

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, JANUARY 11, 2021

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_11vy3fGGSg6Q4iCK1fTslw

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 2020-25, 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 5:30PM – Anticipated Non-Public Sessions were held on the following subjects: https://zoom.us/webinar/register/WN_pRYgjJP5QcWLX89-ZT2IIA

1. *GREAT BAY TOTAL NITROGEN GENERAL PERMIT AND LONZA BIOLOGICS UPDATE – CONSIDERATION OF LEGAL ADVICE – RSA 91-A:3 II (I)*
2. *EDUCATION FUNDING UPDATE – CONSIDERATION OF LEGAL ADVICE – RSA 91-A:3 II (I)*
3. *DEER STREET ASSOCIATES PARKING AGREEMENT UPDATE – CONSIDERATION OF LEGAL ADVICE – RSA 91-A:3 II (I)*

III. CALL TO ORDER

At 7:15 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

Father Dimitrios of Saint Nicholas Greek Orthodox Church asked everyone to join a moment of silence and led the Invocation and the City Council in prayer.

VI. PLEDGE OF ALLEGIANCE

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

VII. ACCEPTANCE OF MINUTES – JUNE 4, 2020

Councilor Tabor moved to accept and approve the minutes of the June 4, 2020 City Council meeting. Seconded by Councilor Lazenby.

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

IX. PUBLIC COMMENT SESSION

Massimo Morgia spoke opposed to the request for the closure of Penhallow Street. He stated he has major issues and concerns as well as the effect it will have on the three businesses on the street.

Valerie Rochon, President of the Greater Chamber of Commerce, asked to postpone any vote on the Penhallow Street Request. She said the McNabb project is a welcome business but the current request to close the street would destroy the businesses on Penhallow Street. Ms. Rochon stated we must work together to allow all businesses to succeed.

Marie Bodi, Representative of McNabb Properties, said they are working diligently to accommodate whatever outdoor dining may occur this year. She stated the parking agreement from last year included the parking along Penhallow Street. Ms. Bodi said they believe they have come forward with a compromise to move Massimo dining area in another location and Mr. McNabb would assist in making the planters movable into the new space.

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

- A. Third and Final Reading of Ordinance amending Chapter 10, Article 6 – Overlay Districts – Flood Plain Overlay District Zoning Maps

Councilor Lazenby moved to adopt the third and final reading of the proposed amendments to the Floodplain Overlay District. Seconded by Councilor Tabor.

On a roll call vote 7-1 with 1 abstention, motion passed. Assistant Mayor Splaine, Councilors McEachern, Whelan, Lazenby, Huda, Tabor and Mayor Becksted voted in vote. Councilor Kennedy voted opposed. Councilor Trace abstained from voting on this matter.

XII. MAYOR BECKSTED

1. Ethics Committee Drawing by Lot

City Clerk Barnaby conducted the drawing from her home. Councilor Lazenby was chose to serve on the Ethics Committee in a Drawing by Lot.

Councilor Lazenby moved to suspend the rules to take up Item XVII A. – FY20 Annual Audit Presentation by Melanson CPA. Seconded by Councilor Whelan.

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

Finance Director Belanger said before you is the CAFR and PAFR Reports for your reference. She stated the CAFR is part of, and has been for many years, the GFOA program. She advised the City Council that the comprehensive information is provided in a useful manner. She addressed the PAFR that contains information that is easy to read for which the document is interactive and appears online with a tutorial on how to use the report. Finance Director Belanger announced that the PAFR Report is available for residents interested in obtaining a copy.

Alina Korsak, of Melanson, reported that the CAFR has received a Certificate of Award beginning in 1988, 1989 and for 25 consecutive years from 1995 – 2019. She spoke to long term perspective on government wide financial statements. She reported that our revenues exceeded expected budget amounts by \$1.2 million. She said the City is consistent on Unassigned Fund Balance. Ms. Korsak addressed the ordinance to maintain fund balance and we are maintaining the current percentage as allowed under the ordinance. She said the City has decreased bonding in FY2020 and are borrowing at the legal debt level.

Councilor Huda asked if Ms. Korsak could discuss maintaining independence. Ms. Korsak explained gathering information and documentation on how management and skill, knowledge and experience to accept responsibility for the services and the numbers provided. She further stated that all the information is compiled comes from the City with the Audit Team. She reported that the information is consolidated and they take the City conversion entries. Councilor Huda asked about the matter of the processing of stipends in the Management Letter. Finance Director Belanger said internal controls exist but we had some turnover in the Human Resources Department and during a special detail stipend inadvertently the second signature was not obtained before going to payroll. Ms. Belanger indicated this occurred because of the changeover in the Human Resources but the process has been re-implemented.

