

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, DECEMBER 21, 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_eupF_8yZQtSOX3hiiO5njA

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 2020-24, 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.

At 6:00 p.m., an Anticipated Non-Public Session was held regarding Discussion of Pending Litigation in accordance with RSA 91-A:3 II (e).

At 7:00PM a holiday musical performance by the Portsmouth High School Ensemble Band opened the meeting.

- I. **WORK SESSION – There was no Work Session held.**
- II. **PUBLIC DIALOGUE SESSION [when applicable – every other regularly scheduled meeting] – POSTPONED**
- III. **CALL TO ORDER [7:00 p.m. or thereafter]**

Mayor Becksted called the meeting to order at 7:13 p.m.

IV. **ROLL CALL**

Mayor Becksted recited that this is a Remote Meeting via Zoom Conference Call. 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 2020-25 and Emergency Order #12, Section 3. Members location. All votes will be by roll call.

Councilors Present: Mayor Becksted, Assistant Mayor Splaine, Councilor McEachern, Councilor Whelan, Councilor Lazenby, Councilor Kennedy, Councilor Huda, Councilor Tabor and Councilor Trace. All Council members participated via zoom from their perspective homes.

V. **INVOCATION**

Jeff Pelkey, Fire and Police Chaplain gave the invocation.

VI. **PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Mayor Becksted.

Mayor Becksted stated he is bringing forward an item not on the Agenda and introduced Larry Cataldo and Mark Syracuse from the Citywide Neighborhood Blue Ribbon Committee to announce the winners of the Holiday Lighting contest.

Mayor Becksted thanked all of the participants stating that it was a lot of fun for all involved.

VII. ACCEPTANCE OF MINUTES – MAY 18, 2020 & JUNE 1, 2020

Councilor Tabor moved to accept the minutes of May 18, 2020 and June 1, 2020, seconded by Councilor Lazenby. Motion passed on a 9-0 roll call vote.

Councilor Lazenby took a moment to congratulate City Manager Conard on completing her first year as City Manager which City Manager Conard accepted with thanks and appreciation.

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

IX. PUBLIC COMMENT SESSION – (Via Zoom)

Mayor Becksted opened the public comment session:

Josh Denton – spoke opposed to the proposal to delay the Styrofoam ban stating that this ordinance took 5 years to get adopted and was supported by the community. He stated that many Portsmouth High School students worked on this as well and were successful in changing then Mayor Blalocks' opinion.

Andrew Bagley –spoke regarding Holiday Parking and the lack thereof for the 2020 holiday season stating that the downtown shops really needed the help this would have provided. He stated that he is disappointed that this wasn't advertised properly either to the public or the downtown retailers themselves.

Christina Dubin – spoke opposed to delaying the Styrofoam ban ordinance stating that no one has spoken publicly in support of this delay.

Abigail Herrolz – PHS senior and President of the Eco Club – reviewed the history of the passage of the ordinance and has a petition of over 200 names opposing the delay of the implementation.

Jeremiah Johnson – spoke regarding Land Use Board appointments stating he is disappointed in the way the process has worked in regards to him being replaced instead of reappointed. He spoke to the time it takes to “learn the ropes” and that he fears this will discourage others from volunteering their time on city boards in the future.

Rebecca O'Brien, Executive Committee member of Surfrider Foundation – spoke opposed to the delay of the Styrofoam Ban stating we are at a critical point with the public health impact of these materials in our waste stream.

Ben Doyle, PHS student- spoke opposed to the delay of the Styrofoam ban and read a recent letter to the editor on the subject.

Kira Bailey, PHS student and Eco Club member – spoke in opposition to the delay of the Styrofoam ban and also read a letter on the subject.

Phoebe Luneau, former PHS student, explained that the issue of sustainability is a large part of the science curriculum at Portsmouth High School and many students have learned about it over the years. She stated she has spoken with Superintendent Zadravec who said the school department is ready to deal with the ban when it becomes effective. She stated the City of Portsmouth is an Eco Municipality and should not be taking steps backwards.

Lucia Hillman, PHS student, Eco Club member – stated she has spoken with a business owner downtown who said it is easy to make the switch away from Styrofoam and read a statement.

Mary Lou McElwain – stated she is disappointed and saddened that 5 Councilors have supported delaying the ban and feels that we should be supporting our children and their future.

