

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, OCTOBER 19, 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_HKOWY18tTnG3zYh4PquikPA

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 2020-18, 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.

A Non-Public Session was held Re: McIntyre Project – RSA 91-A:3, II (e) and Interim Chief of Police Employment Agreement – RSA 91-A:3, II (a).

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

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

A. Presentation by Sustainability Committee – Drawdown Portsmouth – Bert Cohen, Chair

Bert announced that on Thursday, October 22, 2020 at 6:30 p.m. an in-depth review of drawdown will take place. He outlined the history on Sustainability. Environmental Planner/Sustainability Coordinator Britz spoke to the 10 year Master Plan and that we are an Eco-Municipality. Tracey Cameron spoke on the topic of flattening the curve and the impact emissions have on the environment.

B. Report Back from Board of Ethics

Councilor Tabor spoke to the process followed by the Board of Ethics regarding the ethics complaint against Councilor Kennedy. He reported that the Board held deliberations and unanimously found that a violation had occurred. He indicated that the matter is now before the City Council and a variety of measures could be taken. He asked that a Special City Council meeting be held next Monday, October 26th for the City Council to make a decision.

Mayor Becksted passed the gavel to Councilor McEachern because Assistant Mayor Splaine would be making a motion.

Assistant Mayor Splaine moved to accept the report and place it on file from the Board of Ethics and there be no further action needed. Seconded by Mayor Becksted.

Assistant Mayor Splaine said we need to get beyond this matter. He spoke to the many issues before the Council currently that require attention and said he felt that moving forward is in the best interest of the Council.

Councilor Lazenby said he agrees that the Council needs to move quickly on this matter. He said the public should be allowed to provide testimony on this matter and the Council should hold a separate meeting and do the job we have been elected to do.

On a roll call vote 3-5, motion failed to pass. Assistant Mayor Splaine, Councilor Whelan and Mayor Becksted voted in favor. Councilors McEachern, Lazenby, Huda, Tabor and Trace voted opposed. Councilor Kennedy recused from voting.

Councilor Whelan returned the gavel to Mayor Becksted.

IX. PUBLIC COMMENT SESSION

Clare Kittredge urged the City to focus on real economic issues and said only two violation issues have occurred in the last 40 years. She spoke to the right-to-know request she filed to receive a copy of the affidavit filed on the violation and said it should have been open and available for the public to review. She urged the City Council to stop wasting time on this complaint.

Roy Helsel said he does not understand why Councilor Kennedy bought the name and offered it back.

Andrew Bagley said we need to find a yes for outdoor dining. He said the task force is doing a great job and we need to move the matter of outdoor dining forward. He spoke opposed to the City Council not allowing the public to speak to the ethics violation.

Dagan Migirditch said he would like outdoor dining to remain and if it does not continue some businesses will need to close. He said the City needs to find creative solutions for these challenges that businesses are facing.

Arthur Clough said a number of things went wrong with the Board of Ethics violation and process. He stated Councilor Kennedy was told how to testify which took away from her ability to defend herself.

Zelita Morgan spoke on the ethics complaint regarding Councilor Kennedy and said that Councilor Kennedy is a leader and represents the entire community. She said the complaint had nothing to do with an ethics violation. She urged the City Council to dismiss the complaint.

Mayor Becksted said he would like to see a camera installed at the Dog Park and area opened at Peirce Island.

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

First Reading of Ordinances:

- A. First reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking by the addition of Dearborn Street; easterly side, from the North Mill Pond running northerly for a distance of 25 feet

Councilor McEachern moved to pass first reading and schedule a public hearing and second reading at the November 16, 2020 City Council meeting. Seconded by Councilor Whelan.

Councilor Kennedy said we seem to always be taking away parking and asked for the rationale in removing parking spaces.

Parking & Transportation Engineer Eby said it was a request by residents at the end of the street. He said the parking spots cannot be replaced but people could park on Maplewood Avenue and walk in.

Councilor Kennedy urged residents to come and speak on this matter.

