

## CITY COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: DECEMBER 18, 2023

PORTSMOUTH, NH  
TIME: 7:00PM

### 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, and Cook

**ABSENT:** Councilor Blalock

### V. INVOCATION

Mayor McEachern asked for a moment of silent prayer in memory of the recent passing of Daniel Plummer.

### VI. PLEDGE OF ALLEGIANCE

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



### ***PORTSMOUTH HIGH SCHOOL HOLIDAY ENSEMBLE PERFORMANCE***



Portsmouth High School Holiday Ensemble performed four Holiday music selections; Deck the Halls, Little Drummer Boy, Carol of the Bells, and Jingle Bells for the City Council.

Mayor McEachern thanked Steve Cirillo and the Holiday Ensemble for their beautiful performance.

At 7:15 p.m., Mayor McEachern called a brief recess to allow the Holiday Ensemble to breakdown their instruments and leave the chambers. At 7:18 p.m., Mayor McEachern called the meeting back to order.

### **PROCLAMATION**

#### 1. Jessica's Law Awareness in Portsmouth

Mayor McEachern read the Proclamation declaring the next 30 days for Jessica's Law Awareness in Portsmouth and called upon our fellow citizens to take the extra minute to clear snow and ice from their cars for the protection of us all. Mark Syracuse of the Parking & Traffic Safety Committee accepted the Proclamation with thanks and appreciation.

**VII. ACCEPTANCE OF MINUTES – SEPTEMBER 18, 2023; OCTOBER 2, 2023 AND OCTOBER 16, 2023**

**Councilor Tabor moved to approve and accept the minutes of September 18, 2023, October 2, 2023, and October 16, 2023 City Council meetings. Seconded by Assistant Mayor Kelley.**

**Councilor Lombardi moved to amend page 8, third paragraph to change the word “rule” to “role” of the September 18<sup>th</sup> minutes. Seconded by Councilor Bagley.**

**Main motion passed as amended.**

**VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**

1. Recognition of the efforts of Portsmouth NH 400th LLC, and its Managing Director Valerie Rochon

Mayor McEachern presented Valerie Rochon with a framed picture of the Street.Life!400 Dinner that took place August 16<sup>th</sup> on Congress Street. Ms. Rochon accepted the gift with thanks and appreciation and said she could not have done this without the support and assistance of her team.

2. Report of the Achievements of the 2021-2023 Arts and Nonprofits Committee

Barbara Massar Co-Chair provided a detailed presentation outlining the achievements of the 2021-2023 Arts and Nonprofits Committee. She reviewed the various recommendations of the Committee that were accomplished and those that were not. She spoke about the new Cultural Plan for the City and the vehicle for implementation. She thanked Sean Clancy, Assistant City Manager of Economic Development, who has been an integral part of the Committee.

**Councilor Moreau moved to suspend the rules in order to bring forward Item XIII. A. – Presentation regarding Portsmouth 2123 Time Capsule. Seconded by Assistant Mayor Kelley and voted.**

**XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS**

- A. Presentation regarding Portsmouth 2123 Time Capsule – James Splaine & Robert Lister

Jim Splaine and Bob Lister provided a detailed presentation of the Portsmouth 2123 Time Capsule. Jim encouraged people to participate by placing a letter in the time capsule which will be unveiled in 2123. Bob said that this will be a perfect end to the yearlong celebration of Portsmouth’s 400<sup>th</sup> anniversary. Jim stated that the time capsule will be on display at various locations throughout Portsmouth. He further stated that people have until December 31<sup>st</sup> at Noon to insert a letter or momentum into the capsule before it is sealed for the next one hundred years.

**Councilor Tabor moved to suspend the rules to bring forward Item XIV. 3. – Holiday Lights Contest Winners. Seconded by Councilor Bagley and voted.**

#### **XIV. MAYOR McEACHERN**

##### **3. Holiday Lights Contest Winners**

Mayor McEachern announced that an anonymous donor made a \$500.00 donation to Gather.