Mark Brighton – stated he appreciates the civic engagement of our youth but feels this is not the best way to govern. He stated the Council needs to act with wisdom and not cause a true hardship on businesses who have already had to deal with a large burden.

Seth Sacks – stated he is opposed to delaying the ban and is disappointed that this issue is still being discussed in 2021.

James Boyle, referred to and spoke to the City Manager's memo in the Council packet regarding various lawsuits.

Brenna Cavanaugh – stated she is concerned with the parking meters downtown and the many people who are all touching them in this time of the pandemic.

Seeing no one else wishing to speak, Mayor Becksted closed the Public Comment Session.

X. PUBLIC DIALOGUE SUMMARY [when applicable] - POSTPONED

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

A. Public Hearing/Second Reading of Ordinance amending Chapter 10, Article 6 – Overlay Districts – Flood Plain Overlay District Zoning Maps

- PRESENTATION - No presentation given.
- CITY COUNCIL QUESTIONS - No question from Councilors.

Councilor Trace recused herself from voting on this ordinance.

- PUBLIC HEARING SPEAKERS:

Mayor Becksted opened the public hearing asking if anyone wished to speak. Seeing no one, Mayor Becksted closed the public hearing.

- ADDITIONAL COUNCILOR QUESTIONS AND DELIBERATIONS

Councilor Lazenby moved to pass second reading on the proposed amendments to the Floodplain Overlay District, and to schedule a third and final reading at the January 11, 2021 City Council meeting, seconded by Councilor Tabor. Motion passed on a 7-1 roll call vote. Councilor Kennedy voted opposed. Councilor Trace recused.

B. Third and Final Reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking – Chase Drive: northerly side, from Michael Succi Drive to a point 30 feet on ~~either side~~ west of the driveway located at 355 Chase Drive

Councilor Whelan moved to adopt the third and final reading of this ordinance amendment, seconded by Councilor Tabor. Motion passed on a 9-0 roll call vote.

- C. Third and Final Reading of Ordinance amending Chapter 3, Article IX – Distribution of Single-Use Disposables on City Property – Effective Date: This Ordinance shall take effect on December 31, 2022

Councilor Huda moved to amend by having the ordinance be reviewed and finalized on September 30, 2021, seconded by Councilor Kennedy.

Councilor Huda stated she would like to give the businesses time to adjust over the summer.

Councilor Kennedy stated there are shortages of the sustainable products right now and also wonders about enforcement which isn't included in the ordinance. She stated she has spoken with business owners and they want to follow the ordinance but don't know where they can get the products.

City Attorney Sullivan clarified that both of the ordinances are at 3rd reading and would require a suspension of the rules to amend.

Assistant Mayor Splaine stated that this is becoming more complicated that it needs to be and feels that we need to begin to take the steps and if not now, when.

Councilor Lazenby stated there are already stipulations to allow the use of current stock and feels that this should move forward.

Councilor Whelan stated that he feels that the city property ordinance should go into effect as planned, but we should give the restaurants more time.

Councilor Trace agrees that the city property should go into effect as planned. She continued that the city-wide ordinance should also go into effect as planned, but delay the enforcement until September.

City Attorney Sullivan stated that it would be best for the Council to vote down the ordinance which would allow the original ordinance to go into effect as previously adopted.

Councilor Huda withdrew her motion to amend.

Councilor Kennedy moved to NOT PASS the third reading of the ordinance, seconded by Councilor Trace. Motion passed on a 9-0 roll call vote.

Existing ordinance will go into effect December 31, 2020.

- D. Third and Final Reading of Ordinance amending Chapter 3, Article X – Distribution of Single-Use Disposables – Citywide – Effective Date: This Ordinance shall take effect on December 31, 2022

Councilor Trace stated she wants this ordinance to be voted down so the original ordinance will go into effect on December 31, 2020 but no enforcement to occur until September 30, 2021.

Mayor Becksted stated he believes that this law is not recognized at the State level as we are not a Home Rule stated.

Councilor McEachern stated he feels we do have to

the right by the State to decide what goes into our dumps and to say it is not allowed is a step too far. He would like to see it be challenged.

Discussion ensued regarding enforcement of the ordinance and any fines etc.
City Attorney Sullivan stated this would be at the discretion of the Legal Department.

