

**Minutes**  
**City Council Legislative Subcommittee**  
**Wednesday, August 23, 2023 at 2:30 p.m.**  
**Conference Room A, 1 Junkins Ave., Portsmouth, NH**

- I. Greeting: Mayor McEachern. In attendance were Mayor McEachern, Assistant Mayor Kelley, Councilor Tabor, Councilor Cook, Representative David Muse, City Manager Karen Conard and Senior Assistant City Attorney Jane Ferrini.
  
- II. Approval of January 27, 2023 Minutes: Councilor Tabor moved and Councilor Cook seconded a motion to approve the January 27, 2023 minutes. The Motion passed on a unanimous vote.
  
- III. 2023 Legislative Wrap-Up- Senior Assistant City Attorney Jane Ferrini provided a summary of bills tracked and enacted in 2023 as more fully set forth in the copy of the power point attached. One bill that was added to the discussion that was not on the list was HB 321, Chapter Law 189 regarding the review of minutes from non-public meetings. The Committee and Senior Assistant City Attorney Ferrini discussed that the bill requires public bodies to review meeting minutes withheld from public disclosure (non-public) at least every 10 years to determine whether they should continue to be withheld. Minutes not reviewed after 10 years shall be made public. Senior Assistant City Attorney Ferrini discussed that the legal department will be making a recommendation on a policy on how this review should roll out over time.

Representative Muse mentioned that the filing deadline opens for the House on September 11, 2023 and closes on September 15, 2023. He also noted that the Senate's deadline is later and explained how House members can work with Senators to sponsor a bill.

Representative Muse commented on several cannabis bills that did not pass this past session. He stated that there was not one bill that addressed all issues needed to move forward with legalization, including how cannabis is sold, taxed and administered. He further noted that the Governor is concerned about creating a cannabis retail strip. Representative Muse mentioned there had been unresolved discussions regarding creating cannabis retail establishments next to NH liquor stores. Assistant Mayor Kelley mentioned the legalization structure similar to the sale of alcohol (and food). Councilor Cook mentioned the increase in cannabis retail establishments in Portland, ME.

- IV. Status update on education funding lawsuits (*ConVal* and *Rand v. State*)-Senior Assistant City Attorney Ferrini provided an update regarding the education funding lawsuits, explaining that the final decision on the *ConVal* matter and the decision on the Cross Motions for Summary Judgment on the issue of the retention of excess SWEPT in the *Rand* matter would likely be issued in September. She noted that no matter what the Judge decides, the decisions in both cases will likely be appealed to the Supreme Court. She noted that if the Court in the *ConVal* matter decides that the definition of what is included in an adequate education excludes required elements, the cost attributed to adequacy per child will increase, and as such, the SWEPT rate would increase throughout the state. She also noted that the Judge asked Counsel in the *Rand* case if their case relative to finding the retention of excess SWEPT unconstitutional would be moot if the *ConVal* decision increased the cost per pupil throughout the state which would increase SWEPT. Counsel for the Petitioner and State agreed that it would.

The Committee discussed with Representative Muse, notwithstanding appeals to the Supreme Court, whether the Legislature would introduce education funding bills next session. Representative Muse noted that in this past session when there was almost an even split between parties there was more potential for the House and Senate to work together. He noted that it was possible after the decisions come out that the Legislature could introduce emergency legislation on the education funding issue. Representative Muse stated that there is a discrepancy between zip codes on education funding and one of the main issues is the tax structure and the history of political football in the attempts to draft legislation to fund education over the years. The Mayor asked if any of these cases considered a taxpayer's ability to pay and Senior Assistant City Attorney Ferrini said they did not and noted there were good statistics from the Report from the Commission on Education Funding completed several years ago.

- V. NHMA Legislative Policy Process- Committee to discuss NHMA's legislative policy process and the City's Legislative Policies and the Committee's discussion of legislative issues of interest for next session.

The Mayor asked Representative Muse for good resources on the State's budget. Representative Muse noted that a good breakdown on the state's budget could be found from the NH Fiscal Policy Institute which breaks down the various revenue sourced for the budget, including federal funds.

Representative Muse discussed legislation he is working on regarding placement of kids in out of state schools. The Committee discussed workforce housing and absentee ownership along with a potential homestead exemption for education funding. The Committee also discussed that the City is more like a Boston/NY housing market and how that is not necessarily applicable to the rest of the state. The Committee also noted how important transportation is as a factor in affordable housing and the Committee should continue to work with other towns and the Chamber on affordable housing issues and meals and rooms distribution bills as we have done in the past.

