

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, MAY 3, 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_B4_7jZGKTVSPRvRBtj5Lsg

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.

III. CALL TO ORDER

At 7:05 p.m. Assistant Mayor Splaine called the meeting to order.

Assistant Mayor Splaine announced that we may be meeting in the Chambers for the May 17, 2021 City Council meeting.

IV. ROLL CALL

PRESENT: Mayor Becksted (participated via cell phone), Assistant Mayor Splaine, Councilors McEachern, Whelan, Lazenby, Kennedy, Huda, Tabor and Trace

V. INVOCATION

Assistant Mayor Splaine asked for a moment of silent prayer.

VI. PLEDGE OF ALLEGIANCE

City Clerk Barnaby led in the Pledge of Allegiance to the Flag.

VII. ACCEPTANCE OF MINUTES – MARCH 22, 2021; APRIL 5, 2021 AND AUGUST 3, 2020

Councilor McEachern moved to accept and approve the minutes of the March 22, 2021; April 5, 2021 and August 3, 2020 City Council meetings. Seconded by Councilor Whelan.

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

IX. PUBLIC COMMENT SESSION

Andrew Bagley spoke in support of three subjects, the indoor pool, Fourth of July fireworks and the Halloween Parade. He applauded the efforts of the McIntyre Subcommittees for the recent plan which was a compromise by the parties and said it was a very fair and transparent process followed.

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

Public Hearing & Second Reading:

- A. Public Hearing/Second Reading of Ordinance amending Chapter 7, Article IX, Section 7.901 – PENALTIES, FORFEITURES AND SEPARABILITY

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

Andrew Bagley said he does not feel that the proposed parking fines should be so high. He said it would be more appropriate to have fines increase after 3 to 5 tickets have been issued. He said we are using a large hammer for a small problem.

After three calls and no further speakers, Assistant Mayor Splaine closed the public hearing.

Councilor Tabor moved to pass second reading and schedule third and final reading at the May 17, 2021 City Council meeting. Seconded by Councilor Whelan.

Councilor McEachern said there is a lack of parking throughout the downtown and would like to see multiple tickets issued for violations.

Assistant City Attorney Ferrini said issuing multiple tickets is not part of State law. She said when we had timed meters if vehicles stayed over the time limit they would receive repeat violations. She said that process has not been codified in the ordinance. She stated that the Parking and Traffic Safety Committee will address repeat offenders at their meeting on Thursday.

Councilor McEachern said if someone stays past the time allotted they have a legal right to stay in the space. Assistant City Attorney Ferrini said we could explore issuing a second ticket which would be created by ordinance.

Councilor Lazenby asked if repeat offenders would be considered the same day or different days. Assistant City Attorney Ferrini said it could include both.

Councilor Whelan reported it is cheaper for people to take the stay and pay ticket now. He said we could have further discussion and look into the matter.

Councilor Tabor spoke to the fee schedule on behalf of the Fee Committee. He said he would be in favor of moving forward to third and final reading.

Councilor McEachern said another solution would be to issue multiple tickets. He said the Parking and Traffic Safety Committee should review this and solve the missing piece within the ordinance.

Mayor Becksted asked City Attorney Sullivan if the ordinance could be amended with Councilor McEachern's recommendation. He said he would like to deny this ordinance and come back with a new ordinance. He does not feel we should increase the fines while we are still dealing with COVID.

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

XII. MAYOR BECKSTED

1. Appointment to be Considered:
 - Daniel Brown to the Historic District Commission as a regular member

The City Council considered the appointment of Daniel Brown to the Historic District Commission as a regular member to be voted upon at the May 17, 2021 City Council meeting.

2. Mayor's Blue Ribbon Audit Committee
 - Chris White
 - David McDonald
 - Council Representative Petra Huda

Mayor Becksted said that the RFP has been issued and announced that Chris White, David McDonald and Council Representative Petra Huda will be serving on the Mayor's Blue Ribbon Audit Committee.

Assistant Mayor Splaine passed the virtual gavel to Councilor McEachern.

XIII. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR SPLAINE

1. Neighborhood Committee Year-End Report – February 6, 1995 (*Informational*)

Assistant Mayor Splaine spoke to his February 6, 1995 Neighborhood Committee Year-End Report. He said it is interesting to review the history of matters in the City back in 1995 and see that some of the issues are still being considered today. He stated that the Neighborhood Committee still continues to look at important issues.

Councilor McEachern returned the virtual gavel to Assistant Mayor Splaine.

B. COUNCLOR WHELAN

1. Action Items Needing Approval by City Council:

- Request to prohibit truck traffic on Bartlett Street once Hodgdon Way (Cate Street connector) is fully open to traffic in July

Councilor Whelan reported that this was the main issue of the April 8, 2021, Parking and Traffic Safety Committee meeting. He said this will alleviate truck traffic on Bartlett Street.

