

CITY COUNCIL MEETING

MUNICIPAL COMPLEX

DATE: MONDAY, OCTOBER 3, 2022

PORTSMOUTH, NH

TIME: 7:00PM

Councilor Moreau moved to close the Non-Public Sessions and seal the minutes. Seconded by Assistant Mayor Kelley 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 hold in their hearts those that have suffered from Hurricane Ian.

VI. PLEDGE OF ALLEGINANCE

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

PROCLAMATIONS

1. Breast Cancer Awareness Month

Mayor McEachern read the Proclamation declaring October as Breast Cancer Awareness Month.

2. Domestic Violence Awareness Month

Mayor McEachern read the Proclamation declaring October as Domestic Violence Awareness Month. Members from Haven came forward to accept the proclamation with thanks and gratitude.

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

A. Recognition of State Representative Laura Pantelakos

Mayor McEachern recognized State Representative Laura Pantelakos for her 44 consecutive terms representing Portsmouth over the last 22 years. Mayor McEachern said he has looked up to Laura his whole life and her quality of work.

State Representative Pantelakos thanked the City Council for recognizing her this evening. She said she is very proud and thanked the residents of Portsmouth for honoring her by voting for her to represent the City of Portsmouth for 44 consecutive terms.

VII. ACCEPTANCE OF MINUTES – AUGUST 1, 2022

Councilor Moreau moved to approve and accept the minutes of the August 1, 2022 City Council meeting. Seconded by Councilor Tabor and voted.

IX. PUBLIC COMMENT SESSION

Mark Brighton said if a member of the City Council feels that your vote could be considered a conflict of interest, you should not be voting on the subject.

Irish Mike spoke regarding flags in Prescott Park and said that Trump supporters are not creating a problem in the park. He said he has never had an issue with the Police Department and the City Council needs to address the people being nasty to others.

Sue Polidura said the Audit Committee is problematic with the number of members and asked what would happen in the case of a tie vote. She said the City needs a new audit firm and auditor to conduct the audit for the City.

Chris White said he is amazed at the length the City Council will go to change the Audit Committee. He said an independent auditor needs to conduct the audit.

Francis Cormier spoke regarding the renovation plans for Prescott Park and said the City is expecting to pay a great deal of money for upgrades to the park.

Petra Huda expressed concern with a City Councilor being the Chair of the Audit Committee. She asked if all Boards and Commissions are going to be dictated to have a Councilor serve as Chair.

Liza Hewitt spoke regarding the Audit Committee and asked why does the Council feel they need to add another Councilor to the Committee. She urged the Council not to vote in favor of the changes as prepared to the ordinance.

Esther Kennedy said she is glad that the Skateboard Park will break ground in the spring of 2023. She asked that cameras be installed to monitor the areas. She also spoke regarding the auditor selection and stated that should go out to bid.

Arthur Clough spoke regarding questions he has regarding Planning Director Zendt's resume.

Fred Orlando said there are no issues at Prescott Park and we should not prejudge people because of the uniform they wear or the flag they wave.

Nancy Pearson thanked the City Council for accepting the bench donation for Vernon Boardman. She said his family is so touched and proud. She spoke on revisions to public art policies. She said in lieu of Art Speak we would have a Public Art Committee which is part of our history in Portsmouth.

Mark Brenner said the City Council approved Phase I of the transformation of Prescott Park. He said many residents don't know about the project or how much it will cost, which has increased greatly.

Shane Sunderland, Dover, NH said he sits with Mark in the park and there has never been any issues. He said if there is no violation occurring, Mark should be able to continue to sit in Prescott Park.

Councilor Moreau moved to suspend the rules in order to bring forward Item XV. C.1. – Presentation from Ernie Greenslade and Valerie Rochon regarding the Portsmouth NH 400 Legacy projects pillar and the sculpture garden they are working towards installing in a public park and the RFP that has been created together the art communities' ideas. Seconded by Councilor Denton and voted.

XV. CITY COUNCIL MEMBERS

C. COUNCILOR MOREAU & COUNCILOR COOK

1. Presentation from Ernie Greenslade and Valerie Rochon regarding the Portsmouth NH 400 Legacy projects pillar and the sculpture garden they are working towards installing in a public park and the RFP that has been created together the art communities ideas

Ms. Greenslade provided a brief presentation on the 400 Legacy projects pillar and the sculpture garden. She reported that one art installation will occur during the 400th celebration. She said the new sculpture garden will have a maritime theme, celebrating the river and all that is connecting with it through public art, which will be located in the Bohenko Park.

Councilor Moreau moved to accept the donation and approve the placement of sculptures to be commissioned by Portsmouth NH 400 in the public property known as Bohenko Park. Seconded by Councilor Cook.

Councilor Blalock thanked Councilor Moreau, Councilor Cook and Ms. Greenslade for bringing this matter forward as not to delay the project.

