

CITY COUNCIL MEETING

MUNICIPAL COMPLEX

DATE: WEDNESDAY, DECEMBER 14, 2022

PORTSMOUTH, NH

TIME: 7:00PM

Assistant Mayor Kelley moved to close the Non-Public Sessions and seal the minutes. Seconded by Councilor Tabor. Motion passed on a unanimous voice vote.

III. CALL TO ORDER

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

IV. ROLL CALL

PRESENT: Mayor McEachern, Assistant Mayor Kelley, Councilors Tabor, Denton (7:05 p.m.), Moreau, Bagley, Lombardi, Blalock, and Cook

V. INVOCATION

Mayor McEachern asked for prayers for his brother Duncan who had a medical procedure today and had a heart attack and was put into an induced coma until Friday.

VI. PLEDGE OF ALLEGINANCE

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



Portsmouth Music and Arts Center Brewery Big Band Holiday Music Performance



The band performed three Holiday music selections for the City Council. Russ Grazier from PMAC announced that they have received a grant from the Foundation for Seacoast Health making music lessons free for 75 and older adults.

Mayor McEachern thanked Russ for the performance by the band this evening.

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

At 7:15 p.m., Mayor McEachern declared a brief recess to allow the band to break down. At 7:20 p.m., Mayor McEachern called the meeting back to order.

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

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

IX. PUBLIC COMMENT SESSION

Paige Trace wished the City Council a Merry Christmas and Happy New Year.

Esther Kennedy said retailers are happy that parking is back with the end of outdoor dining for the season. She asked the City Council to think about water in the Capital Improvement Plan needs regarding wastewater plants. She also spoke regarding the eminent domain case involving the property in Durham, NH and urged that the Council work with the property owners that are involved because there are ways around eminent domain.

Arthur Clough spoke regarding hiring people and background checks that are performed and their importance in interviewing and being considered for a position in the City.

Sue Polidura spoke regarding appointment of David Rheame to the Zoning Board of Adjustment. She reported that the Historic District Commission reads a statement regarding conflict of interest because the goal is to avoid any perception of improprieties. She said the City Council should not have made such an appointment to the Zoning Board of Adjustment. She asked the City Council to resolve this issue.

Francis Cormier said we need to remember to be nice to each other.

Nancy Novelline Clayburgh wished everyone Happy Holidays. She applauded Police and School Departments for their handling of the active shooter hoax that occurred at the High School. She said as the School Board Chair, she is proud of how the situation was handled.

Mayor McEachern said he agrees with the comments made by Chair Clayburgh.

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

Third and Final Reading of Ordinances:

- A. Third and final reading of Ordinance amending Chapter 12 and Chapter 15 – City's Building Code

**Councilor Tabor moved to pass third and final reading of the ordinance as presented.
Seconded by Councilor Cook.**

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

- B. Third and final reading of Ordinance amending Chapter 5, Article I – Fire Department, Section 5.101 – Personnel and Article IX – Fire Code

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

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

XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Greenleaf Recreation Center Concession Agreement with Operation Blessing, Inc.

City Manager Conard said we have worked with Operation Blessing since 2014 and this will be a 5 year agreement versus a two year.

Assistant Mayor Kelly moved to accept the renewal extension of the Greenleaf Recreation Center Concession Agreement with Operation Blessing, Inc., as presented. Seconded by Councilor Blalock.

Councilor Moreau asked if the land behind the recreation building could be made into a small play area for children. City Manager Conard said we could look into that but there are concerns regarding liability of the property.

Motion passed.

2. Request for Public Hearing for Supplemental Appropriation regarding McIntyre Project

City Manager Conard said this would schedule a public hearing for a supplemental appropriation. She reported that we have received a 90 day extension from the National Park Service on the McIntyre and the appropriation would be for \$150,000.00.

Councilor Tabor moved to schedule a public hearing at the January 9, 2023 City Council meeting regarding the proposed supplemental appropriation. Seconded by Assistant Mayor Kelley.

Councilor Bagley said the City Council is looking forward to hearing comments at the January 9, 2023 meeting.

Motion passed.

3. Temporary Construction License for 46 State Street

City Manager Conard said this is a temporary construction license at 46 State Street and reported that the current permit will expire on December 15th. She advised the Council that both the Legal and Planning Departments have reviewed this matter and recommend granting the request.

Councilor Lombardi moved to authorize the City Manager to execute and accept the temporary construction license to encumber the sidewalk and three parking spaces that about 46 State Street as requested. Seconded by Councilor Moreau.

Councilor Cook said the project locks one of the primary paths to the neighborhood in the downtown. She expressed concern with crossing the street. City Manager Conard said we will enforce clearing the sidewalks for clear crossing.

Motion passed.

4. Request for Work Session of the Disposition of Sherburne School

City Manager Conard said that this is a request for a Work Session on the disposition of Sherburne School on January 12, 2023 from 7:00 p.m. to 8:00 p.m.

Assistant Mayor Kelley moved to schedule a work session regarding the disposition of the Sherburne School on Thursday, January 12, 2023 at 7:00 p.m. Seconded by Councilor Blalock.

The City Council agreed to request that staff provide information on any and all places for potential housing projects by the Portsmouth Housing Authority. Also, to schedule a site visit of Sherburne School at a future time and date.

Motion passed.

