

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: SEPTEMBER 5, 2023

PORTSMOUTH, NH
TIME: 7:00PM

Assistant Mayor Kelley moved to closed the Non-Public Session and seal the minutes. Seconded by Councilor Denton 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 announced that today is Peace Treaty Day in Portsmouth and recognized the work of Stephanie Seacord and Chuck Doleac for organizing today's ceremony. Mayor McEachern said he wishes for peace throughout the world if possible.

VI. PLEDGE OF ALLEGIANCE

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

PROCLAMATIONS

1. Childhood Cancer Awareness Month

Mayor McEachern read the Proclamation declaring September in Portsmouth as Childhood Cancer Awareness Month and urged the community to pause and remember the children we have lost to this terrible disease, and work to support the effort to find new therapies to treat and defeat pediatric cancer so children not only survive cancer but thrive.

Mayor McEachern presented the Proclamation to Amy Kindstedt who accepted it with thanks and appreciation.

2. National Library Card Month

Mayor McEachern read the Proclamation declaring September as Library Card Month and encouraged all members of the community to get a library card to discover all the services, resources, programs and dedicated staff who make the Portsmouth Public Library – free and open to all – one of the City's greatest treasures.

Mayor McEachern presented the Proclamation to Library Director Friese who accepted it with thanks and appreciation.

VII. ACCEPTANCE OF MINUTES – AUGUST 21, 2023

Assistant Mayor Kelley moved to accept and approve the minutes of the August 21, 2023 City Council meeting. Seconded by Councilor Bagley and voted.

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

(There are no recognitions or reports this evening)

IX. PUBLIC COMMENT SESSION

Roy Helse questioned why the city has hired so many new employees and if it was necessary. He spoke to the revaluation that will take place next year and asked how it will affect taxpayers.

Rick Becksted spoke regarding the budget and said the city is at \$138.4 million and it continues to increase. He said the City Council is obligated to keep taxes low in the city, but they continue to rise.

Esther Kennedy spoke to the pumps not operating at the wastewater treatment plant. She said that combined sewer overflows are being pumped into the waters and questioned how we could receive an award when the plant is not functioning and smells bad.

Sue Polidura said the budget is out of control and the wastewater treatment facility is not functioning properly. She asked if the Code of Ethics Ordinance has gone through the Legal Department for review.

Petra Huda spoke regarding the changes being proposed for snow announcements and that all residents need to be considered when making such changes. She said not every resident has access to social media.

Francis Cormier spoke to having difficulty getting into the air show two years ago because he was on his bike and did not have a car. He said the show should be open to all regardless of the mode of transportation that is being used.

Robin Rousseau (via Zoom), spoke regarding the odor of the South Mill Pond and how that matter needs to be addressed. She spoke opposed to the change in announcements for snow emergencies. She also expressed her dissatisfaction with the 911 system in the city.

Mark from the Park, Eliot, Maine, asked why we do not have an American Flag at the entrances to the city.

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

Public Hearing/Adoption of Resolution:

A. PUBLIC HEARING/SECOND READING of Ordinance amending Chapter 1, Article IV, addition of new section – Section 1.413 – ARTS AND CULTURAL COMMISSION

- **PRESENTATION**
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Barbara Massar and Karen Rosania provided a brief presentation from the Arts and Cultural Commission. Barbara and Karen addressed the data collected and provided an overview of the cultural plan and spoke in support of making this a permanent commission.

Mayor McEachern opened the public hearing and called for speakers.

Rick Becksted spoke in support of the ordinance and said this will meet the needs of the community. He suggested creating a round-up campaign to raise funds for the commission and spoke how that could be set up.

Tom Kaufhold spoke regarding the economic impact that arts have on the community.

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

Councilor Cook asked for the City Council to support the ordinance to create a commission.

Councilor Tabor said it is exciting that we are creating a permanent Arts and Cultural Commission for the City. He said there is so much more we can do here in the city such as creating venues for all to enjoy.

Councilor Cook moved to pass second reading and hold third and final reading at the September 18, 2023 City Council meeting. Seconded by Councilor Lombardi and voted.

Councilor Lombardi moved to suspend the rules to take up third and final reading of the ordinance. Seconded by Councilor Cook and voted.

