

## CITY COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: MONDAY, SEPTEMBER 14, 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\\_9OyU61tIQ9edsRbisOJXPw](https://zoom.us/webinar/register/WN_9OyU61tIQ9edsRbisOJXPw)

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 2020-10, 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. **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 [7:00 p.m. or thereafter]**
- IV. **ROLL CALL**
- V. **INVOCATION**

Mayor Becksted asked for everyone to join in a moment of silent prayer in memory of Bruce Leary and Rus Wilson who recently passed away.

### VI. **PLEDGE OF ALLEGIANCE**

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

### VII. **ACCEPTANCE OF MINUTES**

*(There are no minutes on for acceptance this evening)*

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

Matthew Glenn spoke regarding Middle Street Bike Lanes and felt the City's report was very informative. He addressed the parking spaces along the bike lanes and said he does not mind the cars parking away from the curb. He stated he would be happy with any of the 3 suggested alternates from staff.

Annie Poubeau spoke regarding the Middle Street Bike Lanes and said decisions need to be made on facts and not emotions. She said Middle Street is not perfect, but could be improved to serve the area for those that rely on this mode of transportation. She also said she supports Councilor Tabor's motion to create a task force.

Brian Wazlaw spoke about the successful elections that were held for the State Primary Election. He addressed the set up used and how safety of residents was the main concern. He said Election Moderators need assistance from the Council to require that masks be worn in all public buildings. He spoke to the separate area for non-mask wearers to vote, which is a requirement.

Robin Rousseau spoke regarding the Middle Street Bike Lanes and said it is a scary road and referred to it as “death row.” She said there is no study that shows wearing masks prevent the spread of COVID.

Wendy Boutsianis said there are many reasons for a Mask Ordinance. She said it is wise and is a temporary measure.

Nicholas Kirsch spoke in support of the current bike lanes and the need to protect bicyclist and pedestrians. He also addressed wearing masks and said it is necessary to stop the spread of the virus.

Andrew Bagley spoke in support of the Mask Ordinance and wearing masks makes it safer. He spoke in support of the bike lanes and said they’re safer.

Bernie Pelech spoke on the request to unmerge lots at 1240 Islington Street. He said that this matter has been referred to the Assessor to provide a report back but the City wants the request to be reviewed by the Planning Department. He stated the law is clear and the burden is on the City to prove the lots were formerly merged. He said there is no evidence of a voluntary merger. He requested the City Council unmerge the lots.

Judy Miller urged the City Council to pass a mask mandate. She said we are a City that attracts many visitors and we should all be wearing masks. She said we need to protect the residents.

Josh Denton urged the City Council to come to Pop Up NH and spoke to the amount of funds Pop Up has brought into the City. He also asked the City to support the Mask Ordinance.

CJ Fleck spoke to the bike lanes and said he doesn’t understand why you would throw the grant funds away.

Barbara Grazier said she has lived with the bike lanes over the last year and stated that all parking should be removed from Middle Street.

Elizabeth Barrett asked for the Mask Ordinance to be passed and spoke to the number of deaths caused by COVID. She also spoke in favor of the Middle Street Bike Lanes and stated the street is safer with the lanes in place.

Jane Zill spoke in support of the Mask Ordinance and asked to move forward with its adoption this evening. She spoke to COVID and chronic health conditions. She also spoke to having a delegation to create a partnership to have outdoor markets at Pease. In addition, she said that she does not believe you could vote on the Sagamore Avenue sewer extension this evening.

David Meuse urged the City Council to adopt the Mask Ordinance. He spoke to the number of COVID cases increasing.

Michael Rodriguez Torrant – spoke on Middle Street Bike Lanes and the three studies conducted on the lanes.

Arthur Carakatsane spoke regarding the Mask Ordinance and said we are an outbreak waiting to happen.

Gerald Ward urged the City Council to support the Mask Ordinance and said it is important to have it in place before the next election.

