

## CITY COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: MONDAY, JULY 13, 2020

PORTSMOUTH, NH  
TIME: 7:00PM [or thereafter]

### Remote Meeting Via Zoom Conference Call

To register in advance for this meeting, click on the link below or copy and paste it into your web browser: [https://zoom.us/webinar/register/WN\\_sx\\_7WbXiRk6HHMAJjUJdrA](https://zoom.us/webinar/register/WN_sx_7WbXiRk6HHMAJjUJdrA) You are required to register in advance to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. Please note, this meeting will also be broadcast on the City's YouTube Channel. Public comments for the Council's consideration can be emailed in advance via the City's web site: <https://www.cityofportsmouth.com/citycouncil/contact-all-city-councilors>. Per NH RSA 91-A:2 III (b) the Chair has declared COVID-19 Outbreak an emergency and has waived the requirement that a quorum be physically present at the meeting pursuant to the Governor's Executive Order 2020-04, Section 8, as extended by Executive Order 2020-9, and Emergency Order #12, Section 3. Members will be participating remotely and will identify their location and any person present with them at that location. All votes will be by roll call.

- I. **6:00PM WORK SESSION – THERE IS NO WORK SESSION THIS EVENING**
- II. **PUBLIC DIALOGUE SESSION [when applicable – every other regularly scheduled meeting] – *POSTPONED***

### III. CALL TO ORDER

Mayor Becksted called the meeting to order at 7:00 p.m.

### IV. ROLL CALL

PRESENT: Mayor Becksted, Assistant Mayor Splaine, Councilors McEachern, Whelan, Lazenby, Kennedy, Huda, Tabor and Trace

### V. INVOCATION

Mayor Becksted asked for a moment of silent prayer.

### VI. PLEDGE OF ALLEGIANCE

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

### VII. ACCEPTANCE OF MINUTES – APRIL 6, 2020

Councilor Kennedy questioned if there was a way to get minutes closer to when the meetings happened. City Clerk Barnaby responded that they were very busy due to this year's election cycle, but she was trying to get caught up.

Councilor Tabor had a correction for the Parking Traffic and Safety vote. Harold Whitehouse was listed as a Councilor, but he is not on City Council.

**Councilor Kennedy moved to accept and approve the minutes of the April 6, 2020 City Council meeting with an amendment to page 6 vote regarding Parking, Traffic & Safety Action Sheet and Minutes of March 5, 2020 correcting to list Councilor Kennedy as voting opposed to the motion, seconded by Councilor Huda.**

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

## VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

### IX. PUBLIC COMMENT SESSION – (*Via Zoom*)

Gerald Duffy of 428 Pleasant Street commented on the McIntyre Project. The City and residents agreed to acquire the site and the project was determined to be a steady resource of revenue. However, if the Council gets its way, then it will reduce revenue. The second question on the survey vaguely hints if people were fine with the City making a financial commitment. There is no hint of costs. The City has already spent \$98,000 in litigation costs on outside council and city staff time. The design work will not pay for a redesign. The USPS is already in survival mode. They won't be able to move back downtown on its own costs. If the Council pushes for a single building, then the City will make less money. There could be a reduction in property taxes. Changes to the property would reduce revenue by millions over 20 years. A scaled back project cuts into tax revenue. A win, win is still possible. The partners said the issues can be addressed to the satisfaction of the City including improving the outdoor space. They should stay the course.

Russ Grazier of 220 Kearsarge Way commented on the Islington Corridor Project. Mr. Grazier is the CEO of the Music and Arts Center and has been actively watching the project. Mr. Grazier was concerned that the potential crosswalk at Albany Street and Islington Street, the bump outs, and the median at Plaza 800 may not be included in the project. There is a lot of pedestrian activity in that neighborhood. Anything to improve the sidewalks and slow traffic would be a dramatic improvement. Crossing Islington Street at Albany Street right now is unsafe. The bump outs slowed traffic and made the crosswalk safer. Council should include the median, crosswalk, and bump out in the plan to ensure safety.

Marc Stettner of 91 Fairview Avenue commented on the proposed change in parking meter rates. Mr. Stettner questioned if after 3 hours it immediately jumped to \$5.00 or if it was prorated. The City Council should not move forward with this proposal. There should be one rate for the entire City. There should be financial analysis to determine the difference in revenue between one meter rate and zone rating. Mr. Stettner commented that the City of Portsmouth may be in violation of state revenue regulations with the meter rates. Revenue derived from meters shall be used for the purchase, maintenance and policing of public parking areas and systems or highways and roads. For years the City has been taking that money and putting it into the general fund and using it for whatever purpose. Council should not move forward in increasing fees and make a potentially illegal practice worse.

Josh Denton of 110 Brewery Lane commented on the McIntyre Project. There has been a lot of passion surrounding the McIntyre building and now they are in a global pandemic. The City has held 20 meetings on the McIntyre Project and all they have to show is the survey. It lacks a deadline and asks how much residents are willing to spend on the project. A professional should have created the survey and it should have included prepaid envelopes to send responses in. Meanwhile the City has not done much to help in Covid. Council just recently said a mask mandate was a last resort. The last resort would be an actual lockdown. The Mayor or 5 members of Council can call a special meeting to discuss Covid. Please work through a mandate.

Andrew Bagley commented on the mask mandate. Some of the Councilors have said they were for a mask mandate or would at least consider it. Mayor Becksted has said there is not enough science on masks. It is unclear where the rest of the Council stands. Shop keepers and restaurant workers are frustrated. They are having difficulty enforcing mask wearing individually. It is up to the Council to lead and take the burden away from shop keepers and workers. People are specifically going into shops where masks are required and yelling at workers. Waiting for the Governor to pass a mandate is not realistic. Portsmouth is different than other areas in NH. They need this.

Jim Hewitt of 726 Middle Road commented on work force housing at the West End Yards. It is unfortunate Council is being forced to approve a deal they were not involved in making. They should reject it and start over.

Byron Matto commented on mask wearing. Mr. Matto thanked Assistant Mayor Splaine for giving more attention to mask wearing. Creating a policy is so imperative to create community support for masks. Mr. Matto also supported the medians and bump outs in the Islington Corridor Project. The sidewalk on Spinney Road has already greatly improved the neighborhood. The McIntyre Project survey lacks meaning and leaves a lot of room for improvement.

Sara Curry of 800 Islington Street owns a business in Portsmouth. The City and residents have been working on a corridor improvement plan since 2005. The City held sessions every month for the last 4 years where people can speak on the project. All of the evidence supports adding crosswalks to the corridor to increase pedestrian safety. This is the only neighborhood in town where residents can live, work and play. Crossing the street at Plaza 800 and Albany Street is not safe now. The proposed measures will slowdown traffic on average 1 second. There is an average of 20 pedestrians crossing at that location per hour. The safety benefit outweighs slowing cars down.

Lisa Rapaport commented that she understood that the Council was in a difficult situation in trying to mandate masks. It is sad that people don't take what's coming from CDC and WHO as science. Ms. Rapaport did not feel safe walking the City streets. It is understood that Council is in a tough situation legally, but that is not a good enough answer. They are talking about opening schools and telling kids they have to wear masks there, but the City is not requiring it for adults in Portsmouth. It should be the same for the school and the streets. Council should move faster to support businesses downtown to allow the use of sidewalk space to sell and serve. A lot of other cities have been able to move faster to enforce this.

Michael Rodriguez Torrent of 197 Madison Street requested that Council support Councilor Lazenby's letter to the Governor. People continue to not wear masks. It is uncomfortable and unsafe going downtown. Portsmouth needs to do better to protect massive outbreaks. One way is a mask mandate. If that is too difficult to pass, then they should ask the Governor for help. The mandate makes it a clear guideline and would support local business' efforts. Portsmouth should care about neighbors and ask for a mandate.

Stephen Sanger of 52 Mendum Avenue commented that he was strongly in favor of mandating masks in Portsmouth when social distancing is not possible. It is not possible to socially distance downtown. A mandate requires masks. If there is no mandate, then Portsmouth is knowingly putting citizens at risk of this catastrophic illness. Mandate masks to protect lives.

