

## SPECIAL CITY COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: FRIDAY, MARCH 31, 2023

PORTSMOUTH, NH  
TIME: 12:00PM

PRESENT: Mayor McEachern, Assistant Mayor Kelley (4:05 p.m.) (*via zoom*), Councilors Tabor, Denton, Moreau, Bagley, Lombardi (4:05 p.m.) (*via teleconference*), Blalock and Cook

### IV. RETURN TO PUBLIC SESSION

**Councilor Moreau moved to seal the minutes and adjourn the Non-Public Session. Seconded by Councilor Bagley. On a unanimous roll call 9-0, motion passed.**

### V. REPORT ON MEETING WITH GSA

City Attorney Morrell said that the city had a scheduled meeting via zoom with the GSA and our Development Partner Michael Kane and several of his employees and construction partners. She stated during that call we provided the status of our progress. She said over the last few weeks we have been working extremely diligently with our development partner on construction costs estimates to expect for costs and on the pro-forma, meaning what do we expect for rents, what to expect for costs, what is reasonable to expect for expenses in terms of tenants. She said all of these are part of a pro-forma that governs the costs of construction and contributions between the development partner and the city. City Attorney Morrell stated we have not reached an agreement on those terms despite our efforts. She said there was an adjustment to the cost of construction based on the community plan and we agree with those costs but not the pro-forma. She stated we asked our development partner if they would agree with profit sharing based upon the city contributing money towards the project. She said we had asked if we would be paid back as an equity partner with the same percentage of the profits and our development partner has refused that request adamantly. She said the development agreement we talked about at the last special meeting which were trying to get signed, it had termination rights. She stated at the last meeting, there was no agreement on that but at 5:00 p.m. last night, we received a letter from Michael Kane's attorney indicating that they would sign the development agreement containing all those termination rights. She indicated we have not made sufficient progress on the pro-forma or the ground lease, which would reflect revenue sharing and potential profit sharing. City Attorney Morrell said without the ground lease and the pro-forma agreement we cannot submit an application to the National Parks Service, which must be part of the application. She said we advised the GSA of that issue, and their comments were essentially that they were not optimistic that we would be able to move forward. She stated Mr. Kelly said he could not be supportive of the program as he does not see a clear path forward, but he did not make a definitive statement to the city, in terms of where we go from here. She said he indicated that the GSA would be back in touch with the city early next week. She stated it is not anticipated that there will be any change in circumstances between now and then, but we will wait and see and have that conversation with the GSA next week.

### VI. PUBLIC COMMENT SESSION

Roy Helsel said it looks like the taxpayers will get hurt on this and the city knows what will happen.

Marylou McElwain said it is time to say enough is enough. She stated we are in the wrong direction and need to have a statement from the City Council stating, "no more."

Esther Kennedy thanked the City Council for having public comment today. She stated it is time to cut losses and say goodbye to our development partner, who has not been truthful with three City Council's. She said don't go for the waiver but move on and truly look at the public benefit for the property.

Petra Huda asked what are the City Council's next steps moving forward, where will this go and what will it cost. She said the city needs to walk away from this and let the development partner go.

Steve Barndollar said we need to stop this back and forth on this matter. He said he does not see a way out and the City Council and City staff needs to fight fire with fire.

Paige Trace said she is sad and applauded the City Council for being transparent today. She said there has not always been transparency on this matter. She stated the Council needs to stand up for the residents.

Peter Harris spoke to the residents having a right to know regarding the amount of the project. He said an agreement should not be made without terms in place.

Peter Whelan spoke to how the former City Council fired Michael Kane and this Council brought him back. He urged Mayor McEachern to take some bold action because the Council owns it and needs to get rid of Michael Kane. He said it is time to let the building go and move on.

Bill Downey asked the City Attorney if we could get specific on an "out" for the residents. He said he would like to know if the GSA says no, would we have right of first refusal. He spoke to the sense of the timing and the lack of transparency of the timing. He stated we need to move on and buy the building and make it Municipally zoned.

Patricia Bagley said she does not know how we got to this point with the developer, who is a bully. She said we have had three City Council's, two City Manager's and two City Attorney's, with many meetings on this matter. She stated we have received little information on this matter, and we need to end this.

Rick Becksted (via zoom) said moving forward the public should get the information that was promised and justify the \$2 million, which was paid to the developer. He said he would like to see the breakdown of those figures. He stated Michael Kane is an unreasonable man, and if no agreement is reached the building will be put on the market and Michael Kane will buy the building.

Councilor Denton thanked the public and GSA and spoke to the process and stated staff negotiated, and every City Council has worked in good faith working toward acquiring the building. He said despite our efforts we await to hear from the GSA on our next path.

Councilor Blalock said he appreciates the work of staff and residents on this matter.

Mayor McEachern said there has been a great deal of emotion put into this matter. He thanked everyone for their comments today and when they are less polite, you have a right to ask the City Council questions. He stated there has been an enormous effort put into this and he wished we could have submitted an application by today.

Mayor McEachern said we have a Council meeting on Monday, April 3<sup>rd</sup> and will keep the residents abreast of issues regarding the McIntyre. He stated it is his goal and effort to keep the best interests of the city in mind.

Councilor Tabor said Mayor McEachern has no obligation to have public comment today and he is being generous to a fault. We don't know our options because the GSA will be getting back to us next week. He said we have no final decision from the GSA. He thanked all the residents and said we honored the process on this project. He expressed his disappointment at not being able to submit an application.

**At 1:25 p.m., Councilor Moreau moved to adjourn. Seconded by Councilor Blalock 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