Councilor Kennedy asked when the auditors were here. Ms. Korsak said in July, August and October with the report being completed in December. Councilor Kennedy asked if the school single audit reports have been completed. Ms. Korsak replied they're due by March 31st.

2. Acknowledgement of Board and Commissions – 2020

Mayor Becksted acknowledged the work of various Boards and Commissions over the last year. He announced those Boards and Commissions that had resignations this year and thanked the individuals for serving on the following Boards/Commission: Neighborhood Blue Ribbon Committee, Portsmouth Housing Authority, Conservation Commission, Historic District Commission, Library Board of Trustees, Zoning board of Adjustment and the Planning Board. He also acknowledged current members serving and staff for their work.

3. Appointments to ReOpen Portsmouth 2021 Blue Ribbon Committee
 - John Akar
 - Anne Weidman

Mayor Becksted announced the appointments of John Akar and Anne Weidman to the Committee.

4. Appointment to Portsmouth Health Blue Ribbon Committee
 - Rich DiPentima

Mayor Becksted announced the appointment of Rich DiPentima to the Committee.

5. Resignations
 - Lisa Louttit of the Recreation Board
 - Lisa Louttit of the Peirce Island Committee

Mayor Becksted announced the resignation of Lisa Louttit from the Recreation Board and the Peirce Island Committee.

6. Creation of Arts and Non-Profit Blue Ribbon Committee (Not on Agenda)

Mayor Becksted announced the creation of the Arts and Non-Profit Blue Ribbon Committee. He said individuals do not have to be a resident to serve on this Committee. He brought forward the names of individuals he is appointing thus far: Barbara Massar, Tina Sawtelle, Jason Goodrich and Russ Grazier.

7. Red Cross Flag (Not on Agenda)

Mayor Becksted announced that the Red Cross is providing flags to fly in recognition and support of our front line workers during the pandemic. He advised the City Council that he will be flying a flag from the window of his office. He reported that an additional 200 flags will be made available for distribution through the Library during curbside pick-up hours.

XIII. CITY COUNCIL MEMBERS

A. COUNCILOR WHELAN

1. **Action Items Needing City Council Approval:**
 - Parking concerns on Albany Street between Brewery Lane and Cass Street

Councilor Whelan reported that Parking and Traffic Safety voted to prohibit parking from Albany Street to Brewery Lane.

2. Parking and Traffic Safety Committee Action Sheet and Minutes of the December 10, 2020 meeting

Councilor Whelan moved to approve and accept the action sheet and minutes of the December 10, 2020 Parking and Traffic Safety Committee meeting. Seconded by Councilor Lazenby.

Councilor Kennedy asked how many parking spaces we will be losing with this change. Councilor Whelan said two or three spots.

Mayor Becksted asked if any residents attended to express concerns regarding the change. Councilor Whelan said no concerns were expressed. He further indicated that this matter has been on the agenda for the last three Parking and Traffic Safety Committee meetings.

On a roll call 6-3, voted to approve and accept the action sheet and minutes of the December 10, 2020 Parking and Traffic Safety Committee meeting. Assistant Mayor Splaine, Councilors McEachern, Whelan, Lazenby Tabor and Trace voted in favor. Councilors Kennedy, Huda and Mayor Becksted voted opposed.

3. McIntyre/Portsmouth Listens

Councilor Whelan reported that Portsmouth Listens has 22 groups with 250 residents to participate in the Study Circles regarding the McIntyre Project. He announced on January 20th Portsmouth Listens will be making a Presentation to the City Council regarding the McIntyre Study Circles. Councilor Whelan also advised the City Council that a survey is available on-line until February 5th from the principle group. He announced we have received 160 responses at this point and people are taking hours to participate on the survey.

Councilor Kennedy asked how we are advertising the survey. Councilor Whelan said it is available on-line. City Manager Conard said it is also part of the City Manager's Advisory.

B. COUNCILOR McEACHERN

1. State of broadband internet access in City of Portsmouth

Councilor McEachern moved to request the City Manager for a report back on broadband internet access. Seconded by Councilor Tabor.

Councilor Huda requested a copy of the contractual agreement for the Council and asked if we could make changes if the report back has any negatives.