##### The winners:

- Most Creative: Kris Kraft at 760 State Street who receives a meal out with the Mayor, the Portsmouth NH 400<sup>th</sup> 101 Objects book and a City blanket;
- Most Traditional: Molly Wilson at 1360 South Street who receives a Fire Department tour and ride-along plus the PNH400 101 Objects book and City blanket;
- Kids' Choice: Matt & Nicole Beyer at 580 FW Hartford Drive who receives a Police Department tour and ride-along plus a PNH400 101 Objects book and City blanket

##### Honorable Mentions:

- Jana Goldstein at 170 FW Hartford Drive
- Brent Guillot at 32 Manning Street
- Brian McGuire at 21 Madison Street

Mayor McEachern announced each of the honorable mentions will receive a Portsmouth NH 400<sup>th</sup> mug, the PNH400 Time Travel comic book and a City blanket.

Councilor Tabor recognized Kathy Boduc and Lori Solloway of the Citywide Neighborhood Committee for their work with the Holiday Lights Contest.

Mayor McEachern said that at the January 16, 2024 City Council meeting all winners will be recognized.

#### **IX. PUBLIC COMMENT SESSION**

Gary Lowe spoke on solar energy panels not being the purview of the Historic District Commission (HDC) and finds the decision process flawed. He feels that the Building Inspectors should be part of the process to ensure the requirements are met for solar panels.

Dan Brown said he has lived here for 46 years. He has been a member of the Historic District Commission for the last 2-3 years. He said the area you propose for solar panel only represents 5% of the area. He said 4 applications have been approved by the HDC.

Francis Cormier spoke to the gift of giving and that it is a spiritual thing.

Anne Moody spoke on the HDC solar proposal and her support of solar in the city. She stated recently she decided to install solar in her home. She said it was an atheistic decision and would not be visible on the HDC side of her home. She spoke of the need for rules and regulations to point to and it feels like more of a judgement call.

Maria Sillari spoke to increase activities at the Jones Avenue Scrap Yard. She said the issue needs to be resolved. She stated that the zoning ordinance allows exceptions for city projects, and they are impacting residents in the area.

Donald Stickney said if the scrap yard was operated in a respectful way it would not impact the neighborhood the way it is. He said there is an unnatural noise coming from the area. He stated the non-conforming use was felt when the scrap yard was sold. Mr. Stickney said the extension of use and information has been provided to city staff on the impact of this matter.

Tom Kelley spoke to the amount of traffic and noise from the scrap metal yard is an unacceptable burden on the neighborhood and the quality of life of the area has diminished. He stated things are worse now and continue to be. He said the business should not have been grandfathered in without consultation with the neighborhood.

Craig Willever spoke regarding noise and environmental impacts to the neighborhood from the scrap metal yard. He stated the amount of traffic has increased and is affecting the safety of pedestrians and the neighborhood. He requested that the City Council act on these grievances.

Reagan Ruedig said she is speaking as a resident and not as a member of the HDC. She said the HDC solar applications have increased over the last several years. She said that there are guidelines in all aspects of HDC. She said the solar portion of the regulations is a fluid document that could be updated as technical changes are brought forward. She said taking direction away from the HDC feels too drastic. She said she would encourage us to have a conversation on improving the guidelines and better approach applications for solar panels.

Margot Doering, HDC member, said she supports the concerns of the HDC on solar panels. She said as the environment changes the values are meeting and converging on each other.

David Adams said the city has benefited greatly from the HDC. He said a complete set of rules are not part of the HDC and preservation of community and HDC are happening and colliding together. He feels like a conversation should take place on this matter.

Michael Govern spoke on the issue of Jones Avenue Scrap Yard and said their operations are dangerous and a detriment to the neighborhood. He questioned how it was a laydown site for the city. He stated it is unclear if enforcement of the yard is being done collectively. Mr. Govern asked for the City Council to hear the neighborhoods concerns and have dialogue to resolve the issues.

Josh Share said he lives 15 houses from the scrap metal operations and the noise is unreasonable and the operations are unsafe.

Brain Ratay says he goes down Jones Avenue and is appalled by what is happening in the area. He has almost been hit by trucks where there are always 3 or more trucks that come right at him, which make Jones Avenue unsafe.