Councilor Trace moved to NOT PASS the third reading of the ordinance, seconded by Councilor McEachern. Motion passed on a 9-0 roll call vote.

**Councilor Trace moved to have staff review enforcement of the ordinance through September 30, 2021 and to institute education of the ordinance as they see fit, seconded by Councilor Lazenby.
Motion passed on a 9-0 roll call vote.**

Existing ordinance will go into effect December 31, 2020.

Third and Final Reading of Ordinance amending Chapter 3, Article XI – Face Coverings
– Effective Date: This ordinance shall take effect immediately and shall terminate on vote of the City Council to that effect

Assistant Mayor Splaine moved to adopt the third and final reading of this ordinance amendment, seconded by Councilor McEachern. Motion passed on a 9-0 roll call vote.

E. Third and Final Reading of Ordinance amending Chapter 11, Article II – Sewers, Section 11.203 and Section 11.204 – Waiver from Connection to Public Sewer

Councilor Whelan moved to adopt the third and final reading of this ordinance amendment, seconded by Councilor McEachern.

XII. MAYOR BECKSTED

1. Appointments to be Voted
 - Appointment of David MacDonald as a regular member to the Zoning Board of Adjustment
 - Appointment of Corey Clark as a regular member of the Planning Board
 - Appointment of Peter Harris as a regular member to the Planning Board
 - Appointment of Rick Chellman as a regular member to the Planning Board

Councilor Kennedy moved to adopt the aforementioned appointments, seconded by Councilor Huda.

Councilor Lazenby requested Mayor Becksted speak to his Item number 3 in relation to alternate members being considered to fill vacancies.

Mayor Becksted read Section 1.310, Chapter 1 regarding consideration of alternate members to the Zoning Board of Adjustment as well as other nominees by the Mayor stating that current alternate Chase Hagaman had submitted an application which was included in the Council packet.

Councilor McEachern thanked Chase Hagaman for submitting an application and feels we have

the benefit of having many qualified people. He stated it is the prerogative of the Mayor of who he wants to bring forward for appointment.

Mayor Becksted stated that Chase will still be an alternative on the Zoning Board of Adjustment.

Councilor Lazenby stated he will vote in favor of the appointments although it has been the practice in the past to move up alternates to regular positions as vacancies occur.

Councilor Trace stated she knows that all of the applicants are good choices and hopes that Chase Hagaman can be appointed a regular member in the future.

Motion passed on a 9-0 roll call vote.

2. Reopen Portsmouth 2021 Blue Ribbon Committee City Council Representative

Councilor Lazenby moved to suspend the rules to move up Item XVII.B. – Presentation by Portsmouth Citizens Response Task Force, seconded by Councilor Trace. Motion passed on a 9-0 roll call vote.

City Manager Conard gave a brief update of the newly formed ReOpen Portsmouth 2021 Blue Ribbon Committee stating they are currently looking to fill vacancies and are accepting applications.

Mayor Becksted announced that the City Council representative to the Blue Ribbon Committee will be Councilor Huda.

Councilor Lazenby stated he would like to see an Arts and Non-profit organization component to the process as well.

Mayor Becksted stated he has more ideas that he will be bringing forward.

Councilor Lazenby stated he would like to see people who have leadership roles within the City but who may not be residents be able to participate as well.

Mayor Becksted stated the ReOpen Portsmouth 2021 will consist of Portsmouth residents and stated again that he will be bringing forward more opportunities in the near future.

3. Ordinance Chapter 1 Section 1.310 requires that, “When making appointments to the Board of Adjustment the Council shall consider as candidate the alternates to the Board as well as other nominations by the Mayor”. For the reason the Council should be aware that Mr. Chase Hagaman is a current member of the Board who has submitted his name for consideration by the Council. The person nominated by the Mayor is David MacDonald

XIII. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR SPLAINE

1. Recognition of the People and History of Portsmouth’s North End

Assistant Mayor Splaine stated he is making the request of the City Manager to explore ways to recognize the diversity and history of Portsmouth’s North End and maybe coincide it with the upcoming 2023 400th Anniversary celebration.

City Manager Conard stated she will work on that request.

Councilor Kennedy stated she recalls seeing a musical regarding Portsmouth's North End at the Music Hall approximately 15 years ago and suggested that as a reference.

