

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: TUESDAY, SEPTEMBER 22, 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:

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.

III. CALL TO ORDER

Mayor Becksted announced that this meeting was a continuation of the unfinished business from the September 14, 2020 City Council meeting.

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

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.

PROCLAMATION

1. Small Business Week in Portsmouth

Mayor Becksted read the Proclamation declaring September 20, 2020 through September 26, 2020 as Small Business Week in Portsmouth.

XII. MAYOR BECKSTED

1. City Manager Contract Amendment

City Manager Conard spoke to the change she made to her retirement plan which was with the International City County Management Association Retirement Corporation 457 Plan to the International City County Management Association Retirement Corporation 401A Plan.

Councilor Lazenby moved to authorize amendment of the City Manager's Employment Agreement to change the applicable retirement plan from the International City County Management Association Retirement 457 Plan to the International City County Management Association Retirement Corporation 401A Plan. Seconded by Councilor Whelan.

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

2. Appointments to be Considered:
 - Appointment of Margot Doering to the Historic District Commission as a Regular Member filling the unexpired term of Cyrus Beer
 - Appointment of Paul Reardon to the Historic District Commission as a Regular Member replacing Dan Rawling
 - Appointment of Michelle Consolazio to the Citizens Advisory Committee

The City Council considered the appointments outlined above which will be acted upon at the October 5, 2020 City Council meeting.

Councilor Lazenby said in speaking with the Historic District Commission Chair, Mr. Reardon has not contacted him to discuss the time commitment required of the Commission. He further stated that Mr. Reardon is a seasonal resident and expressed concerns regarding that issue. He also pointed out that the ordinance requires two members of the Commission live in the historic district.

Mayor Becksted stated we are doing the best we can with the recent death of a friend, which has put us behind on appointments.

Councilor Trace asked that the Council pays attention to what Mayor Becksted is saying and give him time to speak at the next City Council meeting on this matter. She said Mr. Rawlings term has concluded and the Mayor would not nominate him for reappointment to the Historic District Commission.

Councilor Lazenby said Mr. Rawlings continues to sit on the Commission until someone is voted to take over his position.

3. Appointment to be Voted:
 - Appointment of Thaddeus Jankowski to the Conservation Commission
 - Appointment of Adam Webster to the Conservation Commission
 - Appointment of Jane Wright as an Alternate to the Conservation Commission

Councilor Kennedy moved to appoint Ted Jankowski, Adam Webster and Jane Wright as an Alternate to the Conservation Commission. Seconded by Assistant Mayor Splaine.

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

Expiration Terms:

- *Thaddeus Jankowski – April 1, 2023*
- *Adam Webster – April 1, 2021*
- *Jane Wright, Alternate – April 1, 2023*

XIII. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR SPLAINE

1. Face Covering Exceptions

Assistant Mayor Splaine said some people need to be naturally exempt from the Face Mask Ordinance.

Assistant Mayor Splaine moved to adopt exceptions that face coverings are not required to be worn by people actively engaged in exercise, physical training, fitness training, bicycling, swimming, running, or other activity when a face covering could create a breathing problem or a barrier for the work or activity they are accomplishing in professions or services where wearing face coverings would impede in the performance of their duties, or in settings where it is not practicable or feasible to wear a face covering such as when receiving dental services, medical treatments or other situations where people would not be expected to wear a face covering, such as actively performing in a play or theatre performance. Momentary removal of a face covering for purposes of identification or adjusting the face covering is exempted. Seconded by Councilor McEachern.

Assistant Mayor Splaine said when people are doing some activity or performing individuals should not be expected to wear a face covering.

Councilor Lazenby asked how this works in reference to the ordinance.

City Attorney Sullivan said the ordinance is an order to individuals and a special ruling, it is not to bring about strict enforcement but to protect the individuals. He said this would be used as a guidance for the ordinance.

Councilor Kennedy said we have an ordinance in place and this is mute. She asked if we were upsetting the balance of the ordinance. City Attorney Sullivan said it has been determined that enforcement should give way to education. He stated we need to understand how the Council wants the ordinance enforced. He stated why not make this part of information given by the Police, Fire and Health Departments as guidance.

