

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, APRIL 17, 2023

PORTSMOUTH, NH
TIME: 7:00PM

On a unanimous voice vote 9-0, Councilor Tabor moved to close the Non-Public Session and seal the minutes. Seconded by Assistant Mayor Kelley and voted.

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, Moreau, Bagley, Lombardi, Blalock, and Cook

Mayor McEachern announced that on Wednesday, April 19, 2023 Student Government Day will be held and recognized the students that are sitting on the dais and shadowing the City Council, City Manager, City Attorney and City Clerk this evening.

Kelly Moriarty, Mayor
James Johnston, Assistant Mayor
Elise Sedam, Councilor Tabor
Logan Reis, Councilor Denton
Josh Ciotti, Councilor Moreau
Isha Shah, Councilor Bagley

Oliver Fitzpatrick, Councilor Lombardi
Reilly Collins, Councilor Blalock
Sophie Williams, City Manager Conard
Amanda Yusuf, City Attorney Morrell
Maggie Pataki, City Clerk Barnaby

Mayor McEachern also recognized students that would be shadowing various department heads on Wednesday.

Mayor McEachern spoke to the threat of an active shooter which occurred last Thursday. He acknowledged the professionalism of Superintendent McLaughlin and his decision to close all schools in Portsmouth that day. He thanked Police Chief Newport for his work on this situation and the apprehension of the suspect.

V. INVOCATION

Mayor McEachern asked everyone to join him in a moment of silent prayer.

VI. PLEDGE OF ALLEGIANCE

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

PROCLAMATIONS

1. Portsmouth Rotary Centennial Day

Mayor McEachern read the Proclamation declaring April 20, 2023 as Portsmouth Rotary Centennial Day and urged all citizens to celebrate the essential contributions of Portsmouth Rotarians to the past, present, and future of Portsmouth. City Manager Conard accepted the Proclamation as a Portsmouth Rotarian with thanks and appreciation.

2. National Child Abuse Prevention Month

Mayor McEachern read the Proclamation declaring April as Child Abuse Prevention Month and called upon the residents of Portsmouth to support programs and initiatives that create positive, healthy environments for children in the city and throughout the state. Beth Margeson accepted the proclamation with thanks and appreciation.

3. Earth Day

Mayor McEachern read the Proclamation declaring April 22, 2023 as Earth Day in Portsmouth and called upon the residents of Portsmouth to combat climate change and environmental degradation, support green economy initiatives, and to encourage others to undertake similar actions. Loreley Godfrey and Grace Webster from Seacoast Students for Sustainability accepted the proclamation with thanks and appreciation.

Councilor Denton moved to suspend the rules to bring forward Item XV. A.1. – Portsmouth Sustainability Fair. Seconded by Assistant Mayor Kelley and voted.

Councilor Denton announced that the Portsmouth Sustainability Fair will be held on Friday, April 21, 2023 from 4:00 p.m. – 7:00 p.m. at the Connie Bean Center.

VII. ACCEPTANCE OF MINUTES – MARCH 31, 2023 SPECIAL CITY COUNCIL MEETING

Assistant Mayor Kelley moved to accept and approve the minutes of the March 31, 2023 Special City Council meeting. Seconded by Councilor Blalock and voted.

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

1. Recognition of former City Manager Calvin A. Canney for his 20 years of service to the City of Portsmouth

Councilor Tabor moved to suspend Council Rule #44 requiring a Work Session for the Naming of a City Facility. Seconded by Councilor Bagley and voted.

Mayor McEachern announced that we will be recognizing former City Manager Calvin A. Canney by renaming the Prescott Park Marina in his honor for his 20 years of service to the City of Portsmouth.

Mr. Canney thanked the City Council for the honor that is long past. He said he appreciates the effort and work of the city for doing this for him. He said the job of the Council can be frustrating and controversial at times but to do the best you can for your community and the future of the city. He said to the students that you are the future of the city and thanked them for being here this evening and taking part in Student Government Day.

Mayor McEachern said the sign is being made and will be installed this summer which we all look forward to having that ceremony and having Mr. Canney cutting the ribbon. He thanked Mr. Canney for all his work.

2. Recognition of Community Members of University of New Hampshire Cheerleaders

Mayor McEachern recognized community members of the University of New Hampshire for being named the 2023 National Cheerleading Association All-Girl Grand National Champions.

IX. PUBLIC COMMENT SESSION

Mayor McEachern announced that this is the first of two public comment sessions this evening. He advised the public that there will be a second public comment session regarding McIntyre later in the agenda.