B. COUNCILOR KENNEDY

1. Toyota of Portsmouth (***Sample motion – move to give Toyota of Portsmouth (Jim Boyle) back his land per court agreement***)

Councilor Kennedy stated that she had voted against the taking of this land by eminent domain and further explained that last January, the court ruled against the City in this action. She stated she will pull this motion but wanted the public to know we are moving forward but are waiting for the courts.

Councilor Tabor moved to suspend the rules to introduce an item that had inadvertently been left off of the agenda, seconded by Councilor Kennedy. Motion passed on a 9-0 roll call vote.

Councilor Tabor moved to establish a Work Session on January 20, 2021 for a presentation from Portsmouth Listens regarding McIntyre Building Study Circles, seconded by Councilor Whelan.

Councilor Huda asked what is the purpose of having a work session.

Councilor Whelan stated that we have 257 residents participating in the study circles working toward solutions for the McIntyre project. He stated they will be presenting their findings.

Motion passed on a 9-0 roll call vote.

XIV. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation from Samuel Winebaum for Vaughan Mall Lighting - \$5,000.00

Councilor Kennedy moved to approve and accept the donation from Samuel Winebaum for Vaughan Mall Lighting in the amount of \$5,000.00, seconded by Councilor Trace.

Mayor Becksted explained that this lighting is not holiday lighting but will be in place year round.

Motion passed on a 9-0 roll call vote.

Assistant Mayor Splaine moved to suspend the rules to move up Item XVII.A of the Agenda, seconded by Councilor Huda. Motion passed on a 9-0 roll call vote.

Presentation by Health Officer Kim McNamara regarding COVID-19 Update

Health Officer McNamara provided a brief presentation reporting on the current statistics in New Hampshire and the proposed tiered program of implementing the vaccine.

Mayor Becksted called a recess at 10:00 p.m. Meeting reconvened at 10:10 p.m.

Councilor Huda advised that the Holiday Parking issue was addressed at the March 16, 2020 Council meeting with the vote to implement the free parking from 03/17/20 – 03/31/20 due to COVID-19.

Assistant Mayor Splaine stated that there is still 1 ½ weeks left of the season and suggested that we could allow free parking now as well. He asked City Manager what the impact would be.

Councilor Huda stated that the parking revenue is significantly down already and we will be dealing with the budget very soon.

City Manager Conard stated the impact was \$100,000 last year and would be \$60,000 if implemented now.

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Request for Work Session regarding Peirce Island

Councilor Kennedy moved to establish a Peirce Island work session on February 8, 2021 at 6:00 p.m., seconded by Councilor Huda. Motion passed on a 9-0 roll call vote.

2. Request to Name Private Subdivision Road Located off Banfield Road

Councilor Kennedy moved to approve the request for naming of the new private road to Walford Lane, seconded by Councilor Huda.

Mayor Becksted asked if there are any relatives still in the area.
City Manager Conard stated she is not sure.

Councilor Lazenby stated that this is referred to as a previous "Plantation" and asked if there were slaves on this plantation.

City Manager Conard stated not to her knowledge.

Councilor Lazenby expressed concerned with not knowing the history before making this decision.

Councilor Trace stated that the first enslaved person in Portsmouth was in 1645, so slavery was here at that time.

ITEM WITHDRAWN

3. Request to Name New Public Street Located Between Cate Street & Route 1 Bypass

Councilor Kennedy moved to name the new public road extending between Cate Street and US Route 1 Bypass as Hodgdon Way seconded by Councilor Huda.

Mayor Becksted requested that we research whether there is a living relative to notify.

Motion passed on a 9-0 roll call vote.

4. 46 Maplewood Avenue – Temporary Construction License

Councilor Lazenby moved that the City Manager be authorized to execute and accept the temporary construction license regarding 46-64 Maplewood Avenue as submitted, seconded by Councilor Huda.

Councilor Kennedy discussed the negativity surrounding the issue on Penhallow stating they are only asking the questions that need to be asked. She stated we need to make sure that these temporary licenses are not affecting businesses and asked if there have been any neighborhood meetings regarding the Maplewood Avenue request.

Planning Director Walker stated there is a construction mitigation plan, but neighborhood meetings are not the practice for this type of license. She stated the applicant has not moved as quickly as they have wanted him to and this has been extended several times.

