

SPECIAL CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: THURSDAY, MARCH 11, 2021

PORTSMOUTH, NH
TIME: 6:00PM [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_Sg-uYL3KQTgAWtI8QKsi_g

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.

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.

I. CALL TO ORDER

Mayor Becksted call the Special City Council meeting to order at 6:00 p.m.

II. ROLL CALL

PRESENT: Mayor Becksted, Assistant Mayor Splaine, Councilor McEachern, Whelan, Kennedy, Huda, Tabor and Trace

ABSENT: Councilor Lazenby

III. PRESENTATION – Great Bay Total Nitrogen General Permit

Deputy City Attorney Woodland said this would be an overview of the Great Bay Total Nitrogen General Permit which regulates what can be discharged into the estuaries. She said the permits are issued by the DES and EPA and the discharge of too much nitrogen is not good for the ecosystem.

City Engineer Desmarais spoke to parts of the final permit and looking at the limits. He spoke regarding a proposal for an intermunicipal agreement for which we would need to opt in to by April 1, 2021. He addressed the overall area of coverage under the permit and the seasonal average load for the City. City Engineer Desmarais stated that City would be in compliance with the permit limit. He spoke to other components of the permit, and the City would need to do some other quality monitoring and evaluation. He said that nitrogen reduction planning and implementation would be long term for over all end points of how the permit is laid out and that the EPA provided an adaptive management chart for planning purposes.

Deputy City Attorney Woodland said since the permit was issued, City Engineer Desmarais, Deputy Public Works Director Goetz and she have been in one meeting a week regarding this matter. She stated they have met with regulators, communities and are having ongoing conversations, sometimes delaying the storm water matters. She stated there has been a change in how they are all working together which has been positive. She spoke to the usefulness of an intermunicipal agreement. She said the communities would adopt recommendations such as annual financial contributions from the communities with an executive board to manage day to day work. She said the intermunicipal agreement is a useful framework for communities because of the sharing element. She indicated the EPA and DES is strongly encouraging this permit structure. She stated that the staff is recommending the City Council opt-in to the permit.

Councilor Kennedy said she would like the EPA to come to the City and speak to the City Council on this matter. She said she is having a difficult time with the agreement and her concerns with communities backing out as was previously done. She expressed concern with the meetings not being open, with no public comment, and no meeting minutes are being produced.

Deputy City Attorney Woodland said we are looking at adding public meetings, and minutes will be kept. She said we will make communities meet publically and have more input from stakeholders. She said the EPA communicates by making calls but not meeting with public bodies.

Councilor Kennedy said when she reached out to the EPA they stated they would be happy to come to a public meeting. Deputy City Attorney Woodland said she would welcome someone from DES or EPA to attend meetings. Councilor Kennedy stated she would prefer the EPA because they are in charge of the permit. She asked why we would want to join as a group with Dover and Rochester because they're having a hard time right now. She would like to know how much burden Lonza will be putting out and how that effects fresh water. She also asked if we are worried about putting the two plants together and should we look at Lonza.

Deputy City Attorney Woodland said you can look at the permit separately from Lonza. She said this is a good permit and puts us into compliance. She stated we can talk more holistically around water uses. She stated the adaptive management plan addresses needs as they change for water quality in the area.

Deputy Public Works Director Goetz spoke to the efforts with the Bellamy Reservoir and that we have a management plan that has proven successful.

Councilor Trace said she would like to see the EPA speak and not the DES. She questioned the permit speaks to total nitrogen and how will the EPA take that into account. She spoke to the City reporting the annual rolling average and asked what that means and what the reporting requirements are. She asked what if Rochester or Dover have a big issue, are we picking up the slack for those communities. She expressed concern with us losing our drinking water. She said if we sign up and Lonza dumps more into the Bay when we would have to start paying for a bigger facility at Pease.

City Engineer Desmarais said if the City accepts the permit we would be at 3 parts per million and Pease and Peirce Island would still have separate permits. He spoke to the three permits we have and that we measure for each nitrogen component. He spoke to the seasonal rolling average which is a 7 month average and it does not include November through March but includes April and 6 months from the last year.

Councilor Trace said Peirce Island will pick up the slack for Pease and we need a larger plant at Pease, as it stands currently. She said the taxpayers would need to pay for the bigger plant. Public Works Director Rice said the user rates generated by users at Pease off set that cost.