Councilor Cook said the establishment of the Public Art Committee will come forward this evening. She stated that this is a great opportunity and serves as an example to us to look at public art.

Motion passed.

X. PUBLIC HEARINGS AND VOTE ON ORDINANCE AND/OR RESOLUTION

Public Hearing/Second Reading of Ordinance:

- A. Public Hearing/Second Reading of Ordinance amending Chapter 10, Article 5A, Section 10.5A21B, Amend Map For Building Height Standards, Incentive Overlay Districts Sections 10.5A21.20 – Building Height Standards, Section 10.5A21.21 & 10.5A21.22, Section 10.5A43.32 – Building and Story Heights, Section 10.1530 – Terms of General Applicability

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

Planning Director Zendt provided a presentation which looked at code clean-up, ADU developments, and incentive amendments to place higher standards for the ordinance. She said this will allow the ordinance to be consistently followed by staff. She reviewed the changes on height and scale standards. She reviewed the time line for the review by the Planning Board.

Discussion followed among the Council regarding the map and its coloring.

Esther Kennedy said she was surprised this was not brought forward to the Historic District Commission. She said we need public input on what we want for the City. She asked why we are not looking at our master plan and affordable housing. She suggested conducting a Charette on these changes.

Petra Huda asked if this protects our historic character. She said Portsmouth is unique and we need to remain that way to keep us different from every other community.

After three calls and no further speakers, Mayor McEachern declared the public hearing closed.

Councilor Moreau moved to pass second reading and hold third and final reading at the October 24, 2022 City Council meeting as presented. Seconded by Councilor Tabor.

Mayor McEachern said that this is a clean-up of the ordinance that will be consistent and understood by the public. He commended the Planning Department for their work on this ordinance.

Councilor Tabor said he supports the ordinance and clarity has been brought where it was needed.

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

- B. Third and final reading of Ordinance amending Chapter 1, Article IV, Section 1.414 – Commissions and Authorities

Councilor Moreau moved to pass third and final reading of the Ordinance as presented. Seconded by Councilor Tabor.

Councilor Moreau spoke to the make-up of the Committee and said having an even number of individuals on the Committee is not an issue.

Deputy City Manager/Deputy City Attorney Woodland said it is important to retain municipal experience on the Committee.

Councilor Bagley moved to postpone third and final reading until the October 24, 2022 City Council meeting. Seconded by Assistant Mayor Kelley.

Councilor Moreau moved to suspend the rules in order to bring back second reading of the Ordinance to allow for amendments. Seconded by Assistant Mayor Kelley and voted on a unanimous voice vote.

Councilor Cook moved to amend Section A to reinsert the original language of the ordinance around terms for the appointed members that are not City Councilors. Further, to amend Section B to eliminate the last sentence – *The Audit Committee will be able to retain the services of professionals, as necessary, in municipal finance and audits, and experts hired will have no past employment as City staff or current relationships therewith, or employment with the auditing firm or current relationships therewith, and shall be independent.* Seconded by Councilor Moreau and voted. Councilors Tabor and Denton voted opposed.

Motion to postpone passed. Councilor Denton voted opposed.

XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Request to Establish Polling Hours

City Manager Conard said that City Clerk Barnaby is requesting the polling hours to be established from 8:00 a.m. to 7:00 p.m. for the State General Election.

Councilor Denton moved to establish polling hours for the November 8th General Election from 8:00 a.m. to 7:00 p.m. Seconded by Councilor Blalock and voted.

2. Right of Way Easement Deeds for properties located on Chevrolet Avenue

City Manager Conard advised the City Council that the Planning Board granted approval for a Right of Way Easement Deed to the owner of the property. She stated that the owner secured an agreement with the abutter for an easement.

Councilor Moreau moved to authorize the City Manager to accept and record the Right of Way and Utility Easement Deeds in substantially similar form to the easement deeds from Public Land Holdings LLC and Catherine R. Whelan contained in the agenda packet. Seconded by Assistant Mayor Kelley.

Councilor Moreau said this has always been a private way and we would want rights for accessing utilities under the street.

Motion passed.

XII. CONSENT AGENDA

- A. Letter from Jake Dodge, The Greg Hill Foundation, requesting permission to hold the 10th Annual Jingle All The Way 5k Road Race on December 10, 2022 at 10:00 a.m. ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Letter from Matt Junkin, Seacoast Rotary, requesting permission to hold the 14th Annual Turkey Trot 5k on Thursday, November 24, 2022 at 8:30 a.m. ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- C. Letter from Kathryn Garcia & Joanne Wolfe, Alliance for Greater Good, requesting permission to use South Mill Pond and adjacent areas for the Portsmouth 400 Lantern Festival on Saturday, September 30, 2023 (rain date of Sunday, October 1, 2023) ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- D. Letter from Tina Sawtelle, The Music Hall, requesting approval for the closure of Chestnut Street on Monday, October 24, 2022 for Strategic HR's Conference from 7:00 a.m. to 5:30 p.m. ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- E. Letter from Laurie Mantegari, Scarecrows of the Port Committee, requesting permission to place scarecrows in designated locations throughout the downtown area for the 14th year beginning Sunday, October 16, 2022 through Sunday, November 6, 2022 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***

Councilor Blalock moved to adopt the Consent Agenda. Seconded by Assistant Mayor Kelley and voted.