Irish Mike spoke to the need for more safety in schools due to the number of active shooter events occurring throughout the states. He said children's safety should come first.

Paige Trace said she wished that more information was provided on McIntyre before the City Council makes their decision.

Petra Huda spoke regarding the need for a rehearing regarding 2454 Lafayette Road matter. She said the AMI is too high for work force housing and should be 60% and not 100%.

Esther Kennedy said she is also asking for a rehearing regarding 2454 Lafayette Road matter. She said the residents have a right to send this matter back to the Planning Board. She spoke to the Planning Board having a thorough discussion on this issue.

Susan Sterry, Co-Chair Cemetery Committee, spoke to the project of cleaning the headstones in the cemeteries. She said that this is a very important project that is in Phase I. She thanked the Public Works Department for their assistance and work on this endeavor.

Arthur Clough (via zoom) spoke on the Lafayette Road matter and how the AMI is too high for work force housing. He asked that the City Council rescind their vote on this matter.

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

Public Hearing/Second Reading of Ordinance:

- A. Public Hearing/Second Reading of Ordinance amending Chapter 1, Article IV, Section 1.411 – Cemetery Committee – Membership and Term

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

Councilor Tabor moved to pass second reading and hold third and final reading at the May 1, 2023 City Council meeting. Seconded by Councilor Lombardi.

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

Motion passed.

Public Hearing/Adoption of Resolution:

- B. Public Hearing/Adoption of Resolution on a proposed Resolution Authorizing a Bond Issue and/or Notes of up to One Million Eighty-Three Thousand Five Hundred Dollars (\$1,083,500.00) for Additional Costs for Constructing the Greenland Road Recreation Facility (Skateboard Park)

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

Councilor Blalock moved to adopt the Resolution as presented. Seconded by Councilor Cook.

Amy Mae Court spoke in support of the Resolution and the efforts of the Skateboard Park Committee to raise funds for the lighting at the park. She spoke to the grassroots effort of the committee to raise funds for the park.

Jesse Court said he and his friends support the motion for the park. He said the park will be taken care of by its users and they hope to be utilizing the park by the fall.

Christine Burke, K-12 Wellness Coordinator, said that the skatepark is important to the youth of the community. She said there is stress and anxiety for the children, and they are constantly waiting for the next shoe to drop. She stated this is something we can do to help the children and the community. She spoke in support of the initiative and adoption of the resolution.

Steve Detrollo spoke in support of the Resolution and said that this should be considered an investment for the city. He said this could create a new economic engine in the city.

Dave Cosgrove said the recreation facility will serve the wellness and most vulnerable in the community. He stated the skatepark will be the gateway to the West End and the park would be utilized year-round. He said that this is a rare opportunity to create a park for everyone and this is what can be accomplished if you set your mind to it. He thanked the city staff for their work on the project and the City Council.

Esther Kennedy asked everyone to stand that will be skateboarding at the park. She stated there are over 50 students making a statement this evening and this will be an amazing park that everyone can be proud of.

Anna Nuttal (via zoom), spoke in support of the Skateboard Park and said that this will help with students' anxiety and stress. She said we need peer to peer interactions, and this will build new community ties and break barriers.

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

Councilor Blalock thanked the students for their work and said that this is a true investment for the city.

Councilor Cook said she is a mom and knows firsthand the struggles of our children and the difficulties they are experiencing. She said it is hard to find an outlet to get outside if you're not part of a team. She said there is a need to provide an outlet for the students. She stated she would support the motion because it is a priority for the city.

Councilor Bagley thanked former Councilor Kennedy for getting this process started. He also spoke to the work of Seamus who worked on this project even though this would not come into fruition until after he graduated.

Mayor McEachern thanked everyone for coming out and thanked former Councilor Kennedy for navigating the process with the students. He said it is more about skateboarders and what they need and want to be part of the community. He stated we should be proud as a community, and he is impressed with the resilience of the students, and he would be supporting the motion.

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

Second Reading of Ordinance:

- C. Second Reading of Ordinance amending Chapter 10 – Accessory Dwelling Unit, Section 10.430 – Use Regulations, Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, Section 10.814 – Accessory Dwelling Units, Article 11 – Site Development Standards, Section 10.1110 – Off-Street Parking, Article 15 – Definitions – Section 10.1530 – Terms of General Applicability

Councilor Moreau moved to amend the ordinance as presented by the Legal Department. Further, move to continue second reading and hold a public hearing at the May 1, 2023 City Council meeting. Seconded by Councilor Blalock.

