

## CITY COUNCIL MEETING

MUNICIPAL COMPLEX

DATE: MONDAY, JANUARY 24, 2022

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, Denton, Moreau, Bagley, Lombardi, Blalock and Cook

### V. INVOCATION

Mayor McEachern asked for a moment of silent prayer in memory of Frank McLane and Sheldon Krasker who recently passed away. He stated that the City Council's thoughts and prayers are with the families.

### VI. PLEDGE OF ALLEGIANCE

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

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

### VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

### IX. PUBLIC COMMENT SESSION

Sean Maloney said as a former seal medic he cared for many patients with COVID and addressed the patterns of having the virus. He stated that wearing a mask should be left up to the individual and should only apply to individuals at risk.

### X. PUBLIC DIALOGUE SUMMARY [when applicable] – **N/A**

Mayor McEachern said the Council would have a discussion on how future Public Dialogue Sessions will work at the next meeting.

### XI. PUBLIC HEARINGS AND VOTE ON ORDINANCE AND/OR RESOLUTIONS

#### First Reading of Ordinance:

- A. First reading of Ordinance amending Chapter 3, Article XI, Section 3.1101 – 3.1104 – Face Coverings During the COVID-19 Pandemic

**Councilor Denton moved to pass first reading and schedule a public hearing and second reading at the February 7, 2022 City Council meeting. Seconded by Councilor Tabor.**

Councilor Denton thanked the staff for updating the former ordinance and asked Councilors to give some consideration to items they may wish to change.

Councilor Moreau said she would like to get updated number of cases for the public hearing and second reading.

City Manager Conard said the numbers have come down significantly. She stated the decrease has gone from high twenties to numbers in the teens.

Councilor Blalock said he is pleased to see the numbers going down. He stated the numbers need to get down to 8% and that many people are home testing which changes the numbers.

Councilor Tabor said he was pleased to see an end date in the ordinance of April 1<sup>st</sup>.

Mayor McEachern passed the gavel to Assistant Mayor Kelley.

Mayor McEachern said he would like to have an end date that would align with a recommendation from the Health Officer. He stated we will pass first reading tonight and it is an effort to clarify a mandate and feels that the Health Officer was in the right. He said we need to make sure there is an easy way to remove the mandate because the numbers may drop significantly.

Councilor Denton said he recommended April 1<sup>st</sup> because of outdoor dining starting at that point.

Assistant Mayor Kelley returned the gavel to Mayor McEachern.

Councilor Moreau said maybe we pick a shorter date to provide flexibility.

City Attorney Sullivan said the mandate could be relaxed at the direction of the City Manager.

Councilor Cook said we need to have this in place until transmission drops to a moderate level at the discretion of our Health Officer. She stated she would bring a motion forward at the next meeting regarding this matter.

Mayor McEachern said he is pleased with the support of people in the city on this matter.

**Motion passed.**

## **XII. MAYOR McEACHERN**

1. Acceptance of Resignations:
  - Andrew Samonas from the Conservation Commission
  - Peter McDonnell from the Zoning Board of Adjustment
  - Chase Hagaman, Alternate from the Zoning Board of Adjustment

**Councilor Denton moved to accept with regret the resignations of Andrew Samonas from the Conservation Commission, Peter McDonnell and Chase Hagaman from the Zoning Board of Adjustment and requested a letter be sent thanking them for their service to the community. Seconded by Councilor Tabor and voted.**

2. Appointments to be Considered:
  - Jason Huett to the Cable Television and Communications Commission
  - Chris Benecick to the Cemetery Committee
  - Eva Boice to the Cemetery Committee
  - Deirdre (Dee) Forte to the Cemetery Committee
  - Michael Griffin to the Cemetery Committee
  - Donald Margeson to the Cemetery Committee
  - Sue Polidura to the Cemetery Committee
  - Kerry Rubinstein to the Cemetery Committee
  - Susan Sterry to the Cemetery Committee
  - Steven Detrolio to the Sustainable Practices Blue Ribbon Committee
  - Jay Lieberman to the Sustainable Practices Blue Ribbon Committee

The City Council considered the appointments listed above which will be acted upon at the February 7, 2022 City Council meeting.