Jonathan Blakeslee owner of White Heron Tea commented on the crosswalk at Albany Street and the bump out at White Heron. They are important to slow traffic and allow safe pedestrian crossings. The concerns about emergency vehicles have been addressed. Cyclists have spoken in support as well. Currently there is a faded crosswalk that is dangerous to cross. Mr. Blakeslee supported moving ahead with the proposed changes. Many people cross at the Hannaford area too. There should be a more pedestrian friendly corridor there. Mr. Blakeslee was also in support of a mask mandate. His staff gets nervous coming to work. White Heron has a sign indicating that masks are required. Most people have been amenable. However, there have been some tense moments too. Science shows that a mask mandate would be a simple way to keep people safe.

Valerie Rochon President of Chamber Collaborative of Portsmouth supported a mask mandate. Every business is struggling to stay in business and following guidelines for protection of staff and customers. Most businesses cannot afford to shut down again. Masks, distance, and hand washing slows the spread. Businesses are doing their part and must ask customers to do the same. Staff are being bullied by people not wearing masks. Positive messaging for mask wearing is a good first step. We are in this for the long haul and need to keep the economy open and growing. Masking up is an economic and health issue. Ms. Rochon also supported approving the Islington Corridor improvements.

Joseph Randall from Dover, NH commented on the lack of acceptable pay in the school district. The government is forcing school employees back into buildings. Mr. Randall questioned where the PPE for teachers and paraprofessionals would come from. Students who vape are more at risk with this virus. Most teacher and paraprofessionals work individually to check the pulse of a class each day and receive little compensation for their hard work. Paraprofessionals are limited to 32.5 hours, which leaves them not eligible for benefits. Overall, almost the entire work force lives outside of Portsmouth because it is unaffordable.

Emma Cancelada commented on the face mask policy. This is a health issue not a politicized issue. It is important that the municipal government take responsibility. The Council should still send a letter to Governor Sununu to reinforce that the problem goes beyond Portsmouth. People are coming to visit Portsmouth from different towns in the area. If there is no mandate, then it will affect the health of people working, living and visiting here. Ms. Cancelada agreed with Mr. Randall's comments. The school budget needs to be addressed. It is disappointing that there have been 20 meetings for the McIntyre Project and nothing of significance for Covid.

Lucia Von Letkemann was in favor of a mask mandate. Ms. Von Letkemann has an auto immune condition and felt unsafe going downtown. Some people say they would wear a mask if they had to, but there is no mandate. People should be wearing masks because it is the right thing to do. A mandate can shrink the number of people not wearing masks. Ms. Von Letkemann also supported a crosswalk at White Heron and the median at Hannaford.

Brian Porter of 319 Lincoln Avenue thanked the City Council for opening the City Pool. It felt like a safe environment and was a good escape for his family. The diligence to get it open was appreciated.

***Assistant Mayor Splaine moved to suspend the rules in order to take up Items XVII A. - Presentation by Health Officer Kim McNamara regarding COVID-19 Update, B. – Update on the Portsmouth Citizen Response Task Force, and C. – Presentation regarding Sagamore Avenue Sewer Extension Project. Seconded by Councilor Lazenby.***

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

## **XVII. PRESENTATIONS & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

### **A. Presentation by Health Officer Kim McNamara regarding COVID-19 Update**

Health Officer Kim McNamara provided a brief update on COVID. Portsmouth has had 73 cumulative cases and currently has 6 active cases. The numbers have not changed much since reopening. Massachusetts numbers are significantly higher, but they are showing some improvement. Massachusetts has continued reopening because of the declining trends. The two-week quarantine has been lifted for those traveling to New Hampshire. The pool reopening has gone well. It was at capacity every hour. Staff and the public felt comfortable. They will continue to work with the School Department on possibly reopening in the fall. Keeping the numbers low is important to reopening. They are working with Seacoast Public Health to create a drive through clinic for seasonal flu vaccines. Mask wearing is important, and they have done outreach to food service and businesses to require masks for patrons and staff. A simple clear info graphic on various masks and proper use is being developed.

Assistant Mayor Splaine thanked Health Officer McNamara for all their good work and working with the City Manager. The resolution on the agenda tonight is prepared to include an important paragraph requesting the Health Officer to mandate the implementation of required face coverings. The City Council will pledge to support that decision to do so. Assistant Mayor Splaine questioned if the resolution passed with that paragraph would the Health Officer take that action. Health Officer McNamara responded that everyone should be wearing a mask. A mandate without an enforcement mechanism is concerning. Passing a mandate that doesn't include surrounding towns is also concerning. Whatever enforcement is implemented would need to consider staff resources. Assistant Mayor Splaine commented that they could consider an ordinance and may do that. Short of that the Health Officer could create a mandate. Other towns may create a mandate if Portsmouth does. City Council would support a mandate from the Health Department. Health Office McNamara responded that she has to base her decisions on the data. The Health Department should not mandate mask use with these low numbers. Health Officer McNamara was supportive of what Council needed to do to have masks worn but creating a mandate on low data was not how the Health Department did things. Right now, the community has done a good job to keep numbers low. Masks are a good prevention tactic. However, in order for the Health Department to take steps they need the data to back it. Health Officer McNamara clarified that masks are expected and appreciated. A statewide approach would be more effective. Other counties may not have much need for masks. However, speaking to healthcare providers they are concerned about a surge because they don't have the capacity for a surge.

Councilor McEachern commented that he did not believe there would be a Statewide mandate. The CDC recommends everyone wear a mask. The case in Nashua recently showed that the City has legal authority. Councilor McEachern questioned if this would be stronger if there was an enforcement piece attached to it. Health Officer McNamara responded that was an important consideration. That is a concern.

Councilor Kennedy commented that she runs a school district and is responsible for all students with special needs. There has been a lot of discrimination for someone with special needs not wearing facemasks because they can't. There is nothing in this that addresses that situation. Councilor Kennedy was supportive of face masks but has seen many children and some staff with sensory issues. Councilor Kennedy questioned if there was scientific evidence about the difference between a facemask and a visor. Health Officer McNamara responded that inspector shields were not thought to be as protective. However, there are children who should not be forced to or asked to wear a mask. Those provisions should be incorporated. The provisions have to be done carefully. Councilor Kennedy commented that she was aware adults in the community have similar concerns and issues.

Councilor Lazenby appreciated that the Health Department relied on good data and science to guide how they address this situation. It would be helpful to find out how things go in Nashua and other communities that have had mandates. Nashua has less than half rate of the cases as Manchester. Mandates are helpful for clarity and have shown to be effective to reduce spread. The City could help provide that data to the Council and public. Health Officer McNamara responded that she would report back.

Councilor Lazenby commented that mask wearing was a preventative measure. Councilor Lazenby questioned if large events that invited more variables would cause them to weigh the benefit of a mandate more. Health Officer McNamara responded that she was not discounting masks. There is no question of the science showing that it prevents spread. Right now, the numbers are good. That could change. The Health Department would take action based on data. Councilor Lazenby commented that it is likely more visitors will be coming to Portsmouth. That could introduce more variables to the data. Councilor Lazenby questioned if there was any efficacy of the publicly available COVID testing. Health Officer McNamara responded that the infectious disease doctor they consulted said that different tests have different accuracies.

Councilor McEachern noted Health Officer McNamara and the CDC guidelines have made it very clear that wearing a mask is important. More tourists are coming to town, and COVID deaths are starting to increase across the country. Councilor McEachern questioned if the Nashua case meant that Portsmouth could enforce something locally. City Attorney Sullivan responded there was not much question left. If the City Council found there was a public health issue, then it could be addressed by a mask mandate from the Council. The Nashua ordinance doesn't read like an ordinance. There is no enforcement mechanism, and it is not in the ordinance book. It looks like something that happens in emergency situation to address an issue quickly. The Nashua ordinance is probably not the same as what Portsmouth would adopt. The Council does have the legal right to pass a mandate.

Councilor Kennedy commented that some of the public comment noted that people had been rude to restaurants and businesses who have requested that they wear masks. Councilor Kennedy questioned if the City had any data on how many times that has happened. Health Officer McNamara responded that they were not doing any sort of formal data collection on that. They do get email or call-in complaints on a number of different issues, but there have not been many.

Councilor Tabor commented that the data has been good, and it is indicating better than they were. However, July 1st marked the opening of 50% occupancy for restaurants. Portsmouth is getting an influx of people from all over. The Council should look forward to preventing numbers from going up in the fall. A mask ordinance would be the safest thing to do. Health Officer McNamara responded that it would be a good measure.