Councilor Moreau moved to suspend the rules to hear from speakers on this ordinance. Seconded by Councilor Tabor and voted.

Byron Matteo spoke in support of the ADU's and work force housing which will address housing issues in the city. He said we need to show the true costs because there is strong resistance.

Elizabeth Bratter spoke in support of the ordinance. She said there is a difference between an ADU and apartments. She said that ADU's are not going to provide low-income housing and we need to agree that the ordinance submitted is a far better version.

Liza Hewitt asked the Council to amend the ordinance with changes proposed by the Legal Department. She said she would like the third and final reading approved on May 1st. She said ADU's will remain for families to live in. She said Councilor Bagley is bringing politics into this issue and his proposed motions are against the goals of the City Council. She said parking is a big concern for residents and feels that Councilor Bagley is throwing things against the wall to see what will stick.

Petra Huda urged the City Council to pass with amendments put forward by the Legal Department. She expressed her opposition to Councilor Bagley's suggested amendments and for bringing them forward at this time.

Tracey Kozak said she has an ADU and that they provide options for families. She said that the design standards could backfire.

Esther Kennedy said we need ADU's, but it comes down to logistics and processes. She spoke against Councilor Bagley's amendments and asked that he withdraws them.

Zelita Morgan (via zoom), said she is confused with the last-minute changes being proposed. She strongly recommended that the City Council not support the amendments proposed by Councilor Bagley.

With no further speakers, Mayor McEachern ended the public comment session.

Councilor Denton moved to suspend the rules to bring forward Item XV. B.1. – ADU Ordinance under Councilor Bagley's name. Seconded by Councilor Bagley and voted.

Councilor Bagley moved to remove all optional aesthetic requirements for attached ADUs as is allowed by the RSA except in HDC districts. Keep design standards for the HDC districts. Seconded by Councilor Cook.

Councilor Bagley spoke to his amendment and said that Principal Planner Cracknell felt the design standards would be helpful when looking at the ADU.

Councilor Moreau said a great deal of time was spent looking at permitted uses. She said it would be inappropriate to take them out.

Councilor Blalock said that he agrees with Councilor Moreau and the work that has been completed should be reviewed.

Councilor Denton said of the three changes Councilor Bagley has brought forward he would only support the second proposal.

Mayor McEachern said design guidelines will be a great deal of work and why do we need so many rules. He said he spoke with Principal Planner Cracknell and there are changes for what it should look like, but it seems unnecessary to have more guidelines upfront. He said based on that he would not support the amendments.

Councilor Cook said she shares Councilor Bagley's concerns on design guidelines. She said she would like to approve the guidelines and the process. She spoke to the process of the land use boards and how it can take a great deal of time. She suggested reviewing this again in a year's time.

Councilor Tabor said we need to remember what comes with design criteria and that land use wants to create a handbook on the process and criteria to follow directions for smooth approvals.

Councilor Lombardi echoed Councilor Tabor's comments. He said the history of architecture is important in the historic district and feels that general guidelines will streamline the process. He said that this is a good concept of what needs to be accomplished.

On a roll call vote 1-8, motion **failed** to pass. Councilor Bagley voted in favor. Assistant Mayor Kelley, Councilors Tabor, Denton, Moreau, Lombardi, Blalock, Cook and Mayor McEachern voted opposed.

Councilor Bagley moved to remove any parking requirements for ADUs as this will trigger the 3-parking space required rule, decrease permeable land, and increase the city's heat signature for a relatively small increase in housing as well as replace green space with parking in our residential neighborhoods. Seconded by Councilor Cook.

Councilor Bagley spoke to his motion.

Assistant Mayor Kelley said Councilor Bagley is failing to recognize that these are in the ordinance. She said the amendments were made through a series of compromises and that standard designs and neighborhood abutters were discussed.

Councilor Denton said he would support the motion and conditional use permits and how he chooses not to have a vehicle.

Councilor Moreau said she sat through Planning Board meetings on this matter and spoke to parking requirements.

Councilor Tabor said if we want to get more ADUs we need to remove parking requirements.

Councilor Cook said she appreciates the work of the Land Use Committee. She spoke to watching all of the Land Use and Planning Board meetings on this matter. She spent time looking at the original report and what was passed. She said that we are only hearing from a small segment of people and that many residents are not represented in these issues. She stated that the parking requirements are a disadvantage to some neighborhoods.