Councilor Trace said this is recommended guidelines. Assistant Mayor Splaine said the suggestion of Councilor Trace is the way we should move forward. He said it is a floating ordinance.

Councilor Lazenby said he would not support the motion.

Discussion continued regarding the motion.

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

B. COUNCILOR McEACHERN

1. Report Back from Legislative Subcommittee regarding NHMA 2021-2022 Final Legislative Policy Recommendations

Councilor McEachern presented the Final Policy Recommendations for the Legislative Policy Conference for October 2, 2020.

Councilor McEachern moved to accept and approve the 2021-2022 Final Legislative Policy Recommendations as presented. Seconded by Councilor Lazenby.

Councilor Tabor spoke regarding the Right-to-Know Law and said it is fundamental that any person or media should be able to receive as much information as possible. Councilor McEachern spoke to the number of man hours and personnel required to handle these requests. He said he supports the increase in fees for the ability to better serve these requests.

Councilor Tabor moved to remove the Right-to-Know Law Policies. Seconded by Councilor Kennedy.

Councilor Kennedy moved to remove the Notice Publication Requirements from the policies. Seconded by Councilor Huda.

Councilor Huda moved to remove Property Tax Exemptions from the policies. Seconded by Councilor Kennedy.

Councilor McEachern suggested tabling this matter until the next meeting and he feels it is not necessary to have this completed this evening.

Assistant Mayor Splaine stated it is not crucial that we participate with NHMA. He said he supports moving this off until a later date.

Councilor McEachern said he is disappointed we cannot address this matter. He would like to know how many we are pulling out of the policies.

Councilor Lazenby said he wants us to have a voice with NHMA. He said taking the recommendation from the Legislative Subcommittee allows us to have a vote at the table.

Councilor Kennedy said in the future we need to get this to the City Council sooner.

Assistant City Attorney Ferrini said the vote would be a two-thirds vote of the membership as a point of clarification.

Councilor McEachern said it is obvious some feel they did not have time to review these items.

Assistant City Attorney Ferrini explained the various policies as recommended by the Legislative Subcommittee.

Councilor Kennedy moved to remove the three policies and vote on the remaining policies. Seconded by Councilor Tabor.

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

Councilor Kennedy moved to put the three items together as one conversation. Seconded by Councilor Huda.

Assistant Mayor Splaine moved to table the rest of the discussion on the Legislation Committee until the next City Council meeting. Seconded by Councilor Huda.

Councilor Kennedy said she wants to ensure that NHMA is aware of the policies we pulled out.

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

2. City's Representative Voting Delegate for NHMA Legislative Policy Conference

Councilor Kennedy moved to appoint Councilor McEachern as the City's voting delegate at the upcoming NHMA Legislative Policy Conference. Seconded by Assistant Mayor Splaine.

Assistant Mayor Splaine said we should have a full report back with a more objective view point.

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

C. COUNCILOR LAZENBY

1. Request for Report on Compliance with Mask Guidelines at September 8, 2020 Primary Election

City Clerk Barnaby provided a detailed report on voter compliance with mask guidelines.

2. Election Officials Salaries (Not on Agenda)

Assistant Mayor Splaine requested that City Clerk Barnaby provide a report back for the next meeting on whether we should be increasing or providing a stipend for election workers.

E. COUNCILOR TABOR

1. Middle Street Long-Term Task Force

Councilor Tabor moved to approve the creation of a citizen task force to answer the question: "How can we make Middle Street a bicycle-pedestrian-vehicle boulevard that works for everyone and enhances the city?" Seconded by Councilor McEachern.

Councilor Tabor said we could benefit from a task force and an overall plan for Middle Street. He spoke to a tour of the bike lanes and the sight line issues.

Mayor Becksted said it would take two weeks to assemble a task force and would like to look at this later down the line. He said he does not believe zoom allows for a thorough interaction, which is needed.

Assistant Mayor Splaine said it is tough to do this through zoom. He said we need to deal with what we have available to us. He said he feels creating a task force is the right way to go, we could have groups of people to examine this matter.

Councilor Tabor said he is fine with putting together a task force and we should move quickly on this issue.