XII. CONSENT AGENDA

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

- A. Request from John Robert David & Anastasia Livingstone, Snap Quack Pop, to install a Projecting Sign at 123 Market Street Unit A (***Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement for this request***)

Planning Director's Stipulations

- ***The license shall be approved by the Legal Department as to content and form;***

- **Any removal or relocation of projecting sign, for any reason, shall be done at to the City; and**
 - **Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works**
- B. Letter from John Mortimer, Millennium Running, requesting permission to hold the St. Patty's 5k & 10k on Saturday, March 11, 2023 (**Anticipated action – move to refer to the City Manager with Authority to Act**)
- C. Letter from John Mortimer, Millennium Running, requesting permission to hold the annual New Castle 10k on Sunday, April 30, 2023 (**Anticipated action – move to refer to the City Manager with Authority to Act**)

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- A. Presentation Regarding Staff Recommendations for 2023 Outdoor Dining Season – Beverly Mesa-Zendt, Planning Director

Planning Director Mesa-Zendt provided a detailed review of the Outdoor Dining Season of 2022 with staff recommendations for 2023. She reported staff recommends that future outdoor dining be restricted to parking spaces, sidewalks, and loading zones – only when a parking space is available to offset the loss of the loading zone. She stated applications that result in a significant impact to the traffic pattern or that result in a change to the directional pattern of the street, should not be considered. She advised the Council staff recommends a fee of \$3,000.00 per parking space. She said this would include loading zones where on-street parking has been used to replace the loading zone that is repurposed for outdoor dining. Further, she stated staff recommends that sidewalk fees remain the same at \$10.00 per square foot. Planning Director Mesa-Zendt provided three options to the Council regarding barriers. She reported on staff recommendations surrounding abutters and stated staff said the continuance of this programmatic requirement and the extension of this requirement to include abutting residences as well. In terms of season dates staff recommends the following outdoor dining season dates for 2023:

- *February 24, 2023 – application Period Opens*
- *Starting the Week of May 1, 2023 – Outdoor Dining Begins*
- *Barrier Placement begins week of May 1, 2023*
- *November 12, 2023 – Outdoor dining ends*

Planning Director Mesa-Zendt outlined ADA compliances. She also reported that Executive Director Massar of Pro Portsmouth, Inc. provided the following recommendations – applicants approved for dining in parking spaces, on Pleasant Street between State and the Square may not begin outdoor dining until after Market Square Day.

The City Council discussed the recommendations outlined by Planning Director Mesa-Zendt. Mayor McEachern, City Council and City Manager Conard thanked Director Mesa-Zendt for her work and wished her the best in her next endeavors as she departs from the position.

City Manager Conard advised the City Council that action will take place at the January 9, 2023 City Council meeting regarding outdoor dining.

XIV. MAYOR McEACHERN

1. Appointments to be Considered:
 - Reappointment of Dana Levenson to the Trustee of the Trust Funds
 - Reappointment of Phyllis Eldridge to the Zoning Board of Adjustment
 - Appointment of Alan Cohen to the Task Force to Study Private/Public Historical Archives Committee
 - Appointment of Jeff Keefe to the Task Force to Study Private/Public Historical Archives Committee (Not on Agenda)

The City Council considered the appointments listed above that will be acted upon at the January 9, 2023 City Council.

2. Appointments to be Voted to the Arts and Nonprofits Committee Cultural Plan Subcommittee:
 - Alan Chace
 - Jeffrey Cooper
 - Ellen Fineberg
 - Gerardo Gonzalez
 - Tom Kaufhold
 - Amanda Kidd-Kestler
 - Robin Lurie-Meyerkopf
 - John Mayer
 - Karen Rosania
 - Emma Stratton
 - Karen Battles (Alternate)
 - Suzanne Danforth (Alternate)
 - Ed Simeone (Alternate)

Councilor Lombardi asked to take up the appointment of Ellen Fineberg separately.

Councilor Tabor moved to appoint Alan Chace, Jeffrey Cooper, Gerardo Gonzalez, Tom Kaufhold, Amanda Kidd-Kestler, Robin Lurie-Meyerkopf, John Mayer, Karen Rosania, Emma Stratton, and Alternate members Karen Battles, Suzanne Danforth and Ed Simeone to the Arts and Nonprofits Committee Cultural Plan Subcommittee. Seconded by Assistant Mayor Kelley and voted.

Appointment of Ellen Fineberg to the Arts and Nonprofits Committee Cultural Plan Subcommittee

Assistant Mayor Kelley moved to appoint Ellen Fineberg to the Subcommittee. Seconded by Councilor Bagley and voted. Councilor Lombardi recused from voting on this item.

3. Announcement of Appointment of Sean MacDonald and Anna Nuttall to the Skateboard Park Blue Ribbon Committee

Mayor McEachern announced the appointment of Sean MacDonald and Anna Nuttall to the Skateboard Park Blue Ribbon Committee.

4. Holiday Lights Contest

Mayor McEachern announced that the winners of the Holiday Lights Contest will be announced on Wednesday, December 21, 2022.

XV. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR KELLEY & COUNCILOR BAGLEY

1. Council Year in Review

Councilor Bagley moved to schedule a City Council Retreat in January with a Work Session in February to discuss the Council Year in Review. Seconded by Assistant Mayor Kelley and voted.

XVI. APPROVAL OF GRANTS/DONATIONS

(There are no items under this Section of the Agenda this evening)

XVII. CITY MANAGER'S INFORMATIONAL ITEMS

(There is no items under this Section of the Agenda this evening)

XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

1. Letter from PortsmouthNH 400th requesting permission to hold the Kickoff Event on January 6, 2023 (Not on Agenda)

Councilor Moreau spoke to the Kickoff Event for the PortsmouthNH 400th Celebration taking place on January 6, 2023 and asked for its approval.

Assistant Mayor Kelley moved to send the request to the City Manager with Authority to Act. Seconded by Councilor Moreau and voted.

Mayor McEachern recognized and thanked all departments and teachers in the classrooms for the handling of the Active Shooter Hoax Incident at the Portsmouth Schools.

XIX. ADJOURNMENT

At 9:10 p.m., Assistant Mayor Kelley moved to adjourn. Seconded by Councilor Moreau 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