Mayor McEachern said that parking should be settled at Parking and Traffic Safety Committee level. He said this is a big issue and we should try to have a parking program in the city.

On a roll call vote 3-6, motion **failed** to pass. Councilors Denton, Bagley and Cook voted in favor. Assistant Mayor Kelley, Councilors Tabor, Moreau, Lombardi, Blalock and Mayor McEachern voted opposed.

At 9:10 p.m., Mayor McEachern declared a recess in order for the students to leave the meeting. At 9:25 p.m., Mayor McEachern called the meeting back to order.

Councilor Bagley moved to increase ADU size to a maximum of 850 sq ft. Seconded by Councilor Denton.

Councilor Moreau suggested reviewing this in a year.

On a roll call vote 1-8, motion **failed** to pass. Councilor Bagley voted in favor. Assistant Mayor Kelley, Councilors Tabor, Denton, Moreau, Lombardi, Blalock, Cook and Mayor McEachern voted opposed.

Main motion to amend the ordinance as presented by the Legal Department. Further, move to continue second reading and hold a public hearing at the May 1, 2023 City Council meeting passed.

XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Paperless Billing Initiative

Finance Director Belanger explained the initiative to have paperless billing for tax and water and sewer bills. She spoke of the reduction in mailing fees. She said this is a voluntary process whereby the resident would opt in. She indicated that we expect 35% enrollment into the program.

Councilor Moreau asked if people could still have access to look up tax bills on-line. Tax Collector Bates said that process would be changing .

Councilor Cook said that this is a great initiative.

Councilor Tabor moved to approve the optional paperless billing initiative according to NH RSA 76:11. Seconded by Councilor Moreau and voted.

XII. CONSENT AGENDA

- A. Letter from Brian Miller, New England Run For The Fallen, requesting permission to hold the 3rd Annual Run For the Fallen on Sunday, August 20, 2023 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Letter from Richard Mason, Veterans Count, requesting permission to hold the “On the Tarmac” event on Friday, September 8, 2023 from 5:00 p.m. to 9:00 p.m. ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- C. Letter from Sandi Clark Kaddy, Seacoast African American Cultural Center, requesting permission to hold the 2nd Juneteenth Walk on Sunday, June 19, 2023 at 9:30 a.m. ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- D. Request from Emily Rives, Aster House, to install a Projecting Sign at 142 Fleet Street ***(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***

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

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- A. Presentation Regarding the City's Community Engagement – Monte Bohanan, Director of Communications & Community Engagement

Director of Communications & Community Engagement Bohanan provided a detailed presentation outlining City Council goals, the three pillars of his role, on-line updates, social media, recent surveys, how FlashVote works and why it is in place. He spoke about upcoming engagement opportunities and the work he is conducting that is in progress.

- B. Email Correspondence

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

XIV. MAYOR McEACHERN

1. McIntyre
 - Special Public Comment Session

Mayor McEachern said that this is a special public comment session regarding McIntyre. He said the disposition of the McIntyre is before us.

Richard Smith asked the City Council to stop the spending on the McIntyre project and not to keep going this way.

Paige Trace said the City Council has provided no information, no price, no path forward, no way to negotiation, or way out of this lawsuit. She said there are highly qualified developers that want to develop the McIntyre. She expressed her loss of trust in the City Council's ability to manage this matter.

Petra Huda asked if there has been an appraisal of the building. She said residents don't want luxury condominiums or luxury apartments. She urged the Council to withhold any more payment at this time. She said the city could develop the building without a developer. She stated it is time to take back what was taken away from the residents and buy back the property.

Esther Kennedy said this conversation should not be happening at 10:00 p.m. She said we need to have more information going out to residents and the city needs to purchase the building. She spoke to the potential of the building and said the Council needs to make the right decision.

Susan Deneberg urged the City Council not to be thinking of this tonight. She said why are we talking about this at this late hour. She said the Council needs to think through things and we are not developers. She expressed her opposition to purchasing the building.

Greg Mahanna said the city has some leverage in this matter.

Bill Downey said he does not believe the legislature is an option. He stated whatever we do we need to reset the button and the process needs to start from the beginning. He said this project is a once in a lifetime and we need public dialogue. He stated that Bill Binnie still would develop the building.

Marc Stettner (via zoom) recommended the city move to purchase the building because we do not want to see luxury hotels and apartments. He said it could become a mini central park. He stated the possibilities are endless, but you lose control if you do not own the building. He said that this would be an investment.