Councilor McEachern said he would support this motion. He said he would like a better understanding of what the residents want and what is in the best interest of the neighborhood.

Councilor Huda said she is surprised that the City Manager has moved forward with a decision to hire an engineer. City Manager Conard said we need to engage a traffic engineer on moving the cars to the curb.

Councilor Kennedy asked if we are sending out bids for a traffic engineer and who attended the walkabout of the bike lanes. City Manager Conard said that the cost would be under \$10,000.00.

Councilor Tabor said that there were two meetings and he invited the entire City Council. He said six neighbors came from both sides of the street. He said he sent the invitation out via e-mail.

Assistant Mayor Splaine said the meeting was under a quorum because four City Councilors were present. He visited the area seven times and did a neighborhood walk.

Councilor Whelan said he appreciates the efforts of Councilor Tabor but he would not support the motion. He said he wants to hear back from the State and the PEER review. He stated he would rather wait for the City Manager to report back and then bring the motion forward and get residents involved.

Councilor Lazenby said that this is a creative idea and represents relative points. He said we need to move forward and get work done.

Councilor Trace said she would not support this because we should take one step at a time and receive a clear response from the State.

Councilor McEachern said they are not mutually exclusive. He stated it does not solve the lack of buy in and does not solve the issue of the bike lanes.

Assistant Mayor Splaine said that this is not an either/or situation. He said we don't need to delay this and would like to see us get underway by October 15th and make a report back in February. He said let's come up with a solution.

Mayor Becksted said how can we substantial change like this and we are the only ones with bike lanes in New Hampshire. He said he doesn't feel moving the cars back to the curb is a substantial change. He said he would prefer to wait until DOT makes a ruling on this matter.

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.

2. Clipper Strong Fund Update and Small Grant Program

Councilor Tabor provided an update on the Clipper Strong Fund and the Small Grant Program that is available. He reported that over 200 bags were given out and we are now offering up to a \$500.000 grant to small businesses of less than 10 employees. He spoke to the application and that there is a deadline of October 2nd to apply.

Councilor Kennedy thanked the Committee, which has done a great deal of work. She thanked City Manager Conard for her work on this project.

Mayor Becksted thanked Councilors Tabor and Kennedy and the businesses that have participated in this. He said we are making this work for everyone.

Councilor Huda moved to suspend the rules to take up Item XVIII. 4. – Report Back and Update on CARES Act Fund Allotment as Requested at the August 18, 2020 City Council meeting. Seconded by Councilor Kennedy.

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

City Manager's Informational Item

4. Report Back and Update on CARES Act Fund Allotment as Requested at the August 18, 2020 City Council meeting

Councilor Huda asked where we currently stand on these matters. City Manager Conard reviewed her detailed memorandum dated September 22, 2020. She outlined the areas and amounts received as follows:

- *First Responder Stipends - \$333,770.98*
- *Health and Human Services - \$31,698.87*
- *Governor's Office for Emergency Relief and Recovery (GOFERR) - \$522,989.00*
- *Elementary and Secondary Schools Emergency Relief (ESSER) Grant - \$286,291.37*
- *Sub-Grant Through the State of New Hampshire Secretary of State from CARES Act for the Primary Election in September and General Election in November 2020 - \$54,083.09*
- *Federal Emergency Management Agency (FEMA) – The City will receive 75% of eligible expenses*
- *Community Development Block Grant (CDBG) - \$490,082.00*

Finance Director Belanger informed the City Council that PPE would be eligible for reimbursement for the Police and Fire Departments but not for some others.

City Manager Conard spoke to items that were accepted for reimbursement and reported on June 15th we submitted expenses for March and April and in July we will submit for May and June. She also addressed expenses incurred from Pop Up with Public Works Director Rice reporting that \$7,000.00 was spent for the barricades. She advised the City Council that we have exhausted our CARES Act funds.