Assistant Mayor Splaine questioned what the steps would be to pass an ordinance. A lot of states and communities have a mandate without reinforcement. City Attorney Sullivan responded that if Council wanted to adopt any ordinance relating to masks, then current Council protocol would call for Council to vote to have an ordinance brought in for first reading. If it passes, then it would go for first reading to the Council. After that it would go to second reading and public hearing. That is the time the ordinance can be amended with a simple majority. If the ordinance passes second reading, then it goes to third reading at the next meeting. At that time it could be adopted and go to law. Council can also suspend the rules and adopt it at second reading. Assistant Mayor Splaine questioned if they asked City Attorney Sullivan to prepare an ordinance tonight, then would they be able to have a public hearing at the August meeting.

City Attorney Sullivan responded that there needed to be a break between the first and second reading. Council can only vote to suspend rules and not have a third reading. It is not possible to hold a first and second reading on the same night.

Assistant Mayor Splaine requested the City Attorney look at the Nashua ordinance and deal with that as quickly as possible.

Councilor Trace questioned how many special meetings could be requested in any given week and if there was a time requirement between a first reading and second reading. City Attorney Sullivan responded that there was no limit on the number of special meetings that could be called in a week. There is a minimum time period required between the first and second reading. City Attorney Sullivan had to look up the amount of time required. It may be 7 days. Councilor Trace questioned how enforceable an ordinance would be if it was passed. City Attorney Sullivan responded that if City Council adopted the ordinance with an enforcement mechanism, then the ordinance would be enforceable with that mechanism.

Councilor Huda questioned if what they were trying to accomplish was actually legal. City Attorney Sullivan responded that the decision in the Nashua case showed that they do have the authority on the basis of protection of health. The science is important if the ordinance is challenged. It might be necessary at that point to have scientific testimony in court. Councilor Huda questioned if they had a problem with timing. The science does not support it at this time, but the goal is to get ahead and prevent spread. City Attorney Sullivan responded that he spoke to the Health Officer about this today. Her position was that the data does not support any emergency action on her part. However, in general masks are good and protective for people's health. The City is not in an emergency basis, so they will not step in and do something extraordinary. Masks are protective and the Health Officer is generally being supportive. Health Officer McNamara agreed that the science was there. The local data does not support emergency action from the Health Department. There is more research coming out every day. Health Officer McNamara was supportive of mask wearing.

Assistant Mayor Splaine commented that the Nashua ordinance was quite extensive and inclusive. They need to discuss the mandate and look at the city charter section. The City Attorney said it could take a week to create the ordinance then another week for a public hearing. It would be good to have a response about timing and if special meetings were needed. City Attorney Sullivan confirmed there needed to be a 1 week notice between first and second reading. There is no first reading tonight because nothing has been written. The ordinance can be written when Council wants it written. Guidance from Council would be helpful.

Councilor Kennedy commented that there was an agenda item to discuss the resolution and next steps later. The City should not do anything without putting in language to account for people with disabilities and health issues. Council should finish this discussion with the Health Officer and address the rest of this later in the agenda.

Mayor Becksted thanked Health Officer McNamara for all of her information and guidance. Without it, Portsmouth would not be able to take actions like opening the pool. Mayor Becksted agreed with Councilor Kennedy that they needed to have a larger scope to explore all facts. There needs to be a larger conversation with surrounding communities. Special meetings can be discussed to have discussions and take everyone into consideration.

## B. Update on the Portsmouth Citizens Response Task Force

City Manager Conard commented that 277 businesses had received grants. Portsmouth businesses received 7% for a total of 2.7 million. 52% of those recipients were restaurants. Portsmouth received the second highest amount behind Manchester, NH.

James Petersen and Mark Stebbins spoke to the update. Mr. Petersen commented that they would touch on three topics: the street and public realm closures, the Bridge Street pop up, and the new health subcommittee. Mr. Stebbins commented that staff has been incredible working with restaurants and shops to make reopening the downtown happen. The goal is to do things as quickly as possible and be nimble as problems are encountered. Staff has been great about making changes. A number of restaurants have applied for permits and a vast majority have been approved. Most are already set up with barriers. Overall, the taskforce has been having 10-12 meetings a week covering the various issues going on and dealing with reopening Portsmouth.

Mr. Petersen commented that the Bridge Street project is an example of one where they needed to make adjustments. The plans will be going through the normal city permitting process. There is an organization that is in the process of establishing a nonprofit. They are going by the name of Pop-Up Portsmouth. The fundraising and sponsorship effort has gone well. The matching City funds will not go to the nonprofit. It will go to associated City services for implementing and operating the Bridge Street Lot. The goal is to open for July 23, 2020. The taskforce formed a new subcommittee identified as the health subcommittee. The agenda for Wednesday will include the consideration of recommendations around masks.

Councilor Kennedy questioned why a subcommittee created another subcommittee. Councilor Kennedy also questioned if they were helping more businesses than just restaurants. There has been feedback that only restaurants are being targeted for help.

Mr. Petersen responded that the taskforce has 3 subcommittees. One is working on the Bridge Street Project, one is focusing on the public realm, and one on is focusing on health. The taskforce is very interested in hearing from businesses who need help. They are interested in hearing from people. A member of the Chamber Collaborative and the City have means for reaching out and soliciting inquiries or concerns. Fliers have been passed out, and the Chamber Collaborative has reached out to businesses through emails. The taskforce is here to help people who want to help themselves. There hasn't been one inquiry to the taskforce that has been ignored. There are a number of restaurants and stores represented on the taskforce who haven't asked for help. They are just there to help others. The goal is to make a multi-faceted group at the Bridge Street Lot. There will be a different art group every night, restaurants will sell food, there will be a beer garden selling different beers. This gives another venue for restaurants who can't have street seating.

Councilor Kennedy questioned how people could get in touch with the task force and if the meetings were televised. It would be helpful to be able to read minutes from the meetings. These meetings should be as transparent as possible.

City Manager Conard commented that people can take full advantage of the City web site. The email is managed 24/7 and there is a hotline. The intent is to make sure meetings are consistently noticed and available on YouTube with posted minutes. The Bridge Street group has not been as consistently advertised as the others just because they meet during the day.



Councilor Huda noted that there were questions in the public comment session about why they weren't moving faster. The taskforce should think of a way to address this and show what is being accomplished. They could look at the progress according to the objectives that were given. Mr. Stebbins responded that those who are complaining that they are not doing enough are welcome to get involved to see what they are doing. There are well over 50 citizens working on this day and night. There is a lot of information out there. Things can only go so fast. For example, safety needed to be considered when setting up barriers in the street. Restaurants were hesitant to buy materials to set up in the street before this taskforce was formed. It has taken some time for them to get operating. Anyone is welcome to join the committee and help. The taskforce has gotten to the point where they could go back and look at their charge. That resulted in setting up the health subcommittee. Mr. Petersen commented that with their next report back they can include a more specific summary of what has been completed. Councilor Huda commented that having a more specific report back with percent complete for each objective would help people understand the progress better. City Manager Conard commented that they could make sure to include that information on the web site and public advisory. They will continue to find ways to get information out.

Assistant Mayor Splaine commented that the task force has been doing excellent work. Everyone is working together and moving fast. The health part is so important. Assistant Mayor Splaine questioned how Council could help the taskforce more. Council has provided \$100,000 and the taskforce has been responsible in utilizing that. The intent is to make sure they reopen safely and are the measures taken are sustainable to help keep things open through the winter. They will need to continue to address economic renewal. Mr. Petersen responded that they did not need anything immediately but would appreciate ongoing communication and support. COVID will be around a long time. How things will unfold in terms of economic impact on the community is yet to be seen. Mr. Stebbins added that the task force has decided to move fast, make mistakes, and correct as they go. Staff has been a major help in following that mantra. More money won't help now because the task force hasn't identified a need yet. Staff help has been the best thing for the task force.

