager Conard said that this is the agreement for Coalition Communities 2.0.

Councilor Tabor moved to authorize the City to continue to participate in the Coalition Communities 2.0 and authorize the City Manager to negotiate and execute a two year renewal of a MOU with the Coalition Communities 2.0 on behalf of the City in a form similar to the attachment contained in the agenda packet. Seconded by Councilor Moreau.

Assistant City Attorney Ferrini reported that there were 50 bills last year and only 1 is left in Committee. She stated if it were to come out of committee it would warrant looking at. She spoke to the importance of having a presence in Concord. She said we would be well served to keep a lobbyist and move forward on this matter.

Mayor McEachern said he will support this motion and the Coalition bringing forward ways to fund education that is equitable.

Motion passed. Councilor Denton voted opposed.

7. Monitoring Well License Request for 60 Penhallow Street

City Manager Conard spoke to the license required for monitoring.

Councilor Moreau moved to authorize the City Manager to negotiate and execute a license with Dagny Taggart, LLC to locate NHDES required monitoring wells under the City sidewalk along Penhallow Adjacent to the Brick Market Building. Seconded by Councilor Lombardi and voted.

XII. CONSENT AGENDA

- A. Letter from Marcia Leach, North Church, requesting permission to hold the Seacoast Area Crop Walk on Sunday, October 16, 2022

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

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

A. Email Correspondence

Assistant Mayor Kelley moved to accept and place on file. Seconded by Councilor Blalock and voted.

B. Capital Improvement Plan FY 224-2029

Planning Director Zendt provided a presentation on the Kickoff to the Capital Improvement Plan and its development. She outlined what qualifies as a CIP project and where projects originate. She spoke to how projects are evaluated, prioritized and the funding sources for projects. Planning Director Zendt reported that the CIP process has no financial commitment and outlined the various public input opportunities. She spoke to the QR Code that has been created which outlines the process and how to submit a project application.

Mayor McEachern thanked Planning Director Zendt for the presentation and said that the QR code works.

Councilor Moreau said staff will review all applications and submit the projects for review.

City Manager Conard stated that the QR code will be posted in Municipal buildings for access by the public.

C. Status Update on Seacoast Greenway/Railtrail Project

Seth McNally and Dave Allen provided a status update on the Seacoast Greenway Railtrail Project. Seth reported that New Hampshire Seacoast Greenway Alliance has been recently incorporated as a 501(c) (3). He stated the purpose is to provide for regional coordination on policy development, Management, Maintenance, fundraising and promotion for the New Hampshire Seacoast Greenway. Dave reported that this is a DOT project and preliminary design has been completed. He informed the Council that the completion date is estimated end of 2024. Dave advised the City Council that the NHSG Community Connections will be conducting an afternoon bike ride on the corridor on Thursday, September 22nd and Friday, September 23rd there will be a drop-in workshop in the Levenson Room of the Portsmouth Library.

Mayor McEachern thanked Seth and Dave for the presentation.

D. Letter from Barbara McMillian, Chair and on behalf of the Conservation Commission requesting reconsideration by the Council before proceeding with the plan to rehabilitate the entire Peirce Island Pool and associated systems

Councilor Denton moved for a report back regarding issues raised and a summary of the work that is being done at the pool. Seconded by Councilor Cook.

Councilor Denton said he would like a written report back.

Councilor Cook said we should explore the situation and what the long term aspects would be.

Mayor McEachern said we need to be mindful of protecting the pool.

Motion passed.

XIV. MAYOR McEACHERN

1. Appointment of Assistant Mayor Kelley as City Council Representative to the Trees and Public Greenery Committee

Mayor McEachern announced that Assistant Mayor Kelley will serve as the Council Representative to the Trees and Public Greenery Committee.

The City Council considered the appointments listed below which will be voted on at the next City Council meeting on September 19, 2022.

2. Appointments to be Considered:
 - Appointment of Luis Rodriguez to the Cable Television & Communications Commission
 - Appointment of Torey L. Brooks to the Sustainable Practices Blue Ribbon Committee
 - Reappointment of Patricia Bagley to the Trees and Public Greenery Committee
 - Appointment of Jeffrey Mattson as an Alternate to the Zoning Board of Adjustment
3. Resignations:
 - Henry Mellynchuk from the Conservation Commission
 - Andrea Ardito from the COVID Response Task Force Committee

Mayor McEachern regretfully accepted the resignations of Henry Mellynchuk from the Conservation Commission and Andrea Ardito from the COVID Response Task Force Committee.