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- A. Email Correspondence

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

- B. Letter from James Albion, Generations United, Inc. d/b/a Generations Arcade LLC, requesting an open discussion regarding possibly opening one of their Console Arcades at the Skateboard Park

Councilor Tabor moved to accept the letter and place it on file. Seconded by Councilor Moreau and voted.

C. Letters from Bob Newby regarding Dog Ordinance

Mayor McEachern said that these letters will require more fact finding.

Assistant Mayor Kelley moved to request a report back on the existing Dog Ordinance as it currently stands in the City and information on what is the best policies in regards to dogs and dog walking in other cities. Seconded by Councilor Blalock and voted.

XIV. MAYOR McEACHERN

1. Letter of Recognition of Elaine Syracuse

Mayor McEachern read a letter of recognition of Elaine Syracuse and her 30 years of service to the Recreation Board.

2. Appointments to be Considered:

- Appointment of John Mayer to the Arts & Nonprofit Committee – Cultural Plan Subcommittee
- Reappointment of Everett Eaton to the Economic Development Commission
- Reappointment of Thomas Watson to the Economic Development Commission
- Appointment of Richard Candee to the Task Force to Study Private/Public Historical Archives
- Appointment of Susan Sterry to the Task Force to Study Private/Public Historical Archives
- Thomas Hardiman, Jr. to the Task Force to Study Private/Public Historical Archives (*Not on agenda*)
- Appointment of Katinka de Ruiten to the Board of Library Trustees
- Reappointment of Janaki Fonseka to the Board of Library Trustees

The City Council considered the appointments listed above, which will be acted upon at the October 24, 2022 City Council meeting.

3. Request to Change Date of December 19, 2022 City Council meeting

Councilor Cook moved to change the City Council meeting date of December 19, 2022 to Wednesday, December 14, 2022. Seconded by Councilor Blalock and voted.

XV. CITY COUNCIL MEMBERS

A. COUNCILOR TABOR

1. Citizen Input into ARPA Funding, 2022 Recreation Study and Community Campus

Councilor Tabor moved to authorize the City Manager to implement a citywide survey process to determine residents' values and priorities for use of ARPA funds, updated city recreation initiatives, and future use of the Community Campus and adjoining property. Seconded by Councilor Blalock.

Councilor Tabor said we want to provide a responsive process for more public process. He suggested doing a survey, muck like Community Campus. He stated we could use technology for the Recreation Study and input on ARPA funding. He further stated that Community Campus made sense to ask taxpayers what they would like to see there, if we could get a survey. Councilor Tabor said flash vote would enable us to get a broad scope and we would get good data for making decisions. He stated we need to reach out and engage the public.

Councilor Bagley said he is concerned with not having three different surveys.

Councilor Blalock said we are looking for more opportunities to engage the public on the Recreation Study. He stated any chance to listen to the community and represent them is important.

Councilor Cook said this is an important proposal coming from Councilor Tabor. We usually hear negative comments and we would hear positive comments with a survey. She stated this would provide actual data and real data points for making decisions as a Council.

Councilor Lombardi echoed the comments made by Councilors Bagley, Blalock and Cook. He said we are looking for more involvement from the residents. He stated it is the Council's responsibility to deliver more data and engage more residents.

Motion passed.

B. COUNCILOR DENTON

1. Climate Change Impacts

Councilor Denton moved that the Legal Department explore potential legal remedies to recover costs incurred by the City of Portsmouth, residents, and businesses due to climate change impacts. Seconded by Councilor Bagley and voted.

D. COUNCILOR COOK

1. Public Art Policy/Ordinances
 - Public Art Policy Changes
 - Amendment to Article 17 – Funding of Public Art Ordinance
 - Draft Public Art Review Committee Ordinance

Councilor Cook said these ordinances and policies work as a package. She said current funding has a few gaps in working through the ordinance. She said the City Council will set up a public art review committee based on guidelines and clarifies those things that currently are not clear.

Councilor Cook moved to bring forward for first reading at the October 24, 2022 City Council meeting. Seconded by Councilor Denton.

Councilor Blalock thanked Councilor Cook and the Governance Committee for bringing these items forward.

Motion passed.