Councilor Whelan said the deal is the best for the City that we will ever get. He stated Portsmouth is in great shape to meet the numbers and taxpayers will not have to put any money in for 5 years. He stated the City has to opt-in to this. He stated after 3-4 years into this, the EPA will go to individual permits and the City needs to take the deal now. Councilor Whelan said if we don't take it, we will get limit technology permits and taxpayers will foot that bill. He said it would be interesting to hear from the EPA on what they are looking for. He said the question is what will CLF do, will they force some changes. Deputy City Attorney Woodland said we could go into Non-Public Session after this public session and go into more details.

Councilor Huda said with the tight time line and understanding 12 communities could opt-in, what happens if another community wants to come in after we have moved through cycles, how would you regulate the costs. Deputy City Attorney Woodland said we have a framework and who contributes how much. She said the formula will change based on how many opt-in and if any members could opt-out. She said the permit allows you to go it alone, it is a work in progress and an evolving document, but we have set up a framework to be flexible.

Councilor Huda asked what if the City opts-out 2 or 3 years in, how would that affect us and look with us standing alone. Deputy City Attorney Woodland said the EPA and DES has the leadership but do not require it, and we could each stand alone.

Councilor Tabor asked what the risk is if Pease is to look alone. Deputy City Attorney Woodland said communities that don't opt-in the EPA will use separate permits with technology limits. She said this is a good deal for the City and gives us flexibility and do good work with communities. She said Dover is dedicating a fulltime engineer and is carrying the labor oar. Councilor Tabor said we are more likely to clean up the Bay as a group. He said the meetings need to be public as there is valuable information that people need to see and hear.

Councilor Kennedy said she would like a copy of the PowerPoint used this evening. She asked if there have been conversations on putting the 2 plants together as 1 entity. She said for 5 years this is a good deal and she has seen the tide turn pretty quickly. She stated should we be thinking about the powers looking at the 2 plants as 1 plant.

IV. OPPORTUNITY FOR PUBLIC COMMENT AND QUESTIONS

Mayor Becksted asked if there were any speakers, after three calls and no speakers, Mayor Becksted closed the Public Comment Session.

V. REQUEST TO SCHEDULE A PUBLIC HEARING FOR REFUNDING (REFINANCING) A CALLABLE BOND

City Manager Conard stated this item was on as an issue of timing as we are looking to advertise for the public hearing for refinancing a callable bond.

City Attorney Sullivan thanked Mayor Becksted for allowing this issue to be held this evening. He said March 22nd is the last day to consider this matter. He stated the law requires that a legal notice be placed in the newspaper on Sunday to meet the requirements under the law. He said the City Council will hold a public hearing and an actual vote would take place on March 22nd.

Councilor Kennedy asked why March 22nd. City Attorney Sullivan said the major driver is the bonds we are trying to call and we are avoiding having to make the payment.

Councilor Trace said is it something that she missed or is there an explanation on the bonds.

City Manager Conard spoke to the breakdown of the bond and said our next interest payment is May 15th which is why we are looking to call the bond on March 22nd.

Councilor Trace said you are saying that this will save us how much, \$100,000.00 per year. She requested a list of bonds be provided in full.

Councilor McEachern moved that we schedule the public hearing and notice it in advance of the March 22, 2021 City Council meeting. Seconded by Assistant Mayor Splaine.

Councilor Huda said she is having a hard time supporting the refinancing of one bond. She questions if we are going to consider the rest of the bonds and why we picked this bond.

City Attorney Sullivan said the City Council could get the questions answered on March 22, 2021.

Councilor Huda said there are other bonds. City Attorney Sullivan said this bond is callable.

Councilor Kennedy asked about bond details and history to provide to the public on how we make sure this does not happen again.

City Manager Conard said action was scheduled to take place on Monday evening but we did not get to that portion in the agenda.

Councilor McEachern moved as a friendly amendment to have a public hearing on this particular bond be placed on the agenda and any other callable bonds.

On a unanimous roll call vote 8-0, motion passed.

VI. ANTICIPATED NON-PUBLIC SESSION RE: GREAT BAY TOTAL NITROGEN GENERAL PERMIT – RSA 91-A:3 (II) (I)

Councilor Kennedy moved to enter into Non-Public Session. Seconded by Councilor Huda.

On a unanimous roll call 8-0, motion passed.

VII. ADJOURNMENT

At 7:40 p.m., Councilor Kennedy moved to adjourn. Seconded by Assistant Mayor Splaine.

On a unanimous roll call 8-0, motion passed.



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