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

- B. First reading of Ordinance amending Chapter 7, Article IVA, Section 7-A.402 – Bus Stops Designated – Hanover Street: southerly side of Hanover Street ~~90 feet east of~~ from Fleet Street to a point 285 feet east of Fleet Street

Councilor McEachern moved to pass first reading and schedule a public hearing and second reading at the November 16, 2020 City Council meeting. Seconded by Councilor Whelan.

Mayor Becksted said we have taken away four parking spaces and we are losing revenue by removing parking.

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

- C. First reading of Ordinance amending Chapter 7, Article XI, Section 7.1100 – Speed Limits E. Speed Limit: 25 MPH by the addition of South Street, from Middle Road to Lafayette Road

Councilor McEachern moved to pass first reading and scheduled a public hearing and second reading at the November 16, 2020 City Council meeting. Seconded by Councilor Whelan.

On a unanimous roll call 9-0 motion passed.

- D. First reading of Ordinance amending Chapter 11, Article II, Sewers, Section 11.203 and Section 11.203 and Section 11.204 – Waiver from Connection to Public Sewer

Deputy City Attorney Woodland provided a brief presentation regarding the ordinance. She indicated this would change Chapter 11, Article II of the Sewer Ordinance. She stated it would also allow home owners to hook up separately.

Councilor Trace said we started with this project as part of the consent decree that needed to be brought onto public sewer and now we are making exceptions. She stated it is the septic systems that were the direct cause for the consent decree.

Deputy City Attorney Woodland explained the exceptions which covers anyone that put a system in the last five years and provides them to use it for the life of the system.

Councilor Trace said she feels the City is drawing a broad brush to address systems before 1985. She asked how the state law comes into play with the consent decree.

Deputy City Attorney Woodland stated 50%-75% of the state law before 1985 would not be covered. She stated that we are codifying what has been best practice.

Mayor Becksted spoke to the state law being very specific on systems. He would like additional information on the law for pump systems versus gravity feed.

Councilor McEachern moved to pass first reading and schedule a public hearing and second reading at the November 16, 2020 City Council meeting. Seconded by Councilor Whelan.

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

- E. Resolution authorizing a Supplemental Appropriation the sum of up to One Hundred Fifty Thousand Dollars (\$150,000.00) from the Unassigned Fund Balance for the Design and Engineering of Alternate Plans for the Redevelopment of McIntyre Federal Building and surrounding property

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

Councilor Whelan said this is a request from the McIntyre Subcommittee. He said the process would move forward with Portsmouth Listens in November through December. He stated this would be from the ground up process for designing the project.

Councilor Huda said she would like to see what residents would be paying or getting for the \$150,000.00. She said we have a vague description and really have no details on this.

Councilor Whelan said the process must design the project first and we will use funds to come forward with drawings for the building.

Councilor Tabor said in terms of the process, we had paused on the project and said let's find out what the public wants. He spoke to the 3,700 that participated in the survey and stated we need to look at how to achieve a new process and added public space along Bow Street. Councilor Tabor stated the funds are important to the process.

Councilor Lazenby asked City Manager Conard how much we have spent thus far on McIntyre. City Manager Conard said legal fees are \$96,000.00 and total amount expended is \$107,690.00. Councilor Lazenby expressed concern regarding how much we have spent and how much we are continuing to spend on the McIntyre.

Councilor McEachern said these are expenditures to move the project forward. He requested that the City Council pass the Resolution to move the process forward and involve the public in the next step.

Assistant Mayor Splaine said that this is an investment and people want to revisit McIntyre. He said we need to make sure that there is balance with public involvement.

Councilor Tabor spoke to the process and how it would work moving forward.

Councilor Whelan said the GSA wants a leader in support of taking over the building in early March. He said we have worked with drafting the letter, which shows our intent to take the building over. He said we need to inform the National Park Service by early January and the process with Portsmouth Listens will be a great deal of work in a short amount of time.

Councilor Kennedy said this is a good way to give the residents a voice. She spoke in support of the Portsmouth Listens process.

City Manager Conard and Finance Director Belanger spoke to the non-reoccurring expense to come from Fund Balance. Finance Director Belanger spoke to the closing of FY20 and that final documents would not be available until January. She indicated that she has no concerns with the \$150,000.00 coming from Unassigned Fund Balance.