E. COUNCILOR TRACE

1. Report Back from City Manager Conard on a verification of and possible suggestions to the following:
 - Sunset Date of October 18, that was/is set for the Citizens Response Taskforce
 - Verification of the Sunset Date of October 18 for the use of Bridge Street Parking Lot by Popup NH
 - Verification of finances of the Bridge Street Parking Lot specifically as to how much it has cost taxpayers in gross lost parking revenue at present – approx. \$80,000.00. And if present use by present group were extended to January 1, 2020 – approximately \$200,000.00 total figured at 80% usage? Plus \$50,000.00 in goods and services from Cares Act would be a total benefit of \$250,000.00 to the group with a \$200,000.00 loss of gross parking revenue to Taxpayers of Portsmouth?
 - Possible ideas of relocation for Popup NH that would not result in a similar probable tax burden on the already struggling taxpayers of Portsmouth and a strain on other local businesses in the area due to the loss of parking for customers

Councilor Trace moved to extend the sunset date for the Bridge Street Lot to October 31st at midnight. Seconded by Councilor McEachern.

Councilor Trace said if we are going to get a large amount of snow that we remove the items.

Councilor Huda asked on dissembling the items who would be responsible for the liability. Public Works Director Rice said anything above ground Pop Up would need to remove. She asked how long it would take to clean up everything and reuse the parking. Public Works Director Rice said it would take a day to get the parking back in place.

Councilor Kennedy said she is very disappointed because the motion was for funds to come from the CARES Act.

Mayor Becksted said he would like the last day to be November 1st. He spoke to the stay and pay parking that was created and said it allows people to stay all day and he would like to eliminate it from parking lots.

Councilor Trace accepts the change of date to November 1st in the motion.

Councilor Huda asked if there was a contingency plan if we receive snow during that time frame. Public Works Director Rice said they had a plan in place.

Discussion followed regarding the set up and removal of the barriers.

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

Request to Extend the Sunset Date for Street Restaurants

Councilor Trace moved to extend the sunset date for the street restaurants, any outside dining we have behind barriers on City property to November 1, 2020 in keeping with Popup NH, with the possibility, weather permitting extending it further at the will of the City Council. Seconded by Councilor Tabor.

Councilor McEachern moved to amend the motion and extend the sunset date to January 1st. Seconded by Assistant Mayor Splaine.

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

On a unanimous roll call 9-0, main motion to extend the sunset date for street restaurants, any outside dining we have behind barriers on City property to November 1, 2020 in keeping with Popup NH, with the possibility, weather permitting extending it further at the will of the City Council.

At 10:27 p.m., Mayor Becksted called a brief recess. At 10:35 p.m., Mayor Becksted called the meeting back to order.

Councilor Kennedy moved to suspend the rules to continue the meeting beyond 10:30 p.m., Seconded by Councilor Huda.

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

XIV. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Police Department Grant - \$24,759.00 from the NH Department of Justice

Councilor Lazenby moved to accept the grant to the Portsmouth Police Department as presented. Seconded by Councilor Huda.

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

- B. Acceptance of Grant for Household Hazardous Waste Collection

Councilor Kennedy moved to accept and expend a \$4,193.00 DES grant for the purpose of household hazardous waste collection events and authorize the City Manager to execute any documents which may be necessary for this grant. Seconded by Councilor Huda.

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

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Request for Approval of Portsmouth School Cafeteria Contract
2. Request for Approval of Portsmouth School Custodial Contract
3. Request for Approval of Portsmouth School Paraprofessionals Contract
4. Request for Approval of Portsmouth AFSCME 1386B Contract

Councilor Lazenby moved to approve all four agreements as presented. Seconded by Councilor McEachern.

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

6. Construction License for 99 Hanover Street

Councilor Lazenby moved to authorize the City Manager to execute and accept the temporary construction license for Portwalk Residential, LLC/Cathartes Private Investment as submitted. Seconded by Assistant Mayor Splaine.

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

7. 46-64 Maplewood Avenue Temporary Construction License Extension

City Manager Conard stated that this is a temporary construction license extension for 46-64 Maplewood Avenue.

Councilor Lazenby moved to enter into an extension of a license with 30 Maplewood, LLC, and to execute and accept the temporary construction license for 46-64 Maplewood Avenue as submitted. Seconded by Assistant Mayor Splaine.