Councilor Trace questioned how people could donate to the Bridge Street Lot nonprofit group. It would be helpful to see minutes and some Zoom meetings posted to help spread information. Councilor Trace questioned how the new nonprofit fit into the task force. Mr. Stebbins responded that the minutes and meetings for the nonprofit group have been lacking. Part of it is because they are moving so fast. There is a way to donate online. They have generated over \$90,000 in terms of fundraising for the group. City Manager Conard confirmed they would make sure a donation portal was added on the web site. Mr. Petersen noted that Russ Grazier was the chair of that committee. There are a few task force members and representatives from the nonprofit on that committee. The nonprofit has officers and a board of directors. It is forming as a separate entity. Mr. Grazier is not part of that nonprofit. He is merely facilitating that project and responsible for reporting back to the task force on when they need to act. City Manager Conard added that people can search for Pop Up Portsmouth on Go Fund Me to donate as well. When they achieve formal nonprofit status, they will take contributions.

Mayor Becksted thanked the taskforce for everything they are doing. Everyone needs to keep in mind that the CARES Act has to be used in a very specific way. City Manager Conard responded that they only use CARES Act money toward infrastructure to support the public realm. They would not give directly to the nonprofit. It is just being used for public realm improvement.

Councilor Whelan thanked the task force for trying to make things work downtown.

Councilor Kennedy commented that the takeaways from this discussion was that there was going to be more transparency among the subcommittee groups, anyone who wants to help can talk to the City, and any business that wants support should contact the City. City Manager Conard confirmed that the best way to coordinate efforts was to go through the City hotline.

### C. Presentation regarding Sagamore Avenue Sewer Extension Project

City Manager Conard commented that Deputy City Attorney Suzanne Woodland and City Engineer Terry Desmarais were present to speak about the Sagamore Avenue Sewer Extension Project. It is time to reengage the Council and public so design can progress. The presentation will outline the current status and what has to be decided to move forward on by August.

Deputy City Attorney Woodland commented that this was step one of a multi-step process. The origins of this project extend back to before 2005. A failed septic resulted in initial City planning. This led to engineering studies and incorporating the Sagamore Avenue sewer into the consent decree. In March 2016 Council approved a second modification to the consent decree. They missed the start date for construction of the project. However, they have not missed the completion deadline. The goal is to get back on track. In July 2019 Council authorized funding for the project based on the 2018 preliminary design.

City Engineer Desmarais presented a schematic that showed the current limits of the sewer project. The proposal is for a low-pressure sewer system with a small diameter pipe. There will be individual ejector station pumps at each property. That system was recommended by consultants because there is a lot of ledge in the area and the pipe does not need to be buried as deep. It was determined through previous studies that the low-pressure system was the lower cost of alternative. The project includes areas of Sagamore Avenue, Wentworth Road, Sagamore Grove, Shaw Road, Walker Bungalow Road, and Cliff Road. There is a potential for 91 different connections for this. There was a public meeting at the DPW in September 2019 to kick off the field work. It was a necessary step in the process to meet the consent decree. One item discussed was once this was constructed anyone with an existing functioning septic does not have to tie into the system. The overall concern was cost and who was paying for the work on the sewer and private properties. They did not have all the information on that at that time. Now there is an updated cost proposal that has identified half a dozen items that needed council decision. In February 2020 they gave a similar presentation to the one happening tonight. It was intended to be followed by a work session, but that was delayed due to COVID. The cost proposal presented shows who is responsible for what portion. The sewer main service will extend from the main to the road. Then it would go to the house and connect to an ejector pump. The pump, connection for the house and the sewer service to the edge of the private property would be paid for under the sewer enterprise fund. The cost of the pipe from the property to the pump would be the responsibility of the homeowner. This is proposed to be done under a single City contract. Funding of 4.4 million dollars was authorized in July. The adjusted cost proposal, escalation of construction, and adjusting for some minor limits increased the cost to over to 6.1 million dollars. They are working with the people in that area to see who is interested in tying in at the time of construction. This is still subject to the approval of the EPA because of the consent decree. There are still items that need to be considered including: the cost proposal and alternate configuration, what happens at the sale of a property if someone has an outstanding balance, late property connections, and if they elect to connect at the time of construction who will pay for abandoning the septic and leach field, who pays for the pump replacement and who pays for the maintenance of it. The next steps will include a work session to be scheduled in THE near future. The goal is for the Council to vote on some or all decision points by the end of August. The intent is to get engineering going in early September to be ready for the bidding timeframe in the winter. The goal is to begin construction in April 2021.

Councilor Trace questioned if there should be a Zoom meeting with the neighborhood to see where they stand at this point. Some people have not been happy with the approach as it stands today. They have time right now to be able to do that in the next couple weeks without causing problem with the timeline.

Deputy City Attorney Woodland commented that there were new items they would like to roll out including the discussion of the survey results and the alternative configuration of the project. It can be rolled out to the neighborhood first, but they may have questions for City Council. Council could be in attendance, so they all hear it at the same time. That would give them the opportunity to answer questions. They can follow up additionally after with the neighborhood if needed. They need a decision no later than August 31, 2021. The work session should be about an hour for presentation and questions.

Councilor Huda questioned if the new design was a result of something they learned since the last meetings. Deputy City Attorney Woodland responded that they were looking at the scope of the project and how many properties to include. There was no change in technology. The scope was reduced.

City Manager Conard commented that they were looking for an initial work session with public comment to be followed up with the neighborhood information.

Councilor Trace noted that at the very least each neighbor should be reached out to so they know when the meeting would be.

Councilor Tabor commented that it sounded like a two-part meeting. It makes sense to have an information session and notify everyone. The information on the costs and comparisons to other low-pressure systems in town can be presented along with what's been done in the past. Then there could be a work session with public input.

Deputy City Attorney Woodland noted that it depends on when Council wants to review the alternatives and survey results. If Council prefers to provide it to the neighborhood first, then that's fine. Deputy City Attorney Woodland was cognizant that the Council may want to have it rolled out to them at the same time.

Councilor Kennedy commented that they needed to review all changes publicly. Then go out into the neighborhood and meet with neighbors to get their input. Then it should come back for another group meeting. Deputy City Attorney Woodland responded that they would be happy to have as many meetings as needed and were happy to meet with the neighborhood

**Councilor Kennedy moved to schedule a Work Session to review the Sagamore Avenue Area before the end of July and discuss the new developments, seconded by Councilor Trace.**

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

**X. PUBLIC DIALOGUE SUMMARY [when applicable] - POSTPONED**

**XI. PUBLIC HEARINGS AND VOTES ON ORDINANCES AND/OR RESOLUTIONS**

City Manager Conard requested that the Council move to the presentation and citizen response part of the agenda at this time.

**Assistant Mayor Splaine moved to suspend the rules in order to take up Items XVII. A. Presentation by Health Officer Kim McNamara regarding COVID-19 Update, B. Update on the Portsmouth Citizens Response Task Force and C. Presentation regarding Sagamore Avenue Sewer Extension Project, seconded by Councilor Lazenby.**

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

- A. First reading of Ordinance amending Chapter 7, Article I, Section 7.102 – Parking Meter Zones; Chapter 7, Article, Section 7.105 – Parking; Chapter 7, Article III, Section 7.324 – Limited Parking – One Hour; Section 7.325 – Limited Parking – Thirty Minutes; Section 7.326 – Limited Parking – Fifteen Minutes, Section 7.327 – Limited Parking – Two Hours, Section 7.328 – Limited Parking – Three Hours, Section 7.328-1 – Utilization of Multiple Parking Spaces; and Section 7.329 – Limited Parking – Four Hours

City Manager Conard commented that Parking Director Ben Fletcher, Assistant City Attorney Jane Ferrini, and Parking and Transportation Engineer Eric Eby were present to answer questions. The stay and pay parking program was proposed to the Parking, Traffic and Safety Committee, and was approved at the June 2020 meeting. They did not review and approve the amendments. It was sent back to the Parking, Traffic and Safety Committee for further review and comments. The Committee reviewed the attached draft amendments and voted to approve that at their July 2020 Meeting.

Councilor Kennedy questioned why this was listed as a first reading tonight because the Council did not move to approve this for a first reading. Assistant City Attorney Ferrini commented that it was her recollection that the first reading was approved by approval of consent on the June 15, 2020 City Council agenda. Councilor Kennedy responded that it was pulled off and not moved forward to first reading.