Rick Becksted (via zoom) said we need to own the building to control what happens. He stated the lawsuit will happen whether we purchase the building or not. He said we need to look at this in a unique way and return the post office to the location. He urged the City Council to continue the talks and start the process to purchase the building.

Councilor Denton moved to advise the GSA that the city will not be proceeding with a negotiated sale. Seconded by Councilor Bagley.

Councilor Denton spoke to the history of the property. He stated he does not relate to the passion regarding this building. He thanked the hundreds of residents, board members and staff that have dedicated their time to this matter.

Councilor Bagley said he supports Councilor Denton's option and said this did not work at \$1.00 and will not work for \$20 million. He said it is time to let the GSA put the building out to auction.

Councilor Tabor said he would like to further pursue a negotiated sale. He said we do not need another public process, but we need more public engagement on what to do with the building. He said we need to control how the land will be sold. He stated a negotiation sale is the best option for the city.

Councilor Blalock said he has read the emails and comments from residents, and supports Councilor Denton's motion.

Councilor Moreau said she has gone back and forth on this matter. She said she has great concern on the pricing but feels that walking away seems to be more prevalent.

Councilor Lombardi said that this has been a hard road. He said he does not feel ready to vote because he sees both sides of this but we need to do what is best for the city.

Councilor Cook moved to suspend the rules and to continue the meeting beyond 10:30 p.m., Seconded by Councilor Bagley and voted.

Councilor Cook asked what the deadline for a vote from the City Council on this matter is. City Manager Conard said the GSA is expecting a feeling from the City Council on how they wish to proceed.

Discussion followed among the Council.

City Attorney Morrell advised the City Council that an appraisal would determine fair market value.

Mayor McEachern asked what the process would look like if the Council held a public hearing on the number and how would we set a number.

City Attorney Morrell said the process by the federal government does not work well to have a public hearing on developing a number. She said the GSA is looking for a purchase and sales agreement.

Mayor McEachern asked if we were to schedule a public hearing would we have to have a number. City Attorney Morrell said she does not feel we would need a number.

Assistant Mayor Kelley said she struggles with both motions because it is hard to look at potential votes when we do not have a number. She said the range of numbers are two different options. She said there could be a benefit and is tending to lean a vote of no towards this. She said it is hard to say no to continue the conversation.

Councilor Lombardi said if it went to a private sale, it would be difficult to change the zoning. He asked if that would be considered spot zoning. City Attorney Morrell said we could justify some incentives for community space.

Mayor McEachern passed the gavel to Assistant Mayor Kelley.

Mayor McEachern said he is not convinced that it is not a good decision to buy the building. He said this process has gone on for twenty years. He said he would like to have an up or down vote on a number.

Assistant Mayor Kelley returned the gavel to Mayor McEachern.

Councilor Tabor moved to postpone the vote until the May 1, 2023 City Council meeting and have an estimated figure involved in a negotiated sale. Seconded by Assistant Mayor Kelley.

Councilor Bagley said there is a risk that GSA would force us to make a decision before May 1st.

On a roll call vote 6-3, motion passed. Assistant Mayor Kelley, Councilor Tabor, Moreau, Lombardi, Blalock and Mayor McEachern voted in favor. Councilor Denton, Bagley and Cook voted opposed.

XVI. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Health Trust Wellness Reward - \$2,000.00

Assistant Mayor Kelly moved to approve and accept the Wellness Reward as presented. Seconded by Councilor Bagley and voted.

B. Acceptance of FY24 Community Development Block Grant Funds - \$29,546.00

Assistant Mayor Kelley moved to accept and expend a Community Development Block Grant in the amount of \$529,546.00 from the U.S. Department of Housing and Urban Development. Seconded by Councilor Blalock and voted.

XVII. CITY MANAGER'S INFORMATIONAL ITEMS

(There are no City Manager Informational Items this evening)

XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

Councilor Moreau announced that Corey Clark is resigning from the Land Use Board and Andrew Samonas of the Planning Board will be taking his place.

Assistant Mayor Kelley spoke to the success of giving away trees in recognition of Earth Day and the City of Portsmouth 400th Anniversary.

Councilor Blalock thanked Mayor McEachern for throwing out the first pitch of Little League over the weekend.

XIX. ADJOURNMENT

At 11:05 p.m., Assistant Mayor Kelley moved to adjourn. Seconded by Councilor Moreau and voted.



KELLI L. BARNABY, MMC/CNHMC
CITY CLERK