XV. CITY COUNCIL MEMBERS

A. COUNCILOR DENTON

1. InvestNH Grant Program

Councilor Denton moved for a report back on how entities that want to address our housing shortage can apply to partner with the City of Portsmouth for funding through the NH Department of Business and Economic Affairs' InvestNH Grant Program. Seconded by Assistant Mayor Kelley.

Councilor Moreau said the City is working to obtain a grant. She stated we are evaluating ways to use and accept the funds.

Councilor Denton said he is satisfied with the update and withdrew his motion. Assistant Mayor Kelley withdrew her second to the motion.

B. COUNCILOR MOREAU

1. Land Use Committee Update | Regulatory Amendments Pending Attached is a Memorandum updating the City Council on the work of the Land Use Committee and the progress of the various zoning ordinance amendments under consideration. In summary, the Planning Board is anticipated to act on August 18, 2022 on the Phase 1 amendments and the Land Use Committee is expected to finish its consideration of proposed Phase 2 amendments concerning Accessory Dwelling Units (ADUs) by early September. In anticipation of action by the Planning Board on August 18, 2022 to complete its review of the Phase 1 amendments

Councilor Moreau advised the Council that there have been some minor changes that will be brought forward.

Councilor Moreau moved to bring forward for first reading on September 19, 2022 the Phase I Zoning Amendments. Seconded by Assistant Mayor Kelley and voted.

C. COUNCILOR BAGLEY

1. Parking and Traffic Safety Committee Action Sheet and Minutes of August 4, 2022

Councilor Bagley moved to accept and approve the action sheet and minutes of the August 4, 2022 Parking and Traffic Safety Committee meeting. Seconded by Assistant Mayor Kelley and voted.

Action Item Needing Approval by City Council:

- Request for 15-minute spaces at 22 Daniel Street by owner

Councilor Bagley moved to approve two 15-minute spaces in front of 22 Daniel Street. Seconded by Assistant Mayor Kelley and voted.

Councilor Bagley moved to change three existing 15-minute spaces on south side of Daniel Street to regular Zone A spaces. Seconded by Councilor Moreau and voted.

D. COUNCILOR COOK

1. Arts & Nonprofits Cultural Plan Subcommittee – Request for Volunteers

Councilor Cook reported that the Committee is working on revisions to the cultural plan. She said we are in need of volunteers to serve on the Subcommittee for these revisions.

XVI. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant to the Public Works Department from the Department of Environmental Services – Household Hazardous Waste of up to \$4,238.00

Councilor Moreau moved to accept and expend up to a \$4,238.00 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 Assistant Mayor Kelley and voted.

- B. Acceptance of Various Police Department Grants:
 - Department of Justice through the ARPA for the NH Internet Crimes Against Children Task Force - \$700,000.00
 - USPCA AKC Reunite K9 Organization - \$7,500.00

Councilor Moreau moved to accept and approve the Grants to the Police Department as presented. Seconded by Councilor Blalock and voted.

XVII. CITY MANAGER'S INFORMATIONAL ITEMS

1. Prescott Park Public Forum Area

City Manager Conard said City Attorney Sullivan has provided a lengthy memorandum on this matter.

Councilor Bagley asked what to do if we see someone in violation on a weekend of the conduct and for the public forum area. City Attorney Sullivan advised to take a picture and send it to the Legal Department for follow-up on Monday.

Councilor Cook said she would like to know if we could have Code Enforcement Officials available on weekends to deal with this matter. City Attorney Sullivan said we could have that made available.

Mayor McEachern said we need to remember freedom of speech when dealing with such matters. He requested a report back from City Attorney Sullivan to define the public forum areas. City Attorney Sullivan stated he would provide a more refined document addressing reasonable time, place and manner on content neutral businesses.

XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

- RFP for Audit Services

City Manager Conard reported that the RFP for Audit Services has been put out and is published on the website with responses due on October 12, 2022.

- Ordinance amending Chapter 1, Article III – Boards

Councilor Denton moved to suspend the rules to hold third and final reading on Ordinance amending Chapter 1, Article III – Boards under Miscellaneous Business. Seconded by Councilor Blalock and voted.

Councilor Denton moved to pass third reading of Ordinance amending Chapter 1, Article III – Boards. Seconded by Councilor Moreau and voted.

XIX. ADJOURNMENT

At 12:01 a.m., Councilor Moreau moved to adjourn. Seconded by Councilor Blalock and voted.



KELLI L. BARNABY, MMC/CNHMC
CITY CLERK