Councilor Whelan moved to adopt the resolution authorizing a supplemental appropriation from the Unassigned Fund Balance in the sum of up to \$150,000.00 for the funding of alternate plans for the redevelopment of the McIntyre Federal Building and surrounding property. Seconded by Councilor Trace.

Andrew Bagley said we should not be expending funds in the middle of a pandemic and said he would not be in favor of spending money on the design at this time.

Mark Brighton said we need to spend funds to correct the mistake and design the project.

With no further speakers, Mayor Becksted declared the public hearing closed.

Councilor Lazenby said legal action should be settled before expending funds. City Attorney Sullivan said Councilor Lazenby could attach conditions on the expenditure of the funds. He said one possibility is the funds would not be expended until the City has an agreement with Redgate Kane for the withdrawal of the lawsuit but it is not necessary to have that as part of the motion because the Subcommittee is aware of this.

**Councilor Lazenby moved to amend to include at the end of the sentence “and the past legal action should be settled before planning funds are dispersed to our planning partners.”
Seconded by Assistant Mayor Splaine.**

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

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

- F. Ordinance amending Chapter 7, Article III, Section 7.326 – Limited Parking – Daniel Street: Southerly Side, ~~First Five Three~~ metered Spaces ~~East from Market Square~~ running between 102 and 160 feet West of Penhallow Street, and Hanover Street delete ~~Northerly Side, First Two Spaces East from Bridge Street~~

Councilor Tabor moved to pass second reading and schedule third and final reading at the November 16, 2020 City Council meeting. Seconded by Councilor Huda.

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

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

- G. Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking by the addition of Little Harbor Road: Both Sides of the Roadway beginning at the East Side of the Wentworth Coolidge Mansion Driveway, running Easterly for a distance of 155 feet to the gate at the end of the pavement

City Manager Conard advised the City Council that this was requested by abutters.

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

Councilor Whelan moved to pass second reading and schedule third and final reading at the November 16, 2020 City Council meeting. Seconded by Councilor Huda.

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

- H. Ordinance amending Chapter 7, Article III, Section 7.336 – One Way Streets by the deletion of ~~Parker Street Northerly from Tanner Court to Hanover Street~~

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

City Manager Conard said this would be 2-way traffic on the street.

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

Councilor Whelan moved to pass second reading and schedule third and final reading at the November 16, 2020 City Council meeting. Seconded by Councilor Huda.

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

- I. Ordinance amending Chapter 7, Article VI, Section 7.601 – Limited Hours Loading Zones by the addition of Pleasant Street: Easterly Side, beginning 94 feet south of the Southerly Curb Line of Daniel Street and running Southerly for a distance of 45 feet

City Manager Conard said this would create a loading zone.

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

Councilor Tabor moved to pass second reading and schedule third and final reading at the November 16, 2020 City Council meeting. Seconded by Councilor Huda.

Mayor Becksted asked what the hours of the loading zone would be. Parking and Transportation Engineer Eby said the hours would be 6:00 a.m. to 7:00 p.m. Monday through Saturday. Mayor Becksted said he would like to limit the hours of the loading zone to allow parking during off times. Parking and Transportation Engineer Eby said they could report back after monitoring the spot. Mayor Becksted asked to start monitoring the area right away.

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

Third and Final Reading of Ordinances

- J. Third and Final Reading of Ordinance amending Chapter 7, Article III, Section 7.326 – Limited Parking – 15 Minutes by the ~~Deletion of Deer Street: One space on the Northerly Side of the Street, Beginning 13 Feet West of the Extension of the Westerly Curb Line of High Street, and Running 20 Feet in an Easterly Direction.~~ The addition of **Hanover Street: Southerly Side, First Two Spaces East from Maplewood Avenue**

Councilor Kennedy moved to adopt third and final reading. Seconded by Councilor Huda.

Councilor Kennedy stated that we are not losing any spaces or gaining anything with this change.