Martin Ryan, HDC member – via Zoom, but is not speaking on behalf of the HDC. He said don't put the HDC in such an uneasy position and that there has been no oversight on this matter. He said public engagement on this matter is vital and the HDC should have input on this matter. He said HDC has approved solar panels, and some applications were denied.

Mr. Ryan said there needs to be a balanced approach and progress needs to be made and the Planning Department needs to have guidance on this.

Mayor McEachern welcomed the new members of the HDC here and said that this is not a dialogue session. He said he was surprised to find out the city could lay down construction equipment and materials at this site. He said the City Council will be taking this matter up early next year.

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

### **Public Hearings/Second Reading of Ordinance and Resolutions:**

- A. Public Hearing/Second Reading of Ordinance amending Chapter 1, Article IV – Commission and Authorities – Public Art Review Committee

- **PRESENTATION**

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

- **CITY COUNCIL QUESTIONS**

Councilor Cook said there are two changes, one is to add a City Councilor as a non-voting member and there is a typographical error to correct.

Mayor McEachern said this is an important opportunity for the city.

- **PUBLIC HEARING SPEAKERS**

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

**Councilor Cook moved to pass second reading and suspend the rules to take up third and final reading. Seconded by Councilor Moreau and voted.**

**Councilor Cook moved to pass third and final reading of the ordinance. Seconded by Councilor Moreau and voted,**

- B. Public Hearing/Adoption of Resolution on a Supplemental Appropriation from Unassigned Fund Balance of \$450,000.00 for Outside Counsel Legal Fees

- **PRESENTATION**

City Manager Conard said that this resolution is a supplemental appropriation for outside legal fees.

- **CITY COUNCIL QUESTIONS**

There were no questions by the City Council.

- **PUBLIC HEARING SPEAKERS**

Mayor McEachern read the legal notice, declared the public hearing open and called for speakers. With no speakers, Mayor McEachern closed the public hearing.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

**Councilor Lombardi moved to adopt the Resolution as presented. Seconded by Assistant Mayor Kelley.**

**On a unanimous roll call vote 8-0, motion passed.**

## **XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION**

### **A. CITY MANAGER CONARD**

1. Temporary Construction License for 70 Maplewood Avenue

City Manager Conard said the owner is making improvements to the property. She stated the encumbrance permit expires January 10<sup>th</sup> and there will be no pass-through staging. She reported that the owners will post appropriate signage and the license has been reviewed and approved.

**Councilor Moreau moved to authorize the City Manager to execute and accept the temporary construction license to encumber the sidewalks along Maplewood Avenue and Deer Street that abut 70 Maplewood Avenue as requested. Seconded by Councilor Bagley and voted.**

2. Lease Extension for Community Campus Tenants

City Manager Conard reported that 3 tenants at the campus are seeking lease extensions.

**Councilor Moreau moved to accept the Amendments to the Lease Agreement(s) with the Child Advocacy Center of Rockingham County, Inc., the Krempels Center and Seacoast Outright to extend the terms through June 30, 2024 as presented. Seconded by Councilor Bagley.**

Councilor Cook asked if another tenant will be brought into the space that was vacated. She inquired about the space for the Lister Academy at the campus. City Manager Conard said the spaces are not always efficient and we are considering the best site in the building for the Lister Academy. She also indicated we are working with each tenant on their space needs.

**Motion passed.**

3. Revocable License for 320 Union Street

City Manager Conard said staff has worked together and support a revocable license. She said minor typographical errors will be corrected before execution of the document.

**Councilor Moreau moved to authorize the City Manager to execute and deliver a Revocable License allowing the Owner of 320 Union Street to reface their existing retaining wall and construct a new retaining wall on City property. Seconded by Assistant Mayor Kelley and voted.**

4. Polling Hours for 2024 Presidential Primary Election

City Manager Conard said this is a request from City Clerk Barnaby for setting the polling hours from 8:00 a.m. to 7:00 p.m. for the Presidential Primary Election.