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

C. COUNCILOR HUDA

1. Preliminary FY22 Annual Budget Guidance from the Council
Data needed in Preparation for the upcoming FY22 Budget Sessions:

- Final FY20 Actual Detail
- December 2020 Monthly Report
- FY21 CIP Spend & Remaining Balances

Following up on the request made for this data during the December 7, 2020 Council meeting

- Report Back on the Date of availability for the Final FY20 Actual Detail – Per the City Manager this data is available – Please provide download to Council
- Report Back on FY21 CIP including the following:

November 2020 & 6 Months ended December 2020 CIP Balances to include:

- FY21 CIP Distribution by Line Item Amount
- YTD Spend
- YTD Encumbered
- Remaining Balance

(Received Data on the General Fund)

Status of above Request on the Remaining 5 Columns in the FY21 CIP Listed Below:

- Enterprise Funds
- Bond/Lease
- Federal/State
- Other Revenues
- PPP

Councilor Huda requested December financial numbers and a download of information contained on-line. City Manager Conard said the December Report is under way and is provided the third week of the following month with detailed information.

No action taken regarding this matter.

XIV. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation for the Senior Center Lunch Program - \$150.00

Councilor Kennedy moved to accept the donation of \$150.00 for the Senior Lunch Program as presented. Seconded by Councilor Huda.

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

- B. Acceptance of Sub-Grant Through the State of NH Secretary of State from CARES Act for the Primary Election in September and General Election in November 2020 - \$71,635.93

Councilor Lazenby moved to authorize the City Manager to apply for, accept and expend the additional election grant funds received through the CARES Act in the amount of \$17,552.84 and the increased match amount of \$3,404.01 (for a total of direct grant of \$71,635.93 and 20% match of \$14,220.63), subject to the terms of any offer, rule or regulation pertaining thereto and any other election security grants or other funds received by gift, grant or loan from state, federal or other governmental units to assist with elections. Seconded by Councilor Huda.

Councilor Kennedy asked when the funds were received. City Clerk Barnaby responded last week.

Councilor Huda asked if receipts were needed for this grant. City Clerk Barnaby stated the information required was the number of absentee ballots processed.

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

C. Acceptance of Community Development Block Grant Funds - \$490,082.00

Councilor Lazenby moved to authorize the City Manager to apply for, accept and expend Community Development Block Grant in the amount of \$490,082.00 through the CARES Act from the U.S. Department of Housing and Urban Development subject to the terms of any offer, rule or regulation pertaining thereto. Seconded by Councilor Huda.

City Manager Conard reported we received the initial grant in June and received second notification of additional funds from HUD. She advised the City Council that these funds must be spent in three years.

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

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. 60 Penhallow Street (Brick Market) Request for Temporary Construction Licenses

City Manager Conard said that Marie Bodie and Lynn Kramer representing Mr. McNabb are here to answer any questions of the Council.

Councilor Kennedy said she and Councilor Huda attended the meeting put together by the City regarding this matter. She said some changes would need to be looked into based on Planning Director Walker's comments. She said there are still uncertainties and felt there should have been another meeting to discuss the matter further. She indicated she would like to know the City's perspective before voting.

Councilor McEachern said we heard from some restaurants and Mr. McNabb made some compromises on this matter. He would like this resolved as soon as possible and perhaps we should delay this matter for a week.

Councilor Trace supported the project before she was a City Councilor but she is hearing from other establishments that this project is for the benefit of one over the other businesses on Penhallow Street. She stated there is plenty we don't know about the project, such as this is Phase I of three phases. She expressed concerns relative to the outdoor dining piece and how it needs to be the same as last year. She said she would not support the closure of Penhallow Street.

Councilor Whelan said we need to table this matter and have Mr. McNabb and businesses work this out with the City as a mediator.

Councilor Whelan moved to table the request until the January 25, 2021 City Council meeting for the City along with Mr. McNabb and affected restaurants to sit down and work this out. Seconded by Assistant Mayor Splaine.

Councilor Huda said the needs of many outweigh the needs of one. She reported that the meeting Councilor Kennedy and she attended there was discussion of a Phase II and Phase III which effects the same area and time period. She said the City should be able to find another location to stage materials and bring them into the project site.

Councilor Tabor said we are hearing that Mr. McNabb is speaking with Massimo and other businesses and that needs to be reviewed by the City. He stated we should take this up at the next City Council meeting.

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

2. Request for a Temporary Construction License for 145 Maplewood Avenue (aka 11 Maplewood Avenue)

City Manager Conard spoke on this matter and the need for a further extension beyond February 15th to March 15th. She said a meeting was held with abutters and the total license term would be 83 days.