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

- K. Ordinance amending Chapter 7, Article VI, Section 7.601 – Limited Hours Loading Zone by the Addition of **Vaughan Street: Westerly Side, Beginning at the Intersection with Raynes Avenue and Running Southerly for a Distance of 60 Feet, from 6:00 a.m. to 9:00 a.m.**

Councilor Kennedy moved to adopt third and final reading. Seconded by Councilor Huda.

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

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

Mayor Becksted said that the Parking & Traffic Safety Committee is important and gives the public a way to weigh in on an ordinance change. He said he feels there is a better way to do this and redefine what Parking & Traffic Safety Committee is.

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

XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

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

Health Officer McNamara provided global and state statistics for COVID-19. She reported that Portsmouth has 30 active cases and the total confirmed cases in Portsmouth is 146. She indicated that the positive rate has climbed to 1.1% and the NH curve is going in the wrong direction.

B. Update on the Portsmouth Citizens Response Task Force

City Manager Conard reported that this was the final weekend of PopUp NH. She stated we are currently in a holding pattern on extending outdoor dining.

Councilor Trace asked if there is discussion on extending outdoor liquor licenses. City Manager Conard said that we have not spoken with the State on that matter. Mayor Becksted said the State does the extensions in segments.

At 9:40 p.m., Mayor Becksted called for a brief recess. At 9:50 p.m., Mayor Becksted called the meeting back to order.

XII. MAYOR BECKSTED

1. Appointments to be Considered:
 - Appointment of Karen Bouffard to the Historic District Commission as an Alternate
 - Reappointment of Robert Marchewka to the Economic Development Commission

The City Council considered the appointments to be voted on at the next City Council meeting.

2. Appointments to be Voted:
 - Appointment of David Adams to the Historic District Commission as a Regular Member
 - Reappointment of Richard Katz to the Library Board of Trustees
 - Appointment of Maria Peppas to the Library Board of Trustees
 - Appointment of Kelly Delekta to the Library Board of Trustees
 - Appointment of Latonya Wallace to the Library Board of Trustees
 - Appointment of Daniel Main to the Portsmouth Housing Authority

Councilor Kennedy moved to appoint David Adams to the Historic District Commission as a Regular member until June 1, 2023; the reappointment of Richard Katz to the Library Board of Trustees until October 1, 2023; appointment of Maria Peppas to the Library Board of Trustee until October 1, 2023; appointment of Kelly Delekta to the Library Board of Trustees until October 1, 2023; appointment of Latonya Wallace to the Library Board of Trustees until October 1, 2023; and appointment of Daniel Main to the Portsmouth Housing Authority replacing Ruth Griffin's unexpired term until April 1, 2023. Seconded by Assistant Mayor Splaine.

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

3. Special City Council Meeting for Monday, October 26, 2020 at 6:30 p.m. regarding Ethics Board Matter

Mayor Becksted said he would like to have a special meeting on October 26, 2020 and have public comment on the agenda for this matter. He said we have very important matters to move forward, not that this is not important but we need to move forward on other things.

Councilor Trace advised that October 26th will be a public meeting. She said she does not want to see people put Councilor Kennedy's good name in a bad light.

Councilor Huda said at this point we have gone through the entire process and it is time for the City Council to make a decision on this matter.

Councilor McEachern said it is important for the process to be held in public. He said we need a public process on what course of action we are going to take as a City Council.

4. Joint NH Mayors' Letter to the NH Legislature relative to Homelessness Issues

Mayor Becksted reported on the October 13th meeting with NH Mayors' and spoke briefly regarding a letter to be drafted to the NH Legislative relative to Homelessness Issues.

5. Request for First Reading for Postponement of the Activation of Single-Use Bag Ban

Mayor Becksted said the last City Council put a single-use bag ordinance in place throughout the community which would make it illegal to distribute plastic bags. He would like to postpone the single-use ban and have City Attorney Sullivan draft an amended ordinance for first reading at the November 16, 2020 City Council meeting.

Councilor Trace moved to postpone the ordinance until we can enforce the law through a state mandate and to have the City Attorney draft an amended ordinance for first reading at the November 16, 2020 City Council meeting. Seconded by Councilor Huda.

Councilor Trace said most stores will not use plastic bags and we would be mandating a law that would make it impossible for stores to supply these type of bags.