City Attorney Sullivan commented that if the majority of the Councilors felt comfortable with what's happening, then they could move forward with the first reading. If they are not comfortable, then it could be postponed to the next meeting. The process used to be that they could ask for an ordinance draft and a first read went on the agenda. This resulted in a tremendous amount of staff work on an ordinance that went nowhere. The Council adopted the current protocol to avoid unnecessary work. It is not a Council rule or in the ordinance to vote something to first reading. The Council is not bound by this protocol in a lawful sense. If the Council wanted to pass the first reading of this now, then they could. City Manager Conard noted that the request to schedule the Omnibus was removed from consent at the June meeting, but the stay and pay rates were unanimously approved to move forward. This does have standing in first reading tonight.

Parking Director Fletcher commented that the stay and pay parking concept was a benefit to residents and visitors. It is a supply and demand model. It is designed to address and modify market behaviors. It motivates people to park once and creates a safe walking environment. Areas over 85% occupancy should coincide with appropriate rates. The City has seen triple digit peak demand in on street parking and parking lot inventory even post Covid. Stay and pay puts the decision-making power with the consumer. The feedback they have received about the current structure have two main complaints. One is that people are unable to find a parking space downtown. The second is people come here to relax and are punished for not leaving fast enough. This program addresses both of those issues. It incentivizes remote parking and promotes walking or alternate transportation modes. Right now, the City fines parked cars that stay over the 3-hour time limit. The stay and pay program delivers an economic incentive to encourage turnover at the 3 hour mark by increasing the price. The price structure allows for inexpensive short-term parking and motivates long-term parking. It does not increase rates for the first 3 hours. It gives the user the choice to pay more if they want to

stay longer. Dover has had a stay and pay system since October 2019 with a daily maximum of \$27. In the first 3 months street parking reduced by 30%. People were moving to the garage and other long-term options. Public feedback showed they are liking the option to stay. There was also a 30% increase in on street parking revenue. The proposed rates for A Zone would be the same \$2 per hour they are now for the first 3 hours. Then the user would have the option to pay an elevated rate for a longer stay. B Zone would be the same \$1.5 for the first 3 hours and then the price elevates at the 4th hour and beyond. Residents will continue to pay discounted rates in the new structure. The price would increase at the 4<sup>th</sup> hour, but it would be a reduced cost compared to tourists. The ordinance changes also have a number of housekeeping changes that updated old language and cleaned up some other items that were not related to the stay and pay program.

Councilor Whelan commented that the cleanup included removing hourly parking that was eliminated on streets like Hancock Street. The Council had a lot of feedback from some residents to clean up the ordinance and the Parking, Traffic and Safety Committee went through it street by street and did that.

Councilor McEachern questioned if they codified the veteran parking as part of the cleanup. Parking Director Fletcher responded that section doesn't exist right now. Assistant City Attorney Ferrini is working on cleaning up the section for ADA and veterans. That will be presented together. Right now, the policy allows for veterans and certified ADA users to stay for 3 hours. It is a good policy that will be made official in the future.

**Councilor Lazenby moved to pass first reading and schedule a public hearing and second reading of the necessary revisions to Chapter 7, to implement the "Stay and Pay" parking rate, at the August 3, 2020 City Council meeting., seconded by Councilor Tabor.**

**On a roll call 8-1, motion passed. Assistant Mayor Splaine, Councilors McEachern, Whelan, Lazenby, Huda, Tabor, Trace and Mayor Becksted voted in favor. Councilor Kennedy voted opposed**

- B. Third and final reading of Ordinance amending Chapter 7, Article I, Section 7.105 C. – Parking – Motorcycle Parking

City Manager Conard noted that this came before the Fee Committee on June 17, 2020 and was approved as presented.

**Councilor Lazenby moved to adopt the third and final reading of this amendment to Chapter 7, Article I, Section 7.105 C, the Designated Motorcycle Parking Area Ordinance, seconded by Councilor McEachern.**

**On a roll call 7-2, motion passed. Councilors McEachern, Whelan, Lazenby, Huda, Tabor, Trace and Mayor Becksted voted in favor. Assistant Mayor Splaine and Councilor Kennedy voted opposed.**

## **XII. MAYOR BECKSTED**

1. Appointment to be Considered:
  - Reappointment of Erica Wygonik to the Parking & Traffic Safety Committee as an Alternate

The City Council considered Erica Wygonik appointment which will be acted upon at the next City Council meeting.

2. **\*Islington Street Corridor Project (*Delayed from the June 15, 2020 City Council meeting*)**

Mayor Becksted requested that Assistant Mayor Splaine run the discussion and motions for this section of the agenda.

Mayor Becksted commented that there were a couple motions to consider. There are two portions of the proposed Islington Street Corridor Project that should be reverted. On the campaign trail people had concerns about islands making roads difficult to traverse. The Woodbury Avenue Island outside New Franklin School creates a dangerous intersection. It is similar to what is proposed for Plaza 800. It would lead to accidents. One motion should be to eliminate the proposed island. There are other ways to slow down traffic. The island is more of a hazard for DPW in the winter and for vehicles turning in and out.

**Mayor Becksted moved to eliminate the proposed island in front of Plaza 800 on Islington Street, seconded by Councilor Huda.**

Councilor Lazenby requested that the City Staff comment on the safety issues regarding this motion. Parking and Transportation Engineer Eby responded that they looked at this several times. There is a video of the truck turning movements, which show there is plenty of room. The raised median island provides refuge for pedestrians. The road is 36 feet in width curb to curb. That is a significant distance for pedestrians to cross. The median would allow them to cross 12 feet at a time. They will not have to wait for a 3-lane gap. They can cross one lane at a time. There is only about 20-25 cars turning into Gallagher's during the peak hour. The island is back from the intersection. There is still a distance of 50 feet from the end of the island to the driveway. One or two vehicles can still sit and wait to turn while other cars can get around them. This island is different from the Woodbury Avenue Island. Councilor Lazenby questioned if the public and businesses had the opportunity to review the proposed changes and provide input. Parking and Transportation Engineer Eby responded that there were public meetings on this during the design process. The public was presented with the preliminary plans and involved every step of the way.

Councilor McEachern commented that they should not overturn the amount of work that has gone into this. The public and businesses have spoken in support of the proposal. This has been vetted by the expert City Staff. To overturn this change there would need to be equally opposing evidence from Mayor Becksted to make that case. This is much different than Woodbury Avenue. They are different parts of town.

Mayor Becksted commented that Woodbury Avenue was a very dangerous intersection, and this proposal is almost as dangerous. Several business owners in that area are not for this change. The Gallagher Plaza is a busy place. Some residents are not for this. The residents have the knowledge and expertise because they live it every day. People complain about the Maplewood Avenue islands every day. Lowering the speed limit on Islington Avenue would be a deterrent. This change will come back to haunt the Council. They should save some money and not put in the island.

Councilor McEachern commented that there is a lot of housing in the area. That part of town is growing for residential and commercial space. There has not been a valid argument to overturn something that has been worked on for over a decade. We all live it every day. The Council should listen to the residents and the work that was put into this over a decade.

Councilor Tabor commented that one of the aspects that came out of the West End rezoning effort was that people wanted the character of the West End to be lower in scale than the downtown. There

was strong input in study circles to make it all walkable. It is clear that the density would increase, and the intent is to keep the eclectic characteristic and make the area walkable. This is one of the few neighborhoods where residents can live, work and play. Pedestrian access is important and was a high value item in the zoning discussions. Residents want to be able to cross the street. The island adds to safety without delaying people.

Councilor Lazenby noted that he would not support the motion. This is not just about listening to staff. This is a result of years of involvement from residents and business. There has been a lot of support for it. Councils change every 2 years. This Council is coming in at the end of this process. It is not our role to overturn work.

Councilor Kennedy commented that this has been going on a lot longer than a couple years. Councilor Kennedy was concerned about the bump outs creating difficulty for bigger vehicles. During the election people were not in agreement about this change. They may not be speaking tonight because they thought they already spoke.

Assistant Mayor Splaine commented that traffic calming makes sense in this case. It is not easy to cross that street during busy times. People didn't like the idea of the traffic islands near Oriental Gardens because they couldn't turn how they wanted to. A lot of residents in the neighborhood cross the street as pedestrians. If they didn't have traffic islands to take a break, then they would have to run. It would be unsafe. Traffic calming is for everyone. There is value in the island for the residents. Assistant Mayor Splaine was not in favor of the motion. This will hopefully result in more people walking and less cars.