3. Approval of City Council Rules and Orders

**Councilor Tabor moved to approve the City Council Rules and Orders as presented and refer to the Legal Department to draft a revised set of Rules and Orders incorporating modifications by the City Council to bring forward for a vote at the February 7, 2022 City Council meeting. Seconded by Councilor Moreau and voted.**

4. Ratification of City Council Policies

**Councilor Blalock moved to approve and ratify the City Council Policies as presented. Seconded by Councilor Lombardi and voted.**

**Councilor Denton moved to suspend the rules in order to bring forward Item XIII. C.1. – Religious Holiday Policy. Seconded by Councilor Bagley and voted.**

### **XIII. CITY COUNCIL MEMBERS**

#### **C. COUNCILOR BAGLEY**

1. Religious Holiday Policy

Councilor Bagley spoke in support of the policy and said last year there was a public meeting that occurred on Yom Kippur and some resident were unable to attend. He said he reached out to the Temple Israel and residents support the Council adopting this policy.

Assistant Mayor Kelley said she supports the policy and would like City Manager Conard and staff to develop an intake form that would allow people to submit holidays for consideration in order to be added to the list.

**Councilor Denton moved to adopt the Religious Holiday Policy. Seconded by Councilor Bagley and voted.**

**MAYOR McEACHERN**

5. Ethics Committee Drawing by Lot

City Clerk Barnaby asked City Attorney Sullivan to draw a name out of the folder for assignment to the Ethics Committee. City Attorney Sullivan drew Councilor Moreau's name, therefore she will serve on the Committee.

6. Board and Commission Assignments for City Council

Mayor McEachern announced the assignments of Councilors to serve on the following Board and Commissions.

**Audit Committee**

Councilor John Tabor  
Councilor Kate Cook

**African Burying Ground Stewardship Blue Ribbon Committee**

Assistant Mayor JoAnna "Jo" Kelley

**Chamber of Commerce**

Councilor Andrew Bagley

**Economic Development Commission**

Assistant Mayor JoAnna "Jo" Kelley  
Councilor Vincent Lombardi

**Fee Schedule Study Committee**

Councilor John Tabor  
Councilor Josh Denton

**Historic District Commission**

Councilor Rich Blalock

**Legislative Subcommittee**

Assistant Mayor JoAnna “Jo” Kelley  
Councilor John Tabor  
Councilor Kate Cook

**Neighborhood Steering Committee**

Councilor John Tabor

**Parking and Traffic Safety Committee**

Councilor Andrew Bagley

**Pease Development Authority**

Councilor Vincent Lombardi

**Peirce Island Committee**

Councilor Vincent Lombardi

**Planning Board**

Councilor Beth Moreau

**Prescott Park Master Plan Implementation Committee**

Assistant Mayor JoAnna “Jo” Kelley

**Recreation Board**

Councilor Rich Blalock

**Rockingham Planning Commission**

Councilor Beth Moreau

**Sister City Blue Ribbon Committee**

Assistant Mayor JoAnna “Jo” Kelley

**Sustainable Practices Blue Ribbon Committee**

Councilor Josh Denton  
Councilor Kate Cook

**Vaughan Mall Blue Ribbon Committee**

Councilor Andrew Bagley

**Veterans Organization**

Councilor Josh Denton

**Mayor’s Blue Ribbon Energy Advisory Committee**

Councilor John Tabor  
Councilor Kate Cook

**Blue Ribbon Committee on Arts & Non-Profit**

Councilor Kate Cook

**Safe Water Advisory Group Committee**

Councilor Rich Blalock

Councilor Vincent Lombardi

**Public Access Financial Advisory Committee**

Councilor Vincent Lombardi

**Skateboard Park Blue Ribbon Committee**

Councilor Rich Blalock

7. Ratification of Blue Ribbon Committees

Mayor McEachern announced the following committees will now be referred to as Blue Ribbon Committees rather than Mayor's Blue Ribbon Committees. He said the following is a list of the committees he is ratifying.