Assistant Mayor Splaine said that we are in a non-reusable situation right now. He spoke to protecting our stores at this time and not putting the ban in place.

Councilor McEachern said we need to have a conversation regarding this matter.

Councilor Lazenby said we are all interested in this issue but feels we should not make an ordinance without the document in front of the Council.

Mayor Becksted said how do we backup this matter. City Attorney Sullivan said the ordinance to amend requires three readings. He further stated if the Council authorizes first reading he would bring an ordinance to be in front of the entire City Council.

Councilor Trace said her intent was to move the first reading. She said she wants to make sure we keep people healthy.

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.

XIII. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR SPLAINE

1. Letter from Tom Morgan Re: Planning Board Zoning Amendments

Assistant Mayor Splaine said Mr. Morgan is asking the City Council to take a look at solar farms in the area.

Assistant Mayor Splaine moved to send the letter to the Planning Board for report back. Seconded by Councilor Kennedy.

Councilor Kennedy said she has information on solar farms and if we have property available she would encourage us to look at this as something to do.

Councilor Tabor said he would like to look at a long term alternative.

Councilor Huda said she would like the Planning Board to come back with suggestions of where five-acre solar installations should be in the City and how many homes we can affect with this type of zoning amendment.

Assistant Mayor Splaine accepted this as a friendly amendment and Councilor Kennedy accepted the language as the second to the motion.

On a unanimous roll call 9-0, voted to send the letter to the Planning Board for report back with suggestions of where five-acre solar installations should be in the City and how many homes we can affect with this type of zoning amendment.

Councilor McEachern moved to continue the meeting beyond 10:00 p.m. Seconded by Councilor Kennedy.

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

Councilor McEachern said his motion regarding extending outdoor dining was back in front of the City Council.

B. COUNCILOR McEACHERN

1. Extend Outside Dining to end of November

Councilor McEachern moved to extend outside dining until the end of November where possible. Seconded by Assistant Mayor Splaine.

Assistant Mayor Splaine moved to amend the motion and have a report back at the next City Council meeting from the City Manager and the Portsmouth Citizens Response Task Force as to their judgment of extending outside dining even further through the winter months and how that would work. Seconded by Councilor McEachern.

Councilor Huda said businesses with private property and parking lots should not be handled by the City Council and remain out of their hands.

City Attorney Sullivan said the only control the City would have is with zoning and site planning but but if the City Council took no action there would be questions of what covers properties.

Councilor McEachern said he intended this to apply to all private property owners and they should do what they feel is necessary to get through the pandemic. He stated we could deal with streets separately and look at that at the next City Council meeting.

Councilor Kennedy said she has no problem extending this but her concern is the safety of lots. She said she would like to have City Manager Conard make sure that residents are taken care of.

Councilor McEachern said he would designate the City Manager and Public Works Director to determine where that would be possible.

Councilor Trace said there are spots in the City you can easily remove snow, but in some areas there is no way to get rid of the snow. She said there is a cost factor involved to the City.

City Manager Conard said with the intent to work on this matter, we have started the conversation.

Councilor McEachern said our Public Works Department keep the streets spotless and would continue to do so.

Councilor Lazenby said he would like a report back regarding parking and if there continues to be parking spots displaced, do we need to continue looking at other 15 minutes spots. He said he also wants to make sure all the businesses downtown are being considered.

Councilor Huda stated that the area of the 31 establishment's downtown is the most expensive area of the City to remove snow.

Mayor Becksted said he supports the motion and plans may change if we have an easy winter. He said it could be a constant removal of snow in parts and expenditures would be significantly more.

Councilor Huda asked City Manager Conard to report back on liability insurance as to servers going back and forth.

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

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

C, COUNCILOR WHELAN

1. Action Items Needing City Council Approval:

- Approval to renew Valet Parking License Agreements for a term of one (1) year for Marriott Residence Inn and Portsmouth Harbor Events & Conference Center
- Approval to renew Valet Parking License Agreements for a Term of one (1) year for the Hampton Inn & Suites

Councilor Whelan moved to approve the 2 Valet Parking Agreements for Marriot Residence Inn and Portsmouth Harbor Events & Conference Center and Hampton Inn & Suites. Seconded by Councilor Lazenby.