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

- B. PUBLIC HEARING/SECOND READING of Ordinance amending Chapter 1, Article IV, Section 1.402 – ECONOMIC DEVELOPMENT COMMISSION – Subsections A, B and C
- **PRESENTATION**
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Phil Cohen provided a brief presentation speaking in support of the ordinance which provides a fresh look to the Economic Development Commission.

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

Esther Kennedy said she would like to see the Economic Development Commission do more with the small businesses in the city. She said small businesses need to be given time and support.

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

Assistant Mayor Kelley moved to pass second reading and hold third and final reading at the September 18, 2023 City Council meeting. Seconded by Councilor Lombardi and voted.

Assistant Mayor Kelley moved to suspend the rules in order to bring forward third and final reading of the ordinance. Seconded by Councilor Blalock and voted.

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

Councilor Denton moved to suspend the rules to bring forward Item X. D. – Public Hearing/Adoption of Resolution Authorizing a Supplemental Appropriation from Unassigned Fund Balance for necessary expenditures related to Contractual Obligations. The City Council has determined that the sum of the Eight Hundred Ninety Thousand (\$890,000.00) Dollars is to be appropriated from Unassigned Fund Balance to defray the expenditures related to contractual obligations for the Fiscal Year ending June 30, 2024 and Items XI. A. 1. – A. 5. – Approval of Tentative Agreements with the Firefighters Association of Portsmouth, Portsmouth Professional Fire Officers Association, Portsmouth Police Patrolman’s Union NEPBA Local #11, Portsmouth Police Ranking Officers Association, NEPBA Local #220 and Portsmouth Police Civilian Employees Association, NEPBA Local #111. Seconded by Councilor Blalock and voted.

Negotiator Closson spoke on behalf of the five bargaining units, three with the Police Department and two with the Fire Department. He outlined the terms of the agreements and changes to each of them. He said the increases in salaries will bring the city closer to the communities that have higher wage schedules.

Police Chief Newport and Fire Chief McQuillen spoke regarding these being unprecedented times and the need to retain employees, and the difficulty they are experiencing in recruiting individuals to come to Portsmouth.

Police Commissioner Shaheen said this is a tough issue, but it needs to be done to keep our officers from leaving to go work in other communities. She said that we must do this to preserve the safety of our city.

Fire Commissioner Gamester provided statistics on hiring in the department. He spoke in support of the Council being envisioned to approve these agreements. He said he supports all the unions and men and women who work for the City of Portsmouth.

City Manager Conard said we need to properly support the needs outlined in the contracts. She said first year costs are \$1.4 million and we are meeting that with some savings as the number has been identified at \$890,000.00 coming from unassigned fund balance.

Councilor Denton asked questions relative to body worn cameras by the police officers. Police Chief Newport said what is released during a discharge of a firearm is at his discretion.

Rick Becksted said that the City Council and staff should have been anticipating these costs before the passage of the last budget. He said he does not know how the city can justify using unassigned fund balance.

Liza Hewitt said the way the City Council is spending money is appalling and asked how these contracts will be funded moving forward. She said that the City Council needs to be put on a budget.

Petra Huda said she has no problem with the contracts. She spoke regarding the numbers in these contracts and said bonuses should be considered as they are a one-time expense.

Buzz Scherr, Police Commissioner, said we have a small hiring pool of candidates now. He stated we have fallen behind and these increases do not put us at the top of the scale but in the middle range.

Tom Closson said that Concord and Dover are paying higher wages. He stated that bonuses are a short-term solution and they do not keep employees from leaving to go to another community.

Dick Bagley spoke in support of the contracts and said you need to look to the safety of the community.

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

Assistant Mayor Kelley asked Finance Director Belanger to speak to her memorandum on projected budget increases for the next few years.

Finance Director Belanger outlined the costs associated through 2027 and said there are some savings due to vacancies in the departments. She said the anticipated number for collective bargaining cannot be released ahead of time in the budget process because it is unfair labor practices. She said unassigned fund balances were used in FY15, FY17 and FY19. She also addressed moving parts in the budget that affect funding.

Councilor Bagley said the increases are high due to the quality of employees and we have a moral obligation to pay the employees at the level they protect us.

Councilor Blalock said we have a good Police Department and a wonderful community. He said we need to take care of our Fire and Police Departments because if we don't take care of them now it will hurt us in the future.