Councilor Whelan moved to have an ordinance drafted and brought back for first reading on May 17, 2021, to prohibit truck traffic on Bartlett Street as expeditiously as possible. Seconded by Councilor Whelan.

Councilor Lazenby requested a report back from staff on the potential impacts, intentional or unintentional, on prohibiting truck traffic. City Manager Conard said that would be part of the report.

Councilor McEachern requested the report back include the matter of further measures taken specifically to the Cottage Street proposal for ending the left turn from Route 1 onto Cottage Street.

Councilor Huda requested the report back look at available options for truckers to make their deliveries.

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

2. Parking and Traffic Safety Action Sheet and Minutes of the April 8, 2021 meeting

Councilor Whelan moved to accept and approve the April 8, 2021 Parking and Traffic Safety Committee actions and minutes. Seconded by Councilor Tabor.

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

C. COUNCILOR KENNEDY

1. Request for Site Walk at Pannaway Manor

Councilor Kennedy moved that the City Manager schedule a site walk at Pannaway Manor and New Franklin School area to look at the sound barrier and include those residents, any interested parties and the State with a date to be scheduled possibly on a Saturday. Seconded by Councilor Huda.

Councilor Lazenby said he would like to have the following for future site walks: an agenda, a recording of site walk, minutes, and a report back from City Council to staff on what occurred during the site walk.

Councilor McEachern agreed and suggested a work session be held prior to the City Council meeting to discuss matters.

Councilor Kennedy and Councilor Huda agreed to add language for a work session to the original motion as a friendly amendment.

The motion now reads as follows:

Move that the City Manager schedule a site walk at Pannaway Manor and New Franklin School area to look at the sound barrier and include those residents, any interested parties and the State with a date to be scheduled possibly on a Saturday and further, hold a work session prior to a City Council meeting regarding the site walk.

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

D. COUNCILOR HUDA

1. March 2021 Monthly Report

Councilor Huda moved for a report back at the May 17, 2021 City Council meeting from the City Manager to the residents and City Council on the following questions on the March 2021 Monthly Report:

**1) On page 4
General Government**

Overtime is at 127% of Budget – (At 75% of the Fiscal Year)

Please identify which Departments this is in and why?

On page 5

If this capped at \$2,412,305, why is this overage showing here in general fund after revenue cap reached?

(Estimated revenues that are transferred to the general fund for the full year are \$2,412,305 YTD received is \$2,726,634 or 113%)

On page 6

Why are there 14 categories over 100% of estimated revenues when we are only 75% thru FY21?

(Same categories as March 2020) Why does this keep happening?

On page 7

Please correct the following % errors

Municipal Aid EST \$205,234 YTD Rec \$194,479 95%

Use of Fund Balance EST \$150,000 YTD Rec \$150,000 100%

What is the balance of the cash & short term investments at April 30, 2021. Seconded by Councilor Kennedy.

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

E. COUNCILOR TRACE

1. Proposed Development Projects Near North Mill Pond

Councilor Trace moved that the City Manager and Planning Department report back on all the currently proposed development projects bordering/near North Mill Pond. Which development projects have proposed buildings and/or parking that fall within the fifty foot buffer zone of North Mill Pond and what is percentage/footage of building. And again to report on, of proposed projects bordering/near North Mill Pond, which projects have buildings/parking that fall within the 100 foot buffer zone of North Mill Pond. How much of the buildings/project falls there for each development project and location. Seconded by Councilor Kennedy.

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

2. Endangered Species of the North Mill Pond

Councilor Trace moved that City Manager Conard and Department of Public Works or outside consultant report on any endangered species that use and or make North Mill Pond home at some point in their life or migrate to breed at the North Mill Pond. Seconded by Councilor Kennedy.

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

3. Fireworks Display

Councilor Trace moved to have City Manager Conard report back at the May 17, 2021 City Council meeting and have the City Council vote to endorse and approve the fireworks display we have annually on July 3rd in celebration of The Fourth of July with appropriate rain date of July 5, 2021. Seconded by Councilor Kennedy.

Councilor Trace said she hadn't heard anything regarding the fireworks and wanted to bring the issue forward. She said the Fourth of July is a celebration of courage and strength during this last year of COVID.

City Manager Conard announced that staff has been speaking on fireworks since March and announced the fireworks will be held on July 3rd with no food or entertainment. She said we need to keep the celebration simple due to COVID.

Councilor Tabor asked if there would be guidance against large crowds gathering. He said we want people to come and see the display but not gather too early or stay following the fireworks.

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

XIV. APPROVAL OF GRANTS/DONATIONS

- A. Wellness Reward - \$150.00

Councilor Kennedy moved to approve and accept the reward of \$150.00 from HealthTrust. Seconded by Councilor Huda.

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

- B. Acceptance of Grant from the NH Department of Safety for Night