Councilor McEachern asked when a Parking & Traffic Safety Committee discussion should take place on moving items forward.

Mayor Becksted said a work session could be held prior to a City Council meeting. Councilor Whelan said the Retreat is coming up and we could make this one of the items.

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

D. COUNCILOR LAZENBY

1. Sustainability Committee – Drawdown Portsmouth an Eco-Municipality Update

Councilor Lazenby said he looks forward to community discussions on October 22nd regarding this matter and steps we could take.

Councilor McEachern thanked Councilor Lazenby for his work on this matter. He said he supports the work of the Committee.

Councilor Lazenby said attention should be given to the first 10 items such as solar areas and the importance of what we do with disposing of refrigerators.

XIV. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation to Coalition Fund
 - Town of Rye - \$5,000.00

Councilor Kennedy moved to approve and accept the donation, as listed, to be place in the Coalition Fund. Seconded by Councilor McEachern.

Councilor Kennedy asked the City to pay close attention to the school funding and how the City could be effected.

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

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Parking Agreement for Deer Street Associates

City Manager Conard said the Parking Agreement would be guaranteed parking spaces in the garage.

Staff Attorney McCourt explained the agreement in detail which provides off-street parking for two developments.

Councilor Huda asked how long the agreement was. Staff Attorney McCourt stated the agreement was as long as the garage is owned, but not less than 30 years.

Councilor Trace asked if Mr. Rogers sells the lots would the 68 spaces go along with the lots. Staff Attorney McCourt said if he assigned the spaces, they would. Councilor Trace said we are giving Mr. Rogers more value for the project. Staff Attorney McCourt said the development as a whole includes the Foundry Garage. Councilor Trace expressed concern regarding Mr. Rogers not having any of the developments built.

Mayor Becksted said we should not be giving something without receiving something in return.

Councilor Lazenby asked Staff Attorney McCourt if DSA would pay market prices for the space. Staff Attorney McCourt stated that was correct. Councilor Lazenby asked what would the impact to the City be if we did not authorize the parking agreement. Staff Attorney McCourt said it would be a breach and would be costly to the City.

Councilor Huda said if you look at this Mr. Rogers does not have to build anything so it is not a benefit to the taxpayers.

Discussion followed amongst the City Council regarding this matter.

Councilor Lazenby moved to authorize the City Manager to execute a parking agreement with Deer Street Associates in a form substantially similar to the document presented. Seconded by Councilor McEachern.

Councilor McEachern said it would seem like this is not the agreement the City Council wants, but we are bound to uphold it or expensive litigation would take place. He said it is before us to act in accordance with the agreement that was struck and we have to support this.

Staff Attorney McCourt said the agreement is needed for DSA to receive financing for the developments.

Mayor Becksted and Councilor Kennedy asked for more information on this matter.

Councilor Whelan moved to table until the next meeting with a report back. Seconded by Councilor Kennedy.

Mayor Becksted said City Manager Conard understands the concerns of the Council and the need for more information.

Councilor Tabor said we have a contract and are obligated for which we authorize the City Manager with power to sign the agreement.

On a roll call 6-3, voted to table until the next meeting with a report back. Assistant Mayor Splaine, Councilors Whelan, Kennedy, Huda, Trace and Mayor Becksted voted in favor. Councilors McEachern, Lazenby and Tabor voted opposed.

2. Public Art Sculpture for McEachern Park

Assistant Mayor Splaine moved to refer the proposed public art fish sculpture donation for McEachern Park to the City Manager with power for establishment of an ad hoc advisory group consisting of Councilor McEachern and Jon Wyckoff for the purpose of evaluating the fish sculpture for compliance with the public art acquisition guidelines and make a recommendation back to the City Council for approval. Seconded by Councilor Tabor.

Councilor Huda said she has a problem with there being so many staff members in the group.

Councilor Trace said in the interest of time the Neighborhood Group would like to do this as soon as possible. She said the entire Neighborhood Group has done a great job and they want to get this done before the snow flies.