Councilor Moreau moved to adopt the Resolution. Seconded by Councilor Bagley.

Councilor Moreau said there are hiring issues around the country, and we need to make this an opportunity to move forward.

Councilor Tabor said that this is a big increase, and we need modest and predictable budgets. He said hiring and losing people is a real issue for us and we need to be competitive to get skilled employees.

Councilor Cook spoke to the importance of public safety, how hard they work, and the personal risk they take every day.

Mayor McEachern said it is not uncommon to use these funds for collective bargaining. He said we love this community, and these men and women step up to serve, putting themselves in harm's way every day.

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

XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Approval of Tentative Agreement with the Firefighters Association of Portsmouth

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

2. Approval of Tentative Agreement with the Portsmouth Professional Fire Officers Association

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

3. Approval of Tentative Agreement with the Portsmouth Police Patrolman's Union, NEPBA Local #11

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

4. Approval of Tentative Agreement with the Portsmouth Police Ranking Officers Association, NEPBA Local #220

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

5. Approval of Tentative Agreement with the Portsmouth Police Civilian Employees Association, NEPBA Local #111

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

At 9:13 p.m., Mayor McEachern declared a brief recess. At 9:26 p.m., Mayor McEachern called the meeting back to order.

- C. PUBLIC HEARING/SECOND READING of Ordinance amending Chapter 1, Article VIII – CODE OF ETHICS – Preliminary, Section 1.801 – Definitions, and Section 1.802 – Conflicts of Interest
 - **PRESENTATION**
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

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

Councilor Cook moved to pass second reading and hold third and final reading at the September 18, 2023 City Council meeting. Seconded by Councilor Moreau.

Councilor Cook moved that the definition of the term Direct Personal Interest contained at Section 1.801 K of the proposed ordinance be amended by the addition at the end of the definition of the words “or loss”. Seconded by Councilor Bagley and voted.

Councilor Cook moved that a new section J (e) be added to Section 1.802 to read as follows: J (e) A City employee or official acting in a quasi-judicial capacity shall not vote or participate in the discussion of any matter which would place the official in contravention of any Code of Ethics provision contained in this ordinance. Seconded by Councilor Moreau

Assistant Mayor Kelley asked if the Legal Department has reviewed the ordinance. City Attorney Morrell advised that Attorney Sullivan prepared the ordinance.

Motion passed.

Petra Huda said she feels it is overkill and is covered in the budget under training and conferences.

Esther Kennedy said we should have an ethics policy for those elected and employees. She spoke against increasing the gifts or favors over \$100.00. She also said she believes it is a conflict to have partners serving on two land use boards.

Liza Hewitt said there were people discouraging the public from speaking during the Governance Committee meeting to address the ethics ordinance. She said item C in the ordinance would not allow families to serve on boards together.

Dick Bagley said the City has no whistle blower policy and it should. He also does not feel that the gifts or favors should be \$350.00. He said a violation is if you influence a decision.

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

Councilor Cook said there was a concern whether you could still serve and file a lawsuit against one's assessment. She said the key is to recuse yourself and not participate in the discussion with the board. She said state policy does apply here.

Councilor Bagley said he goes to great lengths not to get free items.

Councilor Cook said all language was drafted by the Legal Department.

Councilor Moreau said there is no carryover between applications coming to a land use board.

Assistant Mayor Kelley said she is struggling with the increase from \$100.00 to \$350.00.

Councilor Tabor asked if we change the amount back to \$100.00 for gifts and favors is that a minor amendment.

City Attorney Morrell said that is not a minor amendment and we would need to hold another public hearing.

Councilor Tabor moved to refer this back to the Governance Committee. Seconded by Assistant Mayor Kelley.

Councilor Tabor withdrew his motion and Assistant Mayor Kelley her second to the motion.

Councilor Tabor moved to amend Section 1.802 – Conflicts of Interest, Subsection F – Gifts and Favors from \$350.00 per calendar year to \$100.00 per calendar year. Seconded by Assistant Mayor Kelley.

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

Motion passed.

Councilor Cook moved to schedule second reading and public hearing of the ordinance as amended at the September 18, 2023 City Council meeting. Seconded by Assistant Mayor Kelley and voted.