The Committee discussed sending a list of issues of interest from bills we have supported in the past to Representative Muse. One example discussed was the difficulty with commercial valuation of property and the inability to get rents and information on commercial income streams.

- VI. Councilor Cook moved and Councilor Tabor seconded a Motion to Adjourn at approximately 4:25 p.m. The Motion passed unanimously.

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## RESOLUTION REGARDING STAFFING MANDATES FOR NURSING HOMES

**WHEREAS**, the nation's rural healthcare facilities and nursing homes are facing a historic staffing shortage, and the current labor market and chronic underfunding continue to make it more difficult for rural healthcare facilities to reach pre-pandemic staffing levels; and

**WHEREAS**, the Centers for Medicare and Medicaid Services (CMS) has recently announced a proposed federal staffing requirement for healthcare facilities and nursing homes that fails to take into consideration the current labor conditions; and

**WHEREAS**, these facilities continue to do everything they can to strengthen their workforce, but there are not enough qualified and available workers in the labor market to meet the demand; and

**WHEREAS**, a one-size-fits-all staffing mandate, without resources or programs to help facilities meet such a requirement, will limit access to care for our most vulnerable population by forcing facilities to limit their admissions or close down altogether, disrupting our communities and leaving people without the critical care they need and deserve; and

**WHEREAS**, the intention behind the staffing mandate is to improve care, yet CMS' own study determined no level of staffing guarantees quality of care; and

**WHEREAS**, a recent analysis found that 94 percent of facilities cannot meet one of the three staffing requirements proposed in the mandate and, if implemented, could threaten the displacement of nearly 300,000 nursing home residents; and

**WHEREAS**, rural healthcare facilities and nursing homes need comprehensive, supportive policies, programs and funding that help facilities bolster their workforce and create a strong pipeline of caregivers instead of a blanket and arbitrary mandate; and

**WHEREAS**, New Hampshire's federal delegation, including Representatives Ann Kuster and Chris Pappas, have stood up for New Hampshire's citizens by questioning the one-size-fits-all solution imposed by the Biden Administration.

**BE IT THEREFORE RESOLVED**, that the members of Portsmouth's City Council hereby go on record in opposition of CMS' federal staffing mandates, support Representatives Kuster and Pappas in their opposition, and request the Biden Administration to rescind this misguided, one-size-fits-all policy.

This resolution adopted this \_\_\_\_ day of \_\_\_\_\_ 2024 by \_\_\_\_\_.

Signed: \_\_\_\_\_  
Mayor

# CITY COUNCIL PRINCIPLES FOR LEGISLATIVE POSITIONS:

## PRINCIPLES FOR LEGISLATIVE POLICIES

The City Council has adopted Principles for Legislative Positions listed below in order for the Mayor and City Staff to be able to offer testimony to the Legislature in a timely manner on bills of interest to the City. The Principles for Legislative Positions are as follows:

1. Advocate to maintain local authority
2. Authorize local options
3. Support revenue streams to aid municipalities, specifically those that name Portsmouth or will directly support Portsmouth
4. Advocate for municipal representation on state committees
5. Support incentives for regional cooperation
6. Support plans to fund/support infrastructure
7. Support incentives for sustainability and increasing energy efficiency and increasing renewable energy production.
8. Support directing revenues to the purposes for which they are raised
9. Support measures that increase the efficiency of local government operations
10. Maintain and improve health, life and safety issues including protecting the safety of our First Responders
11. Encourage citizens to vote and support eliminating barriers to voting
12. Rely on locally generated financial data for decisions relating to local taxes and assessments
13. Protect local decision making about local zoning
14. Require the State to honor existing financial commitments to communities before new financial commitments are awarded, e.g. infrastructure reimbursements
15. Support the civil rights of individuals and oppose discrimination against any individual because of age, sex, race, creed, color, marital status, familial status, physical or mental disability, national origin, sexual orientation or gender identity
16. Use expertise and research in decision making

17. Support policies that create affordable housing as well as incentives for the construction of affordable housing and oppose any policies that block efforts to create affordable housing
18. Support lobbying efforts of organizations and associations to which the City belongs and supports as a municipality, unless contrary to other city policies
19. Oppose legislation that does not apply scientific and technical standards that are broadly accepted by peer reviewed scientific study and can reasonably be achieved by sustainable best management practices and technology
20. Support legislation that provides education funding based on an equitable and sustainable framework and oppose the return of the donor town concept

**APPROVED AND AMENDED BY CITY COUNCIL FEBRUARY 7, 2022**