Councilor Kennedy said she wants to make sure we do not set a precedence. She said she feels some of the process and procedures need to be reviewed, such as having less employees as part of the decision making.

Councilor McEachern said he appreciates the enthusiasm but he wants the buy in of the community. He said if the Ad-Hoc Committee is being designed, how do we define the Neighborhood Group. City Manager Conard said we would take direction from the neighborhood.

Deputy City Attorney Woodland suggested that the City Council make a motion of how the Ad Hoc Committee should be created.

Councilor Trace suggested Councilor McEachern be part of the Committee because she is sure he would like input in a park that is honoring his father.

Deputy City Attorney Woodland said the Committee would be making a recommendation then it would go back to the City Council. She said we could get input and come back to the City Council for approval.

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

3. Approval of Interim Chief of Police Employment Agreement

City Manager Conard said this is an agreement with Interim Chief of Police Newport.

Councilor McEachern moved to ratify the agreement as presented with Interim Chief of Police, Mark Newport. Seconded by Councilor Huda.

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

XVII. PRESENTATIONS & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

D. Email Correspondence

Councilor Kennedy moved to accept and place on file. Seconded by Councilor Huda.

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

E. Letter from Cynthia and Lew Harriman regarding Set up of new Voting Center and making voting safe and reliable in this most unusual year

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

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

- F. Letter from Kirsten Hunter, Director of Lifespan Ministries requesting to hold a Community-wide Candle Lighting ritual in downtown on December 24th

Councilor Whelan moved to refer to the City Manager with power to set up for a logistics meeting. Seconded by Councilor Kennedy.

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

- G. Letter from Jack McTigue, TFMoran, Inc. requesting road name for the Village at Banfield Woods to Walford Lane

Councilor Kennedy moved to refer to the Planning Board for report back. Seconded by Councilor Huda.

Councilor Kennedy expressed concern with not referring to our list of suggested street names.

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

XVII. PRESENTATIONS & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- C. Presentation by City Engineer Terry Desmarais regarding Update on the Peirce Island Wastewater Treatment Facility

City Engineer Desmarais provided a detailed update on the Peirce Island Wastewater Treatment Facility. He addressed the Mechanic Street Wastewater Pump Station. He spoke to moving forward with a temporary force main for the wastewater that is brought to the treatment plant. He said the estimated cost to replace the pipe is \$3.6 million as there is a need for upgrades to the water main and this is an emergency project. He informed that City Council that a new bond will be brought to the City Council for approval. He reviewed the limits we are attaining for the nitrogen levels and the upcoming project schedule.

Councilor Kennedy asked how long the work would impact the boat launch. City Engineer Desmarais said the work at the boat launch may require people to back down the road and could take 6-9 months.

Councilor Trace asked for a report back on when the dog area would be available to owners again. She spoke to the original request of funds was at \$3,000,000.00 and now you are asking for another \$4,000,000.00. She addressed the CSO's at South Mill pond which tells us how urgent this is. She stated that we do not have pipes large enough to move waste to the wastewater treatment plant.

The City Council thanked City Engineer Desmarais and Deputy City Attorney Woodland for their hard work on this matter.

Councilor Trace asked if the art funds need to be voted on this evening. Deputy City Attorney Woodland said you don't have to make a decision this evening.

XVIII. CITY MANAGER'S INFORMATIONAL ITEMS

The City Council discussed the report back on the status and solutions being discussed per the Emergency Police Commission meeting on the re-occurrence of mold in the Police Department. The City Council expressed concern that this matter is still on-going considering this was discussed 6 months ago. Public Works Director Rice spoke concerning this matter and discussed the improvements that have been made.

XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

Councilor Lazenby said our mask mandate runs out January 4th and asked what would need to be done in order to extend the date. City Attorney Sullivan explained it would require three readings, however the Council could vote to suspend the rules in order to take up third and final reading after second reading has passed in order to accomplish the vote within two meetings.

XX. ADJOURNMENT

At 12:30 a.m., Councilor McEachern moved to adjourn. Seconded by Councilor Trace.

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



KELLI L. BARNABY, MMC/CNHMC
CITY CLERK