**Assistant Mayor Kelley moved to establish polling hours for the Presidential Primary Election on January 23, 2024 from 8:00 a.m. to 7:00 p.m. as presented by the City Clerk. Seconded by Councilor Lombardi and voted.**

5. Drainage Easement for Property Located at 700 Peverly Hill Road

City Manager Conard said the Planning Board granted site approval for 700 Peverly Hill Road to Portsmouth Auto. She stated it will improve drainage in the area and having an easement gives the city rights but is not obligated.

**Councilor Moreau moved to authorize the City Manager to accept and record a drainage easement from JMK Realty, LLC in substantially similar form to the easement provided in the agenda packet. Seconded by Assistant Mayor Kelley.**

Councilor Moreau said it is important to gather easements for this type of process.

**Motion passed.**

6. Access Easement for 201 Kearsarge Way

City Manager Conard advised the Council that the Planning Board granted amended subdivision approval for a three-lot subdivision to Richard P. Fusegni for property located at 201 Kearsarge Way. She indicated that the Planning Board recommended the City accept an access easement over a portion only of a private driveway for public access and turnaround off Birth Street, a 40', dead-end public right of way.

**Councilor Moreau to authorize the City Manager to accept and record an access easement from Richard P. Fusegni in substantially similar form to the easement contained in the agenda packet. Seconded by Assistant Mayor Kelley and voted.**

## **XII. CONSENT AGENDA**

- A. Letter from Jennie Halstead, My Breast Cancer Support, requesting permission to hold the 15<sup>th</sup> Annual Celebrate Pink 5k Walk & Run on Sunday, September 22, 2024 (***Anticipated action – move to refer to the City Manager with Authority to Act***)
- B. Letter from John Mortimer, Millennium Running, requesting permission to hold the St. Paddy's 5k/10k on Sunday, March 10, 2024 (***Anticipated action – move to refer to the City Manager with Authority to Act***)



- C. Letter from Cullen Madden, Millennium Running, requesting permission to hold the Eastern States 20 Miler & Half Marathon on Sunday, March 17, 2024  
***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- D. Letter from John Mortimer, Millennium Running, requesting permission to hold the 2024 Restore New Castle 10k on Sunday, April 28, 2024 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- E. Letter from Rob Cimini, Greenleaf Rec Center Teens Program, requesting permission to hold the Greenleaf Rec Challenge on Saturday, May 11, 2024 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***

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

### **XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS**

- B. Email Correspondence

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

### **XIV. MAYOR McEACHERN**

- 1. Resignation – Richard Adams from the Trees and Public Greenery Committee effective December 31, 2023

**Assistant Mayor Kelley moved to accept with regret and requested a letter be sent thanking Mr. Adams for his service to the city. Seconded by Councilor Bagley.**

Assistant Mayor Kelley said Mr. Adams brought a great deal of knowledge while serving on the Trees and Public Greenery Committee. She personally thanked Dick for his work on the Committee.

**Motion passed.**

- 2. \*Appointments to be Voted:
  - Stephen Buzzell to the Cemetery Committee until December 18, 2025
  - Kelly DeCourcy to the Citizen Advisory Committee
  - Susan Durling to the Citizen Advisory Committee
  - Alice Carey to the Conservation Commission until April 1, 2026
  - Maria Peppas to the Library Board of Trustees until October 1, 2026
  - Tyler McLaughlin to the Library Board of Trustees until October 1, 2026
  - Rick Chellman to the Planning Board until December 31, 2026
  - Paul Giuliano to the Planning Board until December 31, 2026
  - Peter Weeks to the Trustees of the Trust Fund until January 1, 2027
  - Emma Stratton to the Arts & Cultural Commission
  - Courtney Perkins to the Arts & Cultural Commission



- Karen Rosania to the Arts & Cultural Commission
- Robin Albert Lehman to the Arts & Cultural Commission
- Linnea Grim to the Arts and Cultural Commission
- John Elias “Eli” Kaynor to the Arts and Cultural Commission
- Kenneth Goldman to the Arts and Cultural Commission
- Jason Goodrich to the Arts and Cultural Commission
- Genevieve Aichele to the Arts and Cultural Commission
- Jeffrey Cooper to the Arts and Cultural Commission
- Catherine Saarela to the Arts and Cultural Commission
- Theresa MacDowell to the Arts and Cultural Commission
- Lennie Mullaney to the Public Art Review Commission

**Assistant Mayor Kelley voted to approve the appointments as outlined above. Seconded by Councilor Moreau and voted.**

Councilor Cook thanked everyone that serves on the Arts and Cultural Commission and that they will continue to do an amazing job.