**On a roll call 3-6, motion failed to pass. Councilors Kennedy, Huda and Mayor Becksted voted in favor. Assistant Mayor Splaine, Councilors McEachern, Whelan, Lazenby, Tabor and Trace voted opposed.**

Mayor Becksted was concerned about the bump outs at White Heron. There should not be any tables or chairs on the bump out. The bump out deterrent will create congestion on another dangerous intersection. There was concern from police and fire, but they were willing to adapt.

**Mayor Becksted moved to eliminate the bump out in front of White Heron, Councilor Kennedy.**

Councilor Lazenby commented that he would not support the motion because of similar reasoning as the last motion. This process has been through review and had a good long trial run. Councilor Lazenby requested feedback from the DPW on the findings with the trial run in terms of traffic calming.

Parking and Transportation Engineer Eby responded they recorded the time it took for vehicles to get from White Heron to Cate St. During peak hours the bump out added an average of one second delay during peak hours. Most of the time the queues did not reach back to the bump out. Most of the right turn lane still exists. It is not a substantial change in traffic. Drivers actually did yield to pedestrians. The crosswalk was not just used by White Heron patrons, but also residents. Councilor Lazenby questioned how this would impact fire and police. Parking and Transportation Engineer Eby responded that there were no objections. The fire chief and police captain are on the Parking, Traffic and Safety Committee and they voted to install the bump out on a permanent basis. Councilor Lazenby commented that right now if tables can help those businesses, then it would be good to find a way to support that.

Councilor Whelan questioned if tables and chairs would be safe in that location without barriers. Parking and Transportation Engineer Eby responded that the original plan did call out for benches in that area. There is a taper directing traffic away from it as they are coming down Islington Street. It was the intent to have people sitting out there like a little park.

Councilor McEachern commented that he would not support the motion. This change will make the area a lot safer and allow for safer crossing.

Councilor Tabor commented that this was the most studied crosswalk in the history of Portsmouth. There were skeptics on the Parking, Traffic and Safety Committee, but through debate and dialogue they came to support it. This is essential for pedestrian flow. Councilor Tabor commented that he would not support the motion.

Assistant Mayor Splaine commented that this bump out was good for traffic calming. It would be good to give opportunity for more businesses to have outdoor seating and tables. Assistant Mayor Splaine commented that he would vote against this motion. Not everyone is happy with these changes, but Portsmouth can't be a vehicle centric community. The City needs to account for pedestrians and bikes as well.

**On a roll call 3-6, motion *failed* to pass. Councilors Kennedy, Huda and Mayor Becksted voted in favor. Assistant Mayor Splaine, Councilors McEachern, Whelan, Lazenby, Tabor and Trace voted opposed.**

### **XIII. CITY COUNCIL MEMBERS**

#### **A. ASSISTANT MAYOR SPLAINE & COUNCILOR McEACHERN**

1. Resolution for Mandatory Mask/Face Coverings (***Sample motion – move to adopt the Resolution requiring the wearing of facial coverings in the City of Portsmouth***)

Assistant Mayor Splaine commented that this was not perfect, but it was an important resolution. There needs to be solidarity in the City when encouraging people to wear face coverings. The intent is to maintain low numbers which are in danger of increasing. The large rally could be a concern. They could get ahead of it by passing this resolution. The resolution supports the concept of requiring face coverings, which will help businesses feel that the City is backing them up. Customers and visitors are required to wear face coverings. It is clear from discussions earlier that Council can follow this up with an ordinance, but that will take a little while.

In our fight against the COVID 19 threat this resolution is offered to protect the health and lives of residents, visitors, and employees in the community and the well-being of businesses. Infectious diseases are caused by germs, some have the ability to spread through respiratory droplets. It is possible to transmit this disease without symptoms. The best means to slow the spread is to minimize close personal contact between individuals. This includes social distancing and face coverings. Requiring faces coverings will protect businesses and visitors when interacting with other people. Uniformity is required for employees and customers. It will promote restoration and recovery of the economy. This response is based on intelligent and informed science-based action. A face covering of soft material must be worn when people are within 6 feet or less of each other. The face covering could be factory or homemade. It must cover the nose and mouth. This does not pertain to children 6 years or younger, or people with a medical or other condition. No face covering is required if people are more than 6 feet apart. There is no financial fine or penalty for enforcement. Also, it is requested that a mandate implementation was supported by the Health Officer. Additionally, it is



requested that the Governor recognize the threat and mandate that face coverings are required as stated in the resolution.

Assistant Mayor Splaine commented that he would support sending the letter by Councilor Lazenby to the Governor as well. The enforcement is a separate motion and is already on the City Council agenda. It can be a creative way to bring about positive reinforcement. Most places with mandates don't have penalties.

**Assistant Mayor Splaine moved to adopt the Resolution requiring the wearing of facial coverings in the City of Portsmouth, seconded by Councilor McEachern.**

Councilor McEachern commented that they could do this if they wanted to. Portsmouth does not have to look to the State. The City Attorney and Nashua, NH have shown this. Council does not have to wait for cases to spike. It is important to be a City that requires masks. It will help businesses and the community. People are making sacrifices during this time. All sacrifices pale to those that have lost their life. We need to sacrifice more to keep Portsmouth safe. Council should think about that and pass this resolution.

Councilor Trace commented that she was in favor of the resolution. Tonight, the Council had a whole conversation with the City Health Officer and asked if she would feel comfortable mandating masks. She was not for a mandate, but she was for wearing masks. That paragraph may need to be modified. Council could request the City Health Officer support a mandate in the future when she feels it is right. Assistant Mayor Splaine responded that he would be willing to take that paragraph out. Councilor McEachern agreed.

Councilor Kennedy commented that she was concerned about individuals with special needs who can't wear masks. The word visor should be included in the resolution. More should be included, so people are not ostracized. It is important to make sure everyone is treated with dignity. Councilor Kennedy commented that she was willing to support the motion, but some language was missing. Assistant Mayor Splaine confirmed that they can add visor or face shield into the resolution. Councilor McEachern agreed.

Councilor Whelan commented that he would support motion.

Councilor Lazenby commented that he would support the motion and support the group putting in time and effort to have special meetings to address this with more strength. Councilor Lazenby questioned if an end time needed to be included in the resolution. City Attorney Sullivan responded that the resolution does not carry over Council to Council. The most common legislative date has been when Governor Sununu's emergency orders related to COVID 19 terminate. At some point the Governor will withdraw the emergency orders.

Councilor Lazenby suggested adding something about this order being effective immediately and in effect until rescinded by Council. Assistant Mayor Splaine and Councilor McEachern agreed to the addition.

**Assistant Mayor Splaine moved to remove the paragraph requiring the Health Officer mandate the implementation of the requirement for Face Coverings, adding to the paragraph describing face coverings to include visors or face shields, adding to the Resolution that this order will be effective immediately and will continue in effect until it is rescinded by the City Council and to adopt the Resolution requiring the wearing of facial coverings in the City of Portsmouth, seconded by Councilor McEachern.**

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

**B. ASSISTANT MAYOR SPLAINE**

1. “Positive Re-Enforcement” for Wearing of Masks/Face Coverings

Assistant Mayor Splaine commented that the next motion was to think about how they could encourage mask wearing through motivation or incentives.

Assistant Mayor Splaine commented that the purpose was to be creative to incentives wearing face coverings. There could be a way to incentivize people to do the right thing and may turn around some reluctance from residents and visitors.

Councilor Huda commented that she supported this but questioned if this would be committing the police or Health Care Officers to enforcement. Councilor Huda questioned how they would address people who refused. Assistant Mayor Splaine responded that he did not know. That was part of the challenge. The City Manager can use creativity when talking with the community to find ways to not punish but reward. The proposal is not for anything specifically. City Staff can get creative with it. Councilor Huda questioned what would happen if this passed tonight and moved forward to an ordinance. City Attorney Sullivan noted that an ordinance would supersede a resolution. The resolution would still be in effect. The resolution would encourage, and the ordinance would enforce. The ordinance would still take priority.

Councilor Kennedy commented that this request may be overloading the staff. This should go to the subcommittee to work on. It is more appropriate to ask the City and get more people involved to come up with ideas. The committee can look at the whole issue and how it would look down road with positive reinforcement. Assistant Mayor Splaine agreed with that approach.

City Manager Conard commented that the Citizen Response Task Force would be the best place to send this request.

Councilor Kennedy requested that the motion be amended to send this to the task force and not the City Manager. Assistant Mayor Splaine agreed. Councilor McEachern also agreed.

Mayor Becksted commented that they should listen to the Task Force before moving forward with an ordinance.

**Assistant Mayor Splaine moved the Portsmouth City Council endorses the concept of ‘positive re-enforcement’ for the wearing of face coverings through a variety of incentives that may be suggested, advocated for, and implemented by City of Portsmouth staff, the Portsmouth Police Department, the Portsmouth Citizen Response Task Force, and the businesses of our community, seconded by Councilor Lazenby.**

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

**Councilor Huda moved to suspend the rules and continue the meeting beyond 10:30 p.m. (motion made at 11:50 p.m.), seconded by Councilor Kennedy.**

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

Assistant Mayor Splaine requested that the City Attorney prepare a summary about the proper process if they were to consider introducing an ordinance. City Attorney Sullivan agreed.

## 2. City Manager Evaluation

Assistant Mayor Splaine commented that he was appointed chair and met with the City Manager. It was a positive discussion about City Manager Conard's first 6 months in that position. They discussed important challenges in the coming year to recover from budget and financial differences. They feel Portsmouth has competent leadership working with Council. There will be a follow up during the next several months with a think tank to discuss continuing response and how to move forward to make the City more livable and affordable for residents. They are also working to continue to improve the relationship with government employees and citizens. Assistant Mayor Splaine was impressed by City Manager Conard and pleased she will continue to serve Portsmouth.

Councilor Lazenby was also on the committee and part of the Council that hired City Manager Conard. So far it has been a great decision, and he looked forward to more work. Councilor Lazenby thanked the City Manager for her dedication.

City Manager Conard appreciated the sentiments.

## 3. Insurance Liability Requirements for Portsmouth Businesses

Assistant Mayor Splaine commented that there was a more specific motion on the agenda by Councilor Tabor, so the Assistant Mayor would yield to him on that issue.

### **C. COUNCILOR WHELAN**

#### 1. Parking, Traffic & Safety Report

Councilor Whelan commented that everyone got the report in their packet.

**Assistant Mayor Splaine moved to accept the action sheet and report, seconded by Councilor Lazenby.**

Councilor Kennedy questioned if the City Attorney had concerns about accepting the minutes and dealing with the bike lane situation. Councilor Kennedy questioned what would happen if there is something in these meeting minutes that they later find is a safety issue or a staff member or citizen gave misinformation and the Parking, Traffic and Safety Committee voted on the topic without that information. City Attorney Sullivan responded that both in general law and a specific provision in the Parking, Traffic and Safety Committee says that the acceptance of the minutes by Council endorses the recommendations of the Committee. If a circumstance comes along where there is bad information or a change in circumstances, then Council could amend or rescind a previous action with a motion requiring 2/3 vote. Councilor Kennedy questioned if it would need a 2/3 vote to bring it back even if it was a safety issue or had misinformation. City Attorney Sullivan confirmed that was correct. It is a legislative decision and those move in one direction. Something special would be required to bring it back.

**On a roll call 4-5, motion failed to pass. Assistant Mayor Splaine, Councilors McEachern, Lazenby and Tabor voted in favor. Councilors Whelan, Kennedy, Huda, Trace and Mayor Becksted voted opposed.**

Councilor Lazenby questioned what minutes Councilor Whelan referenced in the packet. City Clerk Barnaby clarified that the action sheet was included in the packet not the minutes. City Manager Conard added that they were draft minutes because the Parking, Traffic and Safety Committee had not approved them yet. Mayor Becksted questioned why this was brought forward if there was just an action sheet and no minutes. Councilor Whelan responded that the approval would be based on the action items not the minutes.

Councilor Trace requested a report back on the June 4, 2020 Parking, Traffic & Safety meeting minutes that contained the vote regarding the Middle Street Bike Lanes with verification whether the minutes were approved by the Parking, Traffic & Safety Committee before they came to the City Council meeting for action.

#### **D. COUNCILOR LAZENBY**

1. Letter to Governor Sununu regarding New Hampshire Face Covering Mandate

**Councilor Lazenby moved to send the letter to Governor Sununu as drafted, seconded by Councilor McEachern.**

Councilor Lazenby commented that it would be helpful and responsible to speak up to the Governor. This is an important issue to clarify for residents and visitors. Many people in the community are concerned about the lack of clarity. It doesn't have to be that all counties are treated the same. The Governor could give guidance and support local initiatives.

Mayor Becksted commented that he is in communication with Mayors all across the State. Everyone works together and no one has questioned any of these concerns. Mayor Becksted commented that he had never heard someone question the Governor on this. The Health Officer has said with the data they have right now Portsmouth is in a good place. The Governor and community have done a good job. The language should change to say if and when a mandate happens Portsmouth will support it.

Councilor Lazenby commented that the letter gives the Governor credit for being in front of a number of safety precautions and identifying challenges. There is a lot of data that says masks help to lessen the spread. Guidance in place gives clarity to the community about what to do consistently and safely.

Councilor Kennedy commented that they found out from Nashua that the Council can go ahead and do it. The Council should not dictate to the Governor. If Portsmouth needs this as a community, then Council should do it. The Council should not tell the Governor how to do his job.

Councilor McEachern noted that one reason they need to do this is because Pease is on State land. If they want to control that, then they need the Governor to step up and require masks there. Councilor McEachern received an email from a neighbor whose son just got out of heart surgery. They were so thankful weather canceled the rally, so they didn't have to leave town for the weekend. It is not a tough lift for the Governor to enforce this. This request keeps people in the community safe. The least Council can do is send a letter to ask the Governor to do what only he has the power to do.

Councilor Tabor supported the letter. Actions of communities in succession lead to things changing. Nashua moved ahead of where the Governor was and took the legal heat to do that. Because of that they have learned it is possible to create an ordinance on our own. The policy decision rests with Council for a mask ordinance. Portsmouth is a border and tourist town. It is much different from the rest of the State. Councilor Tabor commented that he would support the motion because as a town they need to avoid the risk of a surge. A lot of towns will move in this direction. One mayor said if you think you're overreacting, then you're probably doing the right thing. Councilor Tabor supported sending the letter and creating an ordinance.

Assistant Mayor Splaine agreed and noted this was consistent with the resolution's request for the Governor to mandate face coverings. It is a well written letter and is not meant to insult the Governor. It is communicating this Council's viewpoint. This is an attempt to protect the economy and residents. They should be preventative in anyway possible. This motion should pass unanimously like the resolution did.

Councilor Huda commented that finding out from Nashua that they are able to have control over this is eye opening. The Council has the ability to make an ordinance. The language in the letter is a little strong. Councilor Huda did not support going further with this. This is in the Council's hands now to take the lead.

Councilor Trace commented that Pease was Federal land that is used and controlled by the State in agreement with the Department of Defense. Councilor Trace noted that she would support the letter with reservation. The letter should be asking for this at the appropriate point in time. The Council has the ability and power to do more than a resolution. The Council should move ahead with that rather than sending a letter. Council can do what's right for residents just as quickly locally.

Councilor McEachern questioned if the Pease was controlled by the State or Federal Government. City Attorney Sullivan responded that the Pease Development Authority has control and is subject to significant federal regulations in the form of the Federal Aviation Association. The Federal Government provided the base to the State to enhance the air traffic of the United States. Councilor McEachern questioned if the Governor had control on the health and safety regulations of those buildings. City Attorney Sullivan responded that it is a State agency, and the Governor was in charge of the State. It was his opinion that the Governor has the authority to take action. Councilor McEachern commented that he agreed with Councilor Trace that it was unlikely the Governor does what is asked in the letter. However, Council has heard from a lot of people in Portsmouth. They owe it to the residents to send this letter and show that the Council listened to them. Councilor McEachern supported the letter because it represented the will of Portsmouth and is expressing the resident's concerns.

Councilor Lazenby agreed with Councilor McEachern. Also, the Health Officer made an important point about other towns treating this issue just as carefully. The Governor has the unique position to impact all surrounding communities. It is not pointless to speak up to another leader in our State.

Councilor Kennedy questioned why the letter was not being sent to surrounding communities asking them to require face masks.

Mayor Becksted agreed that it should not just be one letter to the Governor. Council just passed a resolution and learned they can create an ordinance. They should put the surrounding communities to the same task.

Councilor Lazenby agreed that it was a good idea to contact surrounding communities and noted that he would help draft that communication.

Councilor McEachern commented that it would be easier to get support from other towns if they sent the letter and asked other towns to sign it. It would be good for Portsmouth to lead on this issue and help grow support in the community and then the State. Councilor McEachern was in favor of sending the letter.

**Assistant Mayor Splaine to send the letter to Governor Sununu as drafted, to the tri-city communities, and along the Massachusetts border asking that they prepare a similar letter in support of a face covering mandate, seconded by Councilor Lazenby.**

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

**E. COUNCILOR HUDA & COUNCILOR TABOR**

1. Informational Fee Committee Minutes (No Action Required)

Councilor Tabor asked if anyone had questions on the draft minutes.

Councilor Huda provided some clarifications. The report Council was given was actually a memo handed down from the Planning Director to the City Manager. The summary received did not include any amounts on the studies that need to be done. The amounts for the studies were between \$30-50K to find if impact fees were suitable.

**F. COUNCILOR HUDA**

1. Request a Report regarding Services and/or Projects completed by former City Manager John Bohenko

**Councilor Huda moved to request the City Manager to provide a report to the residents and City Council on the services and/or projects completed by the former City Manager John Bohenko over the 6-month period ending June 30<sup>th</sup> per the agreed upon consultant contract, seconded by Councilor Kennedy.**

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

**G. COUNCILOR TABOR**

1. McIntyre Survey

Councilor Tabor commented that they all received the draft survey. Since the survey was going out by mail it would be wise to have full Council support.

Councilor Whelan agreed. This is a big step in the timeline. The development partner agreed to consider new concepts, but they want it to be the result of broad public input. This can open the process to the whole community and will enable it to be more transparent. The survey and op-ed piece were results of a detailed and lengthy negotiation. The survey may not be perfect but getting some input is better than none. The intent is to get the public engaged and keep moving forward.

**Councilor Tabor moved that the City Council approve the survey and op ed as finalized by the McIntyre subcommittee and distribute the survey to every home as soon as possible, seconded by Councilor Kennedy.**

Councilor Kennedy commented that there were some negative comments from the public tonight, but the subcommittee is doing a good job. Councilor Kennedy questioned if the survey would be mailed to homes and have an electronic option. Councilor Tabor confirmed that was correct. Councilor Kennedy noted that since the developer and City agreed to move forward with the survey, then citizens should look at this as way to give their opinion. City Manager Conard clarified that the survey will only be mailed. It will not be available electronically.

Councilor Whelan commented that every word from the op-ed and survey were very carefully negotiated with the developer. They signed off. The aim is to get back on track once the survey results come in.

Councilor Huda commented that this was a good first step forward. Councilor Huda had some reservations with question 3 on the survey. This is in the historic center of the city and the contemporary architecture option is questionable. There should be a historic option. Mayor Becksted clarified that the traditional option meant historic. The brickyard building is being built in a more eclectic contemporary design, but still compliments the area.

Councilor McEachern commented that they should keep it because they need to get the survey out the door. This is a team effort between the developers and the subcommittee. If a citizen likes the design that is currently stated, then that option is available. The National Park Service required changes to the project. It is not a perfect survey but it is a good way to get input.

Councilor Trace commented that some development coming into the City can involve modern architecture and still be reasonably compatible. Good architecture works with the surrounding architecture. Portsmouth needs to keep open mind. They need to wait and see what the residents' opinions are and what's submitted for architecture. Traditional is a euphemism for what would work in the boundaries of the Historic District. A modern building would potentially work equally as well to offset and accentuate the historic surroundings.

Councilor Lazenby commented that seeking input was a good important milestone for the project. Some of the questions are challenging. The architecture question will be difficult for people to clearly choose one or the other. The missing context will impact the value of responses. Question 2 is also problematic. It is hard to commit to anything financial without any range of information. It will be hard for residents to answer that meaningfully. The timeline to the process is so critical. The public has a lot of involved and interested people. They could have helped with this stage. It would have resulted in sending out a stronger survey with better questions. There would have been a feeling of legitimacy from the public because they were involved. Councilor Lazenby noted that he would not support the motion.

**On a roll call 8-1 vote, motion passed. Assistant Mayor Splaine, Councilors McEachern, Whelan, Kennedy, Huda, Tabor, Trace and Mayor Becksted voted in favor. Councilor Lazenby voted opposed.**

Councilor Tabor clarified some statements made in the public comment were misstatements of fact. Nowhere has it been discussed to cut the project by 45%. The numbers derived from that are exaggerations. Mayor Becksted added that the litigation costs were also exaggerated.

## 2. Outdoor Dining Insurance Relief

Councilor Tabor commented that this has come up in task force discussions. There has been a lot of work done to get restaurants allowed to have street dining. The insurance requirements set to protect the City is costing restaurants between \$3-7,000. It is essentially requiring them to get new insurance on top of what they have. The amount of insurance paid is based on the volume of liquor sales. For some restaurants it's not as big of a deal to add outdoor dining, but it is harder to add for smaller restaurants. That is their biggest single expense for outdoor dining. Some restaurants have been delayed because they are trying to get insurance and lower costs. Unfortunately, Council doesn't meet again until August 3, 2020 and there is a land rush for street dining now. Councilor Tabor proposed that staff review the insurance requirement and report back.

**Councilor Tabor moved that staff review city insurance requirements for outdoor dining, currently set at \$3m for each occurrence, general liability and \$3m each occurrence liquor liability (but allowing \$1m liability and \$2m umbrella policy) to see whether they are an excessive burden on restaurants trying to stay open in the pandemic. Also, give the City Manager authority to act on the findings to expedite after reporting back to the Council, seconded by Assistant Mayor Splaine.**

Councilor Kennedy commented that restaurants can still apply for money to get support. There are still ways restaurants and businesses can get money.

Councilor McEachern commented that because they will not meet again until August the motion gives the City Manager the power to act on this.

Councilor Huda questioned what authority the City Manager would have to do post research. Councilor Tabor responded that the intent was to avoid the situation like the one the restaurants are in now where they can't handle the expense. They have street dining but no liquor. As a result, patrons are choosing to other restaurants that have both. The intent is to craft something for smaller volume restaurants that is less burdensome.

Mayor Becksted commented that he would support the motion. The City can help provide insurance relief and lower standards, but some of it may be determined by the insurance companies themselves. The City may not be in control of this.

City Manager Conard confirmed that she would report back.

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

### **H. COUNCILOR TRACE**

1. Request a Report Back from Sewer and Water on large rain events & combined sewer overflows

**Councilor Trace moved to request a report back from Sewer and Water on the large rain events that took place on June 30<sup>th</sup> as that relates to the new Sewer Plant and the combined sewer overflows of 10a and 10b along with the overflow and flooding of 13 – Deer Street. Further, how the repair or not of the main sewer pipe under Peirce Island bridge may have played a part. Also, as to the report to the EPA and DES regarding the rain/overflow event, seconded by Councilor Huda.**



Councilor Trace noted that the City has two pipes under the Pierce Island Bridge. One started to leak earlier this year. Now they are using the smaller of two pipes. Staff should report back as to when this will be repaired and the amount of outflow that was released into the South Mill Pond and Piscataqua River. The report back should include a copy of any EPA reports.

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

1. Prepare Face Covering Ordinance (Not on agenda)

Assistant Mayor Splaine requested that the City Attorney look what it would take to create an ordinance. City Attorney Sullivan confirmed he could report back.

**Assistant Mayor Splaine moved to have the City Attorney prepare a report back outlining the process for drafting an ordinance and holding a special meeting to discuss face coverings, seconded by Councilor Lazenby.**

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

2. Recess meeting until Wednesday, July 15<sup>th</sup> at 6:30 p.m.

**At 1:20 a.m., Councilor Lazenby moved to recess the meeting until Wednesday, July 15, 2020 at 6:30 p.m., seconded by Councilor McEachern.**

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

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

**XX. ADJOURNMENT [at 10:00 p.m. or earlier]**

**Becky Frey  
Acting Recording Secretary for City Council**