2. Auditor Rotation Policy

Councilor Cook reported that this is a policy from the Governance Committee which will clarify for residents that a principle auditor and principle team all change every five years. She said that we only have two companies in New Hampshire that submit bids.

Councilor Tabor spoke to the policies and said we have a competitive process. He said the contracts would be for three years and over time we will put the City auditor out to bid. He said we will require the team and lead auditor and principle team would need to change.

Mayor McEachern said we might want the Audit Committee to review and weigh in on policies. He said we are working to bring the best firm to Portsmouth.

Councilor Moreau moved to recommend that the Auditor Rotation Policy be reviewed by the Audit Committee with a report back to the City Council. Seconded by Assistant Mayor Kelley.

Councilor Bagley said that this motion belongs with the City Council and spoke to our Triple A bond rating and the importance of having that in place. He said we will put this out to bid over the next 25 years and only get one or two responses. He said the reason we had the same company for 25 years was because things were going so well in the City and we are one of the premier cities in the country.

On a roll call vote 7-2, motion passed. Assistant Mayor Kelley, Councilors Tabor, Denton, Moreau, Lombardi, Blalock and Mayor McEachern voted in favor. Councilors Bagley and Cook voted opposed.

E. COUNCILOR BLALOCK

1. Skateboard Park Update

Councilor Blalock reported that the committee is hopeful to break ground and complete the park by this time next year. He informed the Council that the price for a pump track came in at \$3.7 million.

Mayor McEachern thanked the Skateboard Park Committee for working to bring this project forward.

XVI. APPROVAL OF GRANTS/DONATIONS

- A. Approval of Donation for a Memorial Park Bench in the South Mill Pond Dog Park in honor of Joshua Fogel - \$2,350.00

Assistant Mayor Kelley moved to approve and accept the donation from Maggie Fogel for a bench in memory of Joshua Fogel as presented. Seconded by Councilor Bagley and voted.

- B. Approval of Donation to the Portsmouth Police Explorers Program from the Barrington Fireman Association - \$240.00

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

- C. Approval of The Violence Against Women Act (VAWA) Grant from the NH Department of Justice to the Victim Witness Advocate position – *includes a cash match contribution* - \$25,025.00

Assistant Mayor Kelley moved to approve and accept the grant to the Police Department as presented. Seconded by Councilor Moreau and voted.

- D. Approval of The Office of Highway Safety Grant from the NH Department of Safety which includes thirteen different highway safety initiatives – *includes a 20% match* - \$53,510.66

Assistant Mayor Kelley moved to approve and accept the grant to the Police Department as presented. Seconded by Councilor Cook and voted.

XVII. CITY MANAGER'S INFORMATIONAL ITEMS

- 1. McIntyre Update

City Manager Conard provided a brief update regarding McIntyre and reported the McIntyre group continues to meet every Tuesday and work to advance all parts of the effort. She also informed the Council that the Legal Department has started to review a draft of the development agreement.

- 2. Report Back Re: Demolition Ordinance

City Manager Conard said the Historic District Commission and Planning Board worked together on this matter. She spoke to the memorandum that outlines the recommendations that could be followed and she could direct staff to bring a draft recommendation to the City Council or Governance Committee.

Councilor Lombardi said it is important not to lose the character of neighborhoods. He said you cannot stop demolition outside the historic district. He spoke to an appeal process through legislation to protect the character and building of a neighborhood.

Councilor Moreau said she would like to see a draft ordinance come back with things we can change.

Councilor Tabor said he would like to know legally what is the longest we could delay a project and would that be integrated into the ordinance.

Assistant City Attorney McCourt said this provides opportunities for the public to weigh in which is important.

Councilor Cook spoke regarding preserving homes outside the historic district and would like to see more work done on the ordinance. She said if we extended the historic district it would protect some properties, but extending the district creates a double edge sword.

Councilor Bagley said he would not support anything beyond 90 days. He said there are rights for properties and he feels this crosses the line.

Councilor Moreau moved to request staff review the recommendation brought forward and draft a new ordinance that is legally sufficient. Seconded by Councilor Blalock.

Mayor McEachern said people want a process, and there is more to gain by preserving a structure. He said we could not withhold the right to do something as it would increase the cost of homes.

Motion passed.

XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

Councilor Bagley said on Thursday the Parking and Traffic Safety Committee will discuss changes to the Neighborhood Parking Program in the Islington Creek Neighborhood.

Councilor Tabor requested that the Community Campus webpage include an updated map of the entire 36 acre site.

Councilor Cook moved to schedule a Work Session and Public Dialogue Session sometime in the future regarding Community Campus. Seconded by Councilor Tabor and voted.

XIX. ADJOURNMENT

At 9:50 p.m., Councilor Blalock moved to adjourn. Seconded by Assistant Mayor Kelley and voted.



KELLI L. BARNABY, MMC/CNHMC
CITY CLERK