Councilor Lazenby moved to authorize the City Manager to execute and accept the temporary construction license regarding 145 Maplewood Avenue as submitted. Seconded by Councilor McEachern.

Councilor Kennedy asked if this would affect any restaurant or outdoor dining. City Manager Conard said not by any plans she has seen.

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

XVII. PRESENTATIONS & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- B. 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.

- C. Letter from Steve Parker Feld and Michael Danley, Friends of the First NH State House, regarding input into Historic Preservation of the McIntyre Property

Assistant Mayor Splaine moved to accept and place on file. Seconded by Councilor Huda.

Assistant Mayor Splaine said he has been involved with this matter for 15 years. He said he worked with Representative Jackie Cali-Pitts to save parts of the old 1700's State House and this effort is to try to find a way to implement this at the McIntyre Building site. He said there is discussion to consider this matter. He said it is a great idea and could be part of the City's history.

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

XVIII. CITY MANAGER'S INFORMATIONAL ITEMS

1. Update on Status of 135 Congress Street/Bluestone Parking Request

City Manager Conard said information has been provided in her comments. She said they have negotiated over 6 months and are far apart on two items. She stated we have failed to reach the full agreement but will resume negotiations and wanted to apprise the City Council with this information.

City Attorney Sullivan said the issue of the cost brings in revenue for the City and that is the sticking point at the moment. He said we will discuss the matter further and try to come to a resolution on the outstanding points.

Councilor Kennedy thanked City Manager Conard and City Attorney Sullivan for working on this matter.

2. Status Update on the Report Back on the Middle Street Bike Lanes

City Manager Conard said staff will meet with DOT this week and a full report will come back to the City Council at the January 25, 2021 meeting.

Councilor Kennedy asked if the meeting would be public. City Manager Conard said all zoom meetings and conference calls are public. Councilor Kennedy requested that City Manager Conard inform the City Council when the meeting will take place.

3. Code of Ethics Advisory Opinion for Trustees of Trust Funds

City Attorney Sullivan reported on this matter. He said the Trustees of Trust Funds went through an RFP process for engaging an outside firm to serve as investment/financial advisory and manager of the funds. One of the firms to submit an RFP was TD Wealth a unit of TD Bank, N.A. City Attorney Sullivan reported the need for an opinion is that all three Trustees have some relationship with TD Bank. He advised in review of this matter, it is his opinion that there was no ethical issue presented by the selection process leading to TD Wealth, but each of the three Trustees may proceed to enter an agreement with TD Wealth without that action being in violation of either the City Charter or the Municipal Code of Ethics.

4. Little Harbor Loop Trail Tree Identification

City Manager Conard said the Piscataqua Garden Group is working to identify trees along the Little Harbor Loop Trail. The trees will be labeled on the portion of the trail directly off of Little Harbor Road to the lookout on the back harbor. She reported the first phase of our tree identification project would involve attaching labels to six species of trees, two examples of each species, for a total of 12 trees. City Manager Conard stated the Garden Club is putting labels on these trees with the idea that they might provide additional labels for other trails or in other Portsmouth public parks.

6. Report from the Blue Ribbon Committee on Prescott Park Master Plan Implementation

City Manager Conard said that the report is being provided in advance of the report from the Committee that will take place at the January 25th City Council meeting.

Councilor Kennedy said given the number of people involved with the Prescott Park Master Plan this would be a good opportunity to have a work session for the public to review and provide public comment during the work session.

Councilor Kennedy moved to hold a Work Session on the Prescott Park Report. Seconded by Councilor Huda.

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

Mayor Becksted said City Manager Conard would report back to the City Council with a date for the Work Session.

XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

Councilor McEachern announced that Ray Goulet WWII Veteran will be celebrating his 98th Birthday and asked that people send him birthday cards to his home at 245 Middle Street. Mayor Becksted said he will have the honor of visiting Mr. Goulet on his birthday.

Councilor Kennedy said she is pleased with the appointment of the Mayor's Blue Ribbon Committee Reopen Portsmouth 2021. She stated they would be reviewing all businesses.

Councilor Tabor thanked everyone that has worked on the McIntyre Portsmouth Listens Study Circles. He said it is a great process and Portsmouth Listens will report out at the January 20th City Council Work Session and make a Presentation of Findings.

XX. ADJOURNMENT

**At 9:25 p.m., Councilor Huda moved to adjourn. Seconded by Councilor Kennedy.
On a unanimous roll call vote 9-0, motion passed.**



KELLI L. BARNABY, MMC/CNHMC
CITY CLERK