- African Burying Ground Stewardship Blue Ribbon Committee
- Citywide Neighborhood Steering Blue Ribbon Committee
- Prescott Park Master Plan Implementation Committee
- Sister City Blue Ribbon Committee
- Sustainable Practices Blue Ribbon Committee
- Vaughan Mall Blue Ribbon Committee
- Blue Ribbon Energy Advisory Committee
- Blue Ribbon Committee on Arts & Non-Profit
- Safe Water Advisory Group Committee
- Skateboard Park Blue Ribbon Committee

**XIII. CITY COUNCIL MEMBERS**

**A. COUNCILOR TABOR**

1. Community Power Update and next steps (no action required)

Councilor Tabor said he is pleased the committee has been ratified to continue its work. He spoke on community power and its definition. He stated that state statute allows cities and towns to aggregate consumer energy demand and purchase electricity in bulk. He said aggregation does not mean that the distribution function of the local utility will change, it gives consumers the option to opt out of Community Power if it so desires. He said he feels that many communities will adopt such a policy moving forward. Councilor Tabor said he would bring a motion forward at the February 22<sup>nd</sup> meeting regarding Community Power, which would make Portsmouth the fifteenth community to join the program.

**Councilor Denton moved to suspend the rules to bring forward Item XIII. D.1. – Discussion of establishment of a Governance Committee. Seconded by Assistant Mayor Kelley and voted.**

**D. COUNCILOR COOK**

1. Discussion of establishment of a Governance Committee

Councilor Cook reported that this would establish a Governance Committee to review policies, City Charter, Rules and Orders of the City Council, etc.

**Councilor Cook moved to create a Governance Committee to be convened for the purpose of reviewing the City Charter, Council Ordinances, Council Rules, and Council Policies, which will be required to report back to the City Council on committee progress and any recommended alterations to those documents. In furtherance, the Governance Committee shall consist of three members of the City Council, appointed by the Mayor with approval of the City Council. As a priority, the Governance Committee shall review the Ethics Ordinance, Land Use Board Appointment Process, and City Committee Structure, and any other urgent governance matter that comes to the attention of the committee or is referred by the City Council to the committee. Create a Governance Committee to be convened for the purpose of reviewing the City Charter, Council Ordinances, Council Rules, and Council Policies, which will be required to report back to the City Council on committee progress and any recommended alterations to those documents. In furtherance, the Governance Committee shall consist of three members of the City Council, appointed by the Mayor with approval of the City Council. As a priority, the Governance Committee shall review the Ethics Ordinance, Land Use Board Appointment Process, and City Committee Structure, and any other urgent governance matter that comes to the attention of the committee or is referred by the City Council to the committee. Seconded by Councilor Denton.**

Councilor Cook said it is time to review these items for updates and changes to make sure we are aligned with our governance practices.

Councilor Denton said he supports the motion and has some City Charter changes to recommend. He said that he would like to change the way the Council is elected and the date when the Council takes office. He said it is a lengthy process but feels it is necessary.

Councilor Moreau commended Councilor Cook for bringing this item forward, it is very timely.

Councilor Tabor said that this is getting into the heart of business early in our term and it should be an ongoing committee for the future.

Councilor Cook said this is for this Council but it could become a permanent committee.

Councilor Blalock thanked Councilor Cook for bringing this matter forward, as it provides value to what we do in the City and as well as transparency.

Mayor McEachern passed the gavel to Assistant Mayor Kelley.

Mayor McEachern said he is pleased with the work of Councilor Cook bringing this issue forward. He said the Council did not review the City Charter last year due to COVID. He said he would like to prioritize some items for City Charter amendments and this will be a holistic review of the Charter.

Assistant Mayor Kelley returned the gavel to Mayor McEachern.

Councilor Bagley asked if the Governance Committee should include the City Manager and City Attorney. City Attorney Sullivan said he would advise the Committee and the City Manager would advise in any manner for the City Council.