Clare Kittredge spoke in support of the Mask Ordinance and said the European countries are ahead of the United States with wearing masks.

Charles Griffin spoke in support of the City Clerk and the work she does producing the minutes. He said decisions need to be made based on the evidence and not a task force.

Joan Jacobs said she worked for 30 years in public health and COVID cases are increasing and we are headed toward an outbreak. She said the pandemic is ongoing and not going anywhere. She urged the City Council to support the Mask Ordinance and be considerate of residents and public health.

Hannah Giovannucci spoke regarding the Middle Street Bike Lanes and said decisions need to be made on facts and not emotions. She stated we need to listen to the community and every bike lane needs to be an experiment.

Marylou McElwain said she serves on Parking and Traffic Safety Committee and supported the Middle Street Bike Lanes. She said the bike lanes should not be moved back to the curb because it poses a higher risk when someone parks against the curb. She said she would like to see improved sight lanes and the lanes should be cleaned more often.

Robin Vogt spoke to the passing of the Mask Ordinance and said it is human decency to have the regulation in effect.

Jon Gore spoke to the Mask Ordinance and said there is no measure out there to have a mandate. He said it is dangerous to put this in place.

Jonathan Gallup, Winchester, NH said the City should not over reach on the Mask Ordinance. He said it is a temporary measure and are being told to wear masks. He said forcing people to wear them is wrong and there is science against masks.

Valerie Rochon, Chamber of Commerce, said the Chamber has supported the Mask Ordinance. She said masks are needed because people are putting others at risk by not wearing them. She stated it is about the economy and we can show leadership by passing the ordinance.

Frank Staples, Manchester, NH spoke against the Mask Ordinance and said people were not wearing masks at the worst of the pandemic.

MaryAnn Pumilia, Laconia, NH spoke against the mask mandate. She stated if the ordinance is enacted she will not come to the City and you will lose money for your economy. She said there is no proof other people wearing masks protect others.

Tristan Law spoke regarding the Middle Street Bike Lanes. He spoke in favor of wearing masks, keeping the bike lanes and outside dining.

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

- A. First Reading of Ordinance amending Chapter 7, Article III, Section 7.326 – Limited Parking – 15 Minutes

**Councilor Lazenby moved to pass first reading of Chapter 7, Article III, Section 7.326 – Limited Parking – Fifteen Minutes, and to schedule a public hearing and second reading at the October 5, 2020 City Council meeting. Seconded by Councilor Whelan.**

Councilor Lazenby said that these are actions moved forward by the Parking and Traffic Safety Committee and urged the City Council to move through these ordinances swiftly.

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

- B. First Reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking

**Councilor Lazenby moved to pass first reading of Chapter 7, Article III, Section 7.330 – No Parking and to schedule a public hearing and second reading at the October 5, 2020 City Council meeting. Seconded by Councilor McEachern.**

Councilor Lazenby said that this issue was reviewed by the Parking and Traffic Safety Committee in June, 2019. He said the actions were supported in 2019 by the City Council.

Councilor Kennedy said she is questions taking away parking. She said parking is hard to find in the City.

Parking and Traffic Engineer Eby said this is being requested due to limited sight lines for traffic to turn out of Aldrich Road onto Middle Street.

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

- C. First Reading of Ordinance amending Chapter 7, Article VI, Section 7.601 – Limited Hours Loading Zones

**Councilor Lazenby moved to pass first reading of Chapter 7, Article VI, Section 7.601- Limited Hours Loading Zone, and to schedule a public hearing and second reading at the October 5, 2020 City Council meeting. Seconded by Councilor Kennedy.**

Councilor Kennedy questioned the times of the loading zones.

Engineer Eby said the loading zone would be in the morning for 111 Maplewood Avenue.