**Motion passed.**

## **XV. CITY COUNCIL MEMBERS**

### **A. COUNCILOR DENTON & COUNCILOR BLALOCK**

#### **1. HDC Solar Energy Panel Amendment**

Councilor Denton said it is his and Councilor Blalock’s intention to hold First Reading on Tuesday, January 16, 2024, to amend Article IV: Commissions and Authorities, Section 1.403: Historic District Commission, C. Powers and Duties, by adding the following sentence at the end of paragraph 1: “The review of solar energy panels is not within the purview of the Historic District Commissioner’s powers and duties.”

Councilor Moreau said she would like to slow down and have a larger discussion and have the Historic District Commission and the Sustainability Committee to have a work session and come up with guidelines for this matter. She said we need more conversation on this matter.

Assistant Mayor Kelley said she agrees that a work session needs to be held on this matter.

Councilor Lombardi said this was presented as a change to the ordinance, normally changes are done in collaboration. He said the proposal was never presented to the HDC and this was found out about through the newspaper. He said guidelines need to be updated, the proposals for a blanket instrument. He said we need more discussion, and it would be a better statement if HDC and sustainability Committee work together on updating solar panel guidelines.

Councilor Bagley said he would support a motion that took away guidance from installation of their homes. He has concerns about slowing this down. He said it is a cumbersome process and it is difficult and challenging to have residents present information to land use.

Councilor Cook said she was struck by comments from HDC members, and we need to be careful about making decisions. She said we can have solar if guidelines are clear. She said the guidelines can be confusing to homeowners, it costs a lot of money for a homeowner to come to the HDC. She said she is concerned about this, and we need to improve our sustainable measures. She said it is reasonable to have a work session on this matter.

Mayor McEachern said the historic nature of the community is important. He said we need to look at this regularly and echo the intent to make this as easy as possible.

## **B. COUNCILOR COOK**

1. Governance Committee Year-End Update

Councilor Cook asked the City Council to review her report outlined in the City Council packet.

## **XVI. APPROVAL OF GRANTS/DONATIONS**

- A. Acceptance of Donation to the Fire Department from Brian & Suzanne Engelhardt - \$100.00 to be used at the department's discretion

**Assistant Mayor Kelley moved to accept and approve the donation to the Fire Department in the amount of \$100.00 to be used at the department's discretion. Seconded by Councilor Moreau and voted.**

- B. Acceptance of Donation to the Fire Department from Paul Gormley & Kimi Iguchi - \$2,500.00 to be used at the department's discretion

**Assistant Mayor Kelley moved to accept and approve the donation to the Fire Department in the amount of \$2,500.00 to be used at the department's discretion. Seconded by Councilor Moreau and voted.**

- C. Acceptance of Moose License Plate Conservation Grant - \$9,695.80

**Councilor Moreau moved to accept and approve the Moose License Plate Conservation Grant as presented. Seconded by Councilor Lombardi and voted.**

- D. Acceptance of Grant to Fire Department from the Department of Safety, Division of Fire Standards & Training and EMS - \$16,575.00

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

## **VII. CITY MANAGER'S INFORMATIONAL ITEMS**

1. Report Back on the Demolition Ordinance

City Manager Conard recommended conducting a work session in the new year to amend the Demolition Ordinance.

2. Parking Signs for the McIntyre Lot

City Manager Conard reported to the City Council that the Traffic Engineer will work with all existing owners/managers of private lots that provide public parking to revise and improve their signage throughout the city.

**XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING**

Mayor McEachern announced that the Inauguration will be held on January 2, 2024 at 7:00 p.m. in the Eileen Dondero Foley Council Chambers.

**XIX. ADJOURNMENT**

**At 9:40 p.m., Councilor Moreau moved to adjourn. Seconded by Assistant Mayor Kelley and voted.**



KELLI L. BARNABY, MMC/CNHMC  
CITY CLERK