**Motion passed.**

**B. COUNCILOR DENTON**

1. Charter Amendments

**Councilor Denton moved to instruct City Attorney Sullivan to draft a memorandum outlining the Charter Amendment process for review by the newly formed Governance Committee. Seconded by Councilor Moreau and voted.**

**XIV. APPROVAL OF GRANTS/DONATIONS**

A. Approval of Grant for Police Department from US Department of Justice - \$418,549.00

**Councilor Cook moved to approve and accept the grant for the Police Department from the U.S. Department of Justice as presented. Seconded by Councilor Blalock and voted.**

B. Acceptance of Donations to the Police Department:

- Donation of \$300.00 from the Seidl Family
- Donation of \$10.00 Gift Card from the Rollins Family
- Donation of various Gift Cards from anonymous citizens

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

C. Acceptance of Donations to the Portsmouth 400<sup>th</sup>

- Robert Barefield - \$1.00
- Denise A. Poulos - \$1,000.00

**Assistant Mayor Kelley moved to approve and accept the donations as presented. Seconded by Councilor Lombardi and voted.**



- D. Acceptance of Donation to Fire Department from Paul Gormley and Kimi Iguchi - \$2,500.00

**Assistant Mayor Kelley moved to approve and accept the donation as presented. Seconded by Councilor Moreau and voted.**

## **XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION**

### **A. CITY MANAGER CONARD**

1. Ratification of Release of Trust Funds for Community Campus Acquisition

City Manager Conard advised the City Council that the Trustees of the Trust Fund are requesting a ratification from the Council for the release of trust funds for the acquisition of Community Campus.

**Councilor Moreau moved that the City Council's action of December 20, 2021 authorizing the release of certain funds from the Peirce Estate Recreation and Environmental Trust and Daniel Street Trust is hereby ratified; and further move that the City Council specifically authorizes that the sum of \$627,496.53 be expended from the Peirce Estate Recreational and Environmental Trust pursuant to Article 3 of that Trust, and that the sum of \$25,542.95 be expended from the 135-143 Daniel Street Charitable Trust pursuant to Article 3 (B) of that Trust for the acquisition of certain real estate from the Foundation for Seacoast Health as approved by letter dated November 23, 2021 addressed to the City Attorney by Thomas Donovan, Director of Charitable Trusts, Office of the Attorney General. Seconded by Assistant Mayor Kelley.**

City Attorney Sullivan said that this is a vote that was taken by the prior City Council and the Trustees of the Trust Fund are looking for the vote due to public comments it received during their public hearing on this matter.

Mayor McEachern said he is pleased that the Council can ratify the vote that he and Councilor Tabor brought forward with the last City Council.

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

2. License Extension for 60 Penhallow

City Manager Conard said that this is an extension of the License Agreement and she spoke to the updated schedule provided for the City Council to review. She reported that there will be a close coordination on the utilities. She stated that the extension would close sidewalks along Daniel and Penhallow Streets and the term of use is for week days only, and informed the Council that the license fee is \$39,561.00.

Councilor Lombardi said there was an issue regarding communication with abutters and asked if the applicant will be more communicative in the process.

Acting Deputy City Manager/Deputy City Attorney Woodland responded that is the understanding with the contractor as there was not enough information being provided to the abutters.

Councilor Bagley suggested that for applications for large projects, residents and businesses be able to sign up to receive alerts.

**Councilor Tabor moved to suspend the rules to allow Lynn Kramer to speaker on behalf of the developer. Seconded by Assistant Mayor Kelley and voted.**

Ms. Kramer spoke the extension and questions raised by the Council.

**Councilor Blalock moved the authorization to finalize and execute the temporary construction license for the term of February 1, 2022 to July 3, 2022 as proposed. Seconded by Councilor Moreau.**

Mayor McEachern said part of the difficulties with the project is the need for three license extensions. He asked how is this extension is different from the others. Ms. Kramer said extensions were granted on a six month basis because the city wanted to make sure changes could be made and checks and balances were in place. She said that this extension is until July 3<sup>rd</sup>, but if the sidewalks could be turned over sooner, they would. Mayor McEachern said the city wants this project completed soon but that it is done well. Ms. Kramer said they're trying to commit that the sidewalks and tenants will be moved into the building in June however, the inside will not be completed by that time. Mayor McEachern said we need more communication for the residents and businesses around the project.

Discussion followed between Mayor McEachern and Acting Deputy City Manager/Deputy City Attorney Woodland and Public Works Director Rice regarding communication, complaints, utilities and the completion of the project.