Councilor Kennedy stated she would encourage outreach to become part of the practice during the pandemic because different issues have come up.

City Manager Conard stated this will be incorporated.

Motion passed on a 9-0 roll call vote.

Councilor Kennedy moved to suspend the rules to allow the meeting to go past 10:30 p.m., seconded by Councilor Trace. Motion passed on a 9-0 roll call vote.

XVI. CONSENT AGENDA

- A. Letter from Linda Carter, Big Brothers Big Sisters of New Hampshire, requesting permission to close Pleasant Street on Saturday, September 25, 2021 from 1:00 p.m. – 4:00 p.m. and hold the 12th Annual Stiletto Sprint ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Letter from Nick Diana, New Castle 10K, requesting permission to hold the 3d Annual New Castle 10K Road Race from 9:30 a.m. – 11:30 a.m. ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- C. Banfield Woods Development Conservation Easement and Water Access Easement ***(Anticipated action -move to grant authority for the City Manager to accept and execute the water access easement and conservation easement deed and plans on behalf of the City in a form similar to those attached)***
- D. Request for License to Install a Projecting Sign for Owner Larry Booz for The Mercantile Portsmouth for property located at 10 Ladd 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

Councilor Lazenby moved to adopt the Consent Agenda, seconded by Councilor Tabor. Motion passed on a 9-0 roll call vote.

XVII. PRESENTATIONS & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. *Presentation by Health Officer Kim McNamara regarding COVID-19 Update*
- B. *Presentation by Portsmouth Citizens Response Task Force*
- C. Email Correspondence

Councilor Tabor moved to accept e-mail correspondence and place on file, seconded by Councilor Lazenby. Motion passed on a 9-0 roll call vote.

XVIII. CITY MANAGER'S INFORMATIONAL ITEMS

1. Report Back on Various Items as Requested by Councilor Kennedy and Huda at the December 7th City Council meeting

City Manager Conard stated that the information for the Bike Lane report back will not be available for another week or 2 so will bring back for the January 11, 2021 meeting.

Councilor Huda clarified that she was looking for bond issue information on the entire CIP for each category and more specifically the fire truck.

Finance Director Belanger explained that the bond issues have already been authorized and then the fire truck was ordered. She stated that bonds are issued one a year but were not this past June so we are going out to bond in January or February.

Councilor Huda stated she is also looking for the costs going forward since John Bohenko's departure until it ends.

City Manager Conard explained that his health insurance will continued even after the extension.

Council Kennedy stated she still has questions regarding whether we are looking for other auditing firms as we have had the same one for many years. Secondly, she asked if she needs to make a motion to request a work session on the Sagamore Sewer issue.

City Manager Conard explained that she cannot set a date for that work session as bids still need to be received.

Finance Director Belanger stated that we are still using the same firm but there are new people working for them and there will be a different person giving the auditor's report this year.

Councilor Kennedy stated her third issue is contracted legal bills and wonders what the difference would be to hire someone dedicated to specific issues instead of outside contracting.

City Attorney Sullivan stated he thinks about that a lot but when something requires specialized expertise or is a one-time project, then we don't need to hire someone. He stated he will continue to monitor issues and look at which option is best.

2. Letter from Superintendent Zadavec Regarding Single Use Disposables

XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

Assistant Mayor Splaine asked about voting on the holiday parking issue this evening.

City Manager Conard stated she is concerned that it wasn't on the agenda.

City Attorney Sullivan stated it is the ruling of the Mayor.

Mayor Becksted stated that this is going to be a tough winter but we need to decide if we want to do this now or later when it is needed in the spring.

City Manager Conard explained that it will take a few days to reprogram the meters.

Discussion ensued regarding the pros and cons of implementing holiday parking at this time.

Councilor McEachern stated we have enabled the City Manager to implement more 15 minute parking spots to help with turnover and feels that is the best strategy at this time.

Councilor McEachern thanked the Creek Neighborhood, especially Eileen Roskoski and Allison Dudas, for their work and participation in the Illumination Walk.

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

Mayor Becksted wished everyone a safe and happy holiday season.

Councilor Kennedy moved to adjourn at 11:00 p.m., seconded by Councilor Huda. Motion passed on a 9-0 roll call vote.

**KELLI L. BARNABY, MMC/CNHMC
CITY CLERK**