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

8. Request to Waive Prescott Park Arts Festival Annual Consideration Fee

City Manager Conard advised the City Council this was a request to waive the fee for the 2020 season.

Councilor Tabor said he would need to abstain from the vote on this matter.

Councilor Lazenby moved to waive the Prescott Park Arts Festival's annual consideration fee of \$20,424.00 for the Festival's 2020 season. Seconded by Councilor McEachern.

On a roll call vote 8-0, motion passed. Councilor Tabor abstained from voting on this matter.

9. Request to Waive Gundalow Company Annual Consideration Fee
10. Request to Waive NH Art Association Annual Consideration Fee

Councilor Lazenby moved to waive the remainder of the Gundalow fee and the partial NH Art Association Annual Fee as presented. Seconded by Councilor McEachern.

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

11. Request to Renew Antenna License of Portsmouth Community Radio (WSCA)

City Manager Conard stated this is to maintain the current working transmitter.

Councilor Kennedy moved to authorize the City Manager to finalize and execute a 10-year license agreement with Portsmouth Community Radio as presented. Seconded by Councilor Lazenby.

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

5. Sagamore Avenue Sewer Extension Project

City Manager Conard said over the last few months additional information has been provided and we are asking the City Council to endorse an approach on this matter.

Councilor Lazenby moved approach #3 to authorize the final permitting design and bidding necessary to install public sewer mains and private components to the full project limits (91 connections) and further direct that the bid document be structured so as to allow for the base bid to include the installation of all public sewer mains and the bid alternates to consist of all the private property work. Seconded by Councilor McEachern.

City Engineer Desmarais spoke to the base bid which will allow us to move the project forward and meet the consent decree requirements.

Councilor Huda asked if funds are currently available for the project. City Engineer Desmarais said the base bid should come in below the \$4.4 million. Councilor Huda stated there would be no bonding until next year. City Engineer Desmarais said that was correct.

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

XVI. CONSENT AGENDA

- A. Request for License to Install a Projecting Sign for owner Samuel Habib, The Hub Smoke and Vape for property located at 222 State Street (***Anticipated action - move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement for this request***)

Planning Director's Stipulations

- ***The license shall be approved by the Legal Department as to content and form;***
 - ***Any removal or relocation of projecting sign, for any reason, shall be done at no cost to the City; and***
 - ***Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works***
- B. Acceptance of Sidewalk and Drainage Easement for 95 Brewster Street (***Sample motion – move to accept a sidewalk easement and a drainage easement for 95 Brewster Street as presented***)
- C. Acceptance of Drainage Easement for 185 Edmond Avenue (***Anticipated action – move to authorize the City Manager to accept a drainage easement over land at 185 Edmond Avenue from Ryan and Adrienne Cress (Tax Map 220 Lot 56)***)
- D. Request for a License to Install a Projecting Sign for owner Kaylee Donovan, The Gallery Salon for property located at 951 Islington Street (***Anticipated action - move to approve the aforementioned Projecting Sign Licenses as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement for this request***)

Planning Director's Stipulations

- ***The license shall be approved by the Legal Department as to content and form;***
 - ***Any removal or relocation of projecting sign, for any reason, shall be done at no cost to the City; and***
 - ***Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works***
- E. Letter from Melissa Walden, American Lung Association, requesting permission to hold the Cycle the Seacoast on May 2, 2021 (***Anticipated action – move to refer to the City Manager with Authority to Act***)

- F. Letter from Barbara Massar, Pro Portsmouth, Inc., requesting permission to hold the following events in 2021:
- First Night Portsmouth 2021, Thursday, December 31, 2020
 - Children’s Day, Sunday, May 2, 2021; Noon – 4:00 p.m.
 - 44th Annual Market Square Day Festival & 10K Road Race – Saturday, June 12, 2021; 9:00 a.m. to 4:00 p.m.
 - 18th Annual Summer in the Street, Saturday evenings 5:00 p.m. – 9:30 p.m. – July 10, July 17, July 24, July 31
Street Closures: 4:00 p.m. (set up) – 9:30 p.m. (cleanup) – Pleasant Street – Porter Street to Market Square

(Anticipated action – move to refer to the City Manager with Authority to Act)

Councilor Lazenby moved to adopt the Consent Agenda. Seconded by Councilor Huda.

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

XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- C. Email Correspondence

Councilor Lazenby moved to accept and place on file. Seconded by Councilor McEachern.

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

- D. Letter Erick Newman, Eversource, requesting to Name and Unnamed Private Road and Assign 911 Numbering to the Improvements Accessed Therefrom

Councilor Lazenby moved to refer to the Planning Board for report back. Seconded by Councilor McEachern.

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

- F. Letter from Stephen Iandoli Requesting the Renaming the South Mill Pond Complex in Honor of Rus Wilson

Mayor Becksted passed the virtual gavel to Assistant Mayor Splaine.

Mayor Becksted moved to refer to the Recreation Board for consideration. Seconded by Assistant Mayor Splaine.

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

Assistant Mayor Splaine returned the virtual gavel to Mayor Becksted.

E. Report Back on Request of Restoration of Involuntary Merged Lot – 1240 Islington Street

Mayor Becksted said last week the recommendation was made by the Assessor's Department and the Planning Board. He addressed the process changing, but he would like to stay with the Planning Board process of reviewing these requests.

Councilor McEachern said he disagrees that the process before worked. He stated until we ignored the recommendation of the Planning Board, which the City Council voted against and that broke the process. He said it is our duty to prove these lots were voluntarily merged. He said we could put a process in place but we must follow the RSA which requires the City Council to prove that the lot was merged. He stated the Assessor is a non-political way of doing this.

City Manager Conard said the Assessor said there was no record of this.

City Attorney Sullivan said the Planning Board recommendation was appealed by one of the properties. He said the decisions of Planning Board have its own separate appeal process with no appeal process from the Assessor's office. He stated the City Council could rely on someone else for the research.

City Manager Conard asked when the recommendation was changed from Planning Board. City Attorney Sullivan said the decision was made after the Thaxter Road decision by the City Council.

Mayor Becksted said this City Council is in a bind, because of two different proceedings. He feels that property owners have rights. He said if we go the route of the Assessor you are taking away the right of property owners and he would like to continue the Planning Board process.

Councilor Kennedy moved that we restore this lot per the Assessor's memorandum. Seconded by Councilor McEachern.

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

Involuntary Merged Lot Process (Not of Agenda)

Councilor Kennedy moved to forward all merged lot lines to be sent to the Planning Board for review. Seconded by Councilor Huda.

Councilor Huda moved to amend the motion and add the Assessor's office validation, in addition to a Planning Board report. No second received.

City Attorney Sullivan said the motion is valid. The City Council could make the Assessor's office review and then forward to the Planning Board for comments and then both would review these matters.

Councilor McEachern said it is not to the letter of the law. He said you have the right whether or not you have lived here longer. He said you have the same property rights in New Hampshire. He further stated it is up to the City to prove otherwise.

Councilor Tabor said he agrees with Councilor McEachern, the neighborhood could go to the hearing but they must prove there was some where the lots were involuntarily merged.

Mayor Becksted said justice was done on Thaxter Road.

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

XVIII. CITY MANAGER'S INFORMATIONAL ITEMS

Councilor Trace asked about the main going under the Peirce Island Bridge. City Engineer Desmarais spoke to the condition of the main and that they are securing a temporary main while they can design and plan for the replacement of the main from the treatment plant to the bridge. Councilor Trace asked what the estimated cost is to replace the main. City Engineer Desmarais said he does not have a figure, but it will be expensive.

Councilor Kennedy asked where this main was in the process of plans for replacement and upkeep. City Engineer Desmarais said we did not believe the condition of the pipes were that bad and replacing the pipe was not part of a plan. He said the deterioration was at the bottom of the pipe.

City Manager Conard reported that we will be conducting an assessment ratio study. Mayor Becksted said if no one did any work to their home everything should stay the same.

XX. ADJOURNMENT

At 11:45 p.m., Councilor Kennedy moved to adjourn. Seconded by Councilor Lazenby.

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



KELLI L. BARNABY, MMC/CNHMC
CITY CLERK