**Motion passed.**

3. Expansion of West End Economic Revitalization Zone

City Manager Conard said this would be an expansion of the existing West End Economic Revitalization Zone (ERZ). She said the designation is an economic development tool allowed by state statute that creates incentive for companies to expand or relocate to an eligible area. She informed the City Council when the Economic Development Commission discussed this they suggested including the West End Yards area along Cate Street, but also the area inclusive of the property that abuts West End Yards as well as the rail line opposite Plaza 800.

**Councilor Moreau moved to approve the proposed expansion of the West End ERZ and send a letter requesting the expansion to the NH Business and Economic Affairs Office. Seconded by Councilor Blalock.**

City Manager Conard stated that businesses in an ERZ may be eligible for tax credits to be used against Business Profit Tax and Business Enterprise Tax up to a maximum of \$40,000.00 annually for a five year period. She reported that there are five active ERZs in the city:

- Pease Tradeport ERZ
- Portsmouth Business Park ERZ a/k/a Commerce Way
- Heritage-Constitution Industrial Park ERZ
- Downtown Central Business District (CBD) ERZ
- West End ERZ

Councilor Bagley said by expanding the zone we are increasing the number of higher end jobs to this area of the city. He also said adding employees is a benefit and would enhance the businesses in the area.

Mayor McEachern asked if there was a way to make sure local businesses are made aware of this. Economic Development Manager Carmer spoke to the ways that is done and suggested the addition of a QR code to educate residents and visitors.

**Motion passed.**

4. Approval of Proposed Redistricting Map

City Clerk Barnaby reviewed the small adjustment to ward lines between Ward 2 and Ward 5 which will move 130 people (not voters) from Ward 2 into Ward 5. She indicated this change is based on population numbers and not voters.

**Councilor Moreau moved to authorize the City Manager to submit the small adjustment to ward lines for Ward 2 and Ward 5 on behalf of the City Council to the Legislature requesting a session law change to act upon the reflected new boundaries. Seconded by Councilor Blalock and voted.**

**XVI. CONSENT AGENDA**

- A. Letter from Rich Clyborne, Gundalow Company, requesting permission to hold the second Riverfest on Saturday, June 4, 2022 from 10:00 a.m. to 5:00 p.m. **(Anticipated action – move to refer to the City Manager with Authority to Act)**
- B. Letter from Kathie Lynch, Portsmouth Little League, requesting approval of temporary Signs/Banners for 2022 Season **(Anticipated action – move to refer to the City Manager with Authority to Act)**
- C. Letter from Emily Rivera, National Multiple Sclerosis, requesting permission to hold the annual Walk MS 2022 on Saturday, April 23, 2022 from 10:00 a.m. to 1:00 p.m. **(Anticipated action – move to refer to the City Manager with Authority to Act)**

- D. Letter from Tamires Costa, Cystic Fibrosis Foundation, requesting permission to hold the CF Cycle for Life on Saturday, July 16, 2022 from 7:30 a.m. to 4:00 p.m. **(Anticipated action – move to refer to the City Manager with Authority to Act)**

Councilor Denton requested to remove Item B from the Consent Agenda as he serves as Commander of the VFW Post 168 who sponsors a Little League Team.

**Councilor Moreau moved to adopt Items A, C, and D of the Consent Agenda. Seconded by Councilor Cook and voted.**

- B. Letter from Kathie Lynch, Portsmouth Little League, requesting approval of temporary Signs/Banners for 2022 Season **(Anticipated action – move to refer to the City Manager with Authority to Act)**

**Assistant Mayor Kelley moved to refer to the City Manager with Authority to Act. Seconded by Councilor Lombardi and voted. Councilor Denton recused from the vote and Councilor Blalock abstained from the vote as he serves as a Little League Coach.**

#### **XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. Email Correspondence

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

- B. Letter from Shawn Menard, Seacoast Eat Local regarding new management of Portsmouth Farmers' Market

**Assistant Mayor Kelley moved to refer to the Legal Department for report back. Seconded by Councilor Blalock and voted.**

#### **XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING**

- A. Citywide Neighborhood Committee Biennial Report to the City Council – *Information Only*

#### **XX. ADJOURNMENT [at 10:30 p.m. or earlier]**

**At 8:45 p.m., Mayor McEachern adjourned the meeting.**



KELLI L. BARNABY, MMC/CNHMC  
CITY CLERK