6. Request for First Reading to Amend Various Sections Regarding Chapter 7, Snow Announcements

Councilor Moreau moved to schedule first reading for amendments to Chapter 7, Article III, Section 7.321, Snow Emergency Parking Ban, and Article X, Section 7.1002, Snow Removal Operations at the September 18, 2023 City Council meeting. Seconded by Assistant Mayor Kelley and voted.

7. New Hampshire Public Works Mutual Aid and Assistance Agreement

City Manager Conard said that the agreement is to provide mutual aid to other communities.

Councilor Lombardi moved to adopt the New Hampshire Public Works Mutual Aid and Assistance Agreement as presented and authorize the City Manager to name the Director of Public Works as the Authorized Representative to execute the Agreement. Seconded by Councilor Moreau and voted.

8. Disposition of Used DPW Vehicles

Councilor Blalock moved to authorize the Department of Public Works to dispose of the used vehicles identified through the trade-in process as described in the memorandum. Seconded by Councilor Moreau and voted.

XII. CONSENT AGENDA

- A. Letter from The Music Hall requesting the closure of Chestnut Street on Friday, September 15th through Sunday, September 17th for The Music Hall's annual Telluride by the Sea Film Festival – 2nd Request – Request for the closure of Chestnut Street on Thursday, October 12th through Sunday, October 15th for the annual New Hampshire Film Festival (*Anticipated action – move to refer to the City Manager with Authority to Act*)
- B. Letter from Freddy Petrone, I Got Bridged Team, requesting permission to hold the I Got Bridged 3rd annual walkathon on Sunday, September 10, 2023 (*Anticipated action – move to refer to the City Manager with Authority to Act*)

Councilor Moreau 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 Blalock and voted.

- B. Letter from Paul and Alison Dunne, requesting permission to build a floating access dock near existing stairs located on Peirce Island

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

- C. Memorandum from Greater Portsmouth Recovery Coalition summarizing the progress of the coalition

Councilor Moreau moved to accept and place on file. Seconded by Councilor Blalock and voted.

XIV. MAYOR McEACHERN

1. Appointments to be Considered:
- Jen Scumaci to the Economic Development Commission
 - Erica Wygonik as a Regular Member to the Parking & Traffic Safety Committee
 - David Allen as an Alternate to the Parking & Traffic Safety Committee
 - Larry Booz to the Historic District Commission

The City Council considered the appointments listed above that will be voted upon at the September 18, 2023 City Council meeting.

XV. CITY COUNCIL MEMBERS

A. COUNCILOR DENTON & COUNCILOR COOK

1. Sustainability Committee Draft Ordinance

Councilor Denton moved to schedule a first reading on September 18, 2023 of the draft ordinance establishing a Sustainability Committee. Seconded by Councilor Cook.

Councilor Denton spoke to primary changes on how the chairperson would be chosen now with the Committee electing their chair at the first meeting of the year.

Motion passed.

XVI. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of The Forensic Shield Grant for the Police Department NH Internet Crimes Against Children (ICAC) Task Force - \$1,300,000.00

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

XVII. CITY MANAGER'S INFORMATIONAL ITEMS

1. Wastewater 101

City staff will be holding a "Wastewater 101" presentation to the community on Wednesday, September 13th at 6:30 p.m. at the Levenson Room of the Public Library.

2. Household Hazardous Waste Collection Day

Household Hazardous Waste Collection Day will be held on Saturday, September 23rd between 8:00 a.m. and Noon.

3. Update on FlashVote

The second FlashVote survey will be on the topic of parking and will be sent out in mid-September. The next FlashVote survey will be due out in October on the Climate Action Plan.

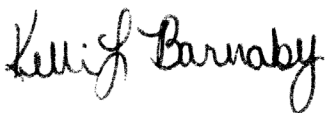
XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

Councilor Moreau announced that the Air Show will be held this weekend and there will be focus points with accessible access to enter the show.

Councilor Blalock announced that the new turf field has been installed and Portsmouth Clipper's Football opening home game will be held on Friday evening against the Winnacunnet Warriors.

XIX. ADJOURNMENT

At 10:50 p.m., Assistant Mayor Kelley moved to adjourn. Seconded by Councilor Moreau and voted.



KELLI L. BARNABY, MMC/CNHMC
CITY CLERK