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

**Councilor Kennedy moved to suspend the rules in order to bring forward Item XVII B. & A. – Update on the Portsmouth Citizens Response Task Force and Presentation by Health Officer Kim McNamara regarding COVID-19 Update. Seconded by Councilor Huda.**

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

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

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

Mr. Peterson spoke to the Mask Ordinance and advised the City Council that the Task Force is in favor of the ordinance. He also requested that the Pop Up venue be extended from October 18, 2020 until October 31, 2020.

Assistant Mayor Splaine said he supports extending the Pop Up to October 31<sup>st</sup>. He said we need to find ways to make the City more vibrant during the winter months and continue the use of outdoor seating.

Mr. Peterson said we are in the brain storming phase on this matter. He stated they're looking at winter months and how that could be done.

Councilor Lazenby asked Mr. Peterson what work could be done in the winter months. Mr. Peterson said they understand they are authorized through the end of the year and that they're open to the City Council's decision on the life of the Task Force.

Assistant Mayor Splaine moved to extend the outdoor realm from October 18<sup>th</sup> to October 31<sup>st</sup>. No second received and Assistant Mayor Splaine withdrew his motion.

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

Health Officer McNamara spoke regarding the number of current cases and outlined the symptoms. She reported the curve is beginning to flatten due to low activity levels by individuals.

Assistant Mayor Splaine thanked Health Officer McNamara for her clear and detailed presentation. He said everyone inside of a building should wear a face covering. If they are alone they do not need to wear a mask.

Councilor Huda asked if students coming back to UNH would have an effect on the City. Health Officer McNamara said we would need to wait and see. She reported that numbers in NH are all over the place currently.

Councilor Lazenby thanked Health Officer McNamara for her work and for being ahead of where we are going.

Discussion followed regarding numbers for Rockingham County and Portsmouth.

- D. Third and Final Reading of Ordinance amending Chapter 3 – Public Health, Article XI – Face Coverings during the COVID-19 Pandemic, Section 3.1101 – Face Coverings Required

**Assistant Mayor Splaine moved to pass third and final reading. Seconded by Councilor McEachern.**

City Attorney Sullivan said that there is no effective date within the Ordinance and to add a date would require a suspension of the rules.

**Assistant Mayor Splaine moved to suspend the rules to allow for an effective date and a termination date to the ordinance. Seconded by Councilor Lazenby.**

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

**Assistant Mayor Splaine moved to amend the Ordinance to become effective immediately and to terminate on January 4, 2021. Seconded by Councilor Lazenby.**

Assistant Mayor Splaine spoke to the ordinance and indicated it is clear and allows for exceptions if someone has a medical condition. He said we need to get ahead of the virus and stop it.

Mayor Becksted passed the virtual gavel to Assistant Mayor Splaine.

Mayor Becksted said he agrees with Assistant Mayor Splaine and understands his point of view. He stated that he finds it ironic that our own Health Officer won't declare a mandate. He said he would like to pass the ordinance this evening and if Health Officer McNamara or the State of NH declares an emergency that is when the date would become effective. He said he does not support a mask mandate.

Councilor McEachern said that this has been a long and thoughtful process. He said we have heard from the Chamber of Commerce for the Council to lead on this matter. He said we need to protect our citizens and keep them safe.

Councilor Tabor spoke in favor of immediate passage to put the ordinance into effect. He said we should not think about the popularity of this ordinance.

**Mayor Becksted moved to amend the ordinance to add a start date to come from the State of New Hampshire or by the Health Officer declaring a State of Emergency. Seconded by Councilor Trace.**

Discussion followed regarding an effective and terminated date for the ordinance.

**On a roll call vote 3-6, motion to amend the ordinance to add a start date to come from the State of New Hampshire or by the Health Officer declaring a State of Emergency *failed* to pass. Councilors Huda, Trace and Mayor Becksted voted in favor. Assistant Mayor Splaine, Councilors McEachern, Whelan, Lazenby, Kennedy and Tabor voted opposed.**

Assistant Mayor Splaine returned the virtual gavel to Mayor Becksted.

**On a roll call vote 7-2, motion to amend the Ordinance to become effective immediately and to terminate on January 4, 2021 passed. Assistant Mayor Splaine, Councilors McEachern, Whelan, Lazenby, Kennedy, Tabor and Trace voted in favor. Councilor Huda and Mayor Becksted voted opposed.**

**Assistant Mayor Splaine moved to pass third and final reading of the ordinance, as amended. Seconded by Councilor McEachern.**

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

At 10:10 p.m., Mayor Becksted declared a brief recess. At 10:18 p.m., Mayor Becksted called the meeting back to order.

**Councilor Kennedy moved to suspend the rules in order to move Item XIII. D.1. forward – Middle Street Bike Lanes. Seconded by Councilor Huda.**

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

**Councilor Huda moved the parking of vehicles back to the curb for the Middle Street Bike Lanes immediately for the safety of all in lieu of the recent accident. Seconded by Councilor Kennedy.**

**Councilor McEachern moved to amend and move the cars back to the curb one block up to Union Street for the Safety of all in lieu of the recent accident. Seconded by Councilor Tabor.**

Assistant Mayor Splaine said we need to remain calm and said no one is against bike lanes.

Councilor Lazenby said he would support the motion because it gets to an on-going partnership for parties interest in this matter. He stated we are changing policy and plans that go back over a decade. He spoke to the Bike/Pedestrian Plan, which this project was developed from and said it had a great deal of review.

City Manager Conard said taking action you are jeopardizing the funds for this project. She said a supplemental expenditure would come from unassigned fund balance requiring a public hearing.

Councilor Kennedy said the questions on safety of the roads would need to come back to the City Council for action. She stated we are making modifications and not doing away with the bike lane. She said we are asking to move the cars and review entire process because it is not working.

Councilor Tabor said he supports the motion of Councilor McEachern. He stated we need to make something that works for everyone and moving the bike lane back a block and getting a task force together to look into a long term plan for the bike lane took a long time to create but it is in place. He said if we make changes to the bike lanes, it requires a process as well.



**On a roll call vote 4-5, motion to amend and move the cars back to the curb one block up to Union Street for the safety of all in lieu of the recent accident 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 Huda said we need to discuss safety issues with the DOT.

City Manager Conard stated we do not have the funds in the budget to accommodate this.

Councilor McEachern stated if the design firm said that the bikes on the outside presented more danger would we still try to move the cars back.

Councilor Huda said she would like the changes done tomorrow but wants to follow the process. She stated we need to do this as soon as possible because it is time to make it safe for everyone.

Councilor Tabor said this motion requires us to move the cars back as soon as possible and it would mean putting the bikes between parked cars and traffic.

Councilor Huda said that is in contradiction of the DOT and its practices. She spoke to following a step by step approach.

City Manager Conard said we would need a stamped plan.

**Councilor McEachern move to amend the motion to have an engineering study for moving the vehicles back to the curb for the Middle Street Bike Lanes immediately for the safety of all in lieu of the recent accident. Seconded by Councilor Lazenby.**

Councilor Lazenby said he does not see how we can take action when we do not know the costs involved.

Councilor Tabor said we should consult with the DOT on moving the cars back to the curb.

**On a roll call vote 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 Huda moved to move the parking of vehicles back to the curb for the Middle Street Bike Lanes as soon as practical after consultation with the Department of Transportation for the safety of all in lieu of the recent accident. Seconded by Councilor Kennedy.**

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



**At 11:30 p.m., Councilor Kennedy moved to adjourn the remainder of the meeting until next Tuesday, September 22, 2020 at 7:00 p.m. Seconded by Councilor Huda.**

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

A handwritten signature in black ink that reads "Kelli L. Barnaby". The signature is written in a cursive, flowing style.

KELLI L. BARNABY, MMC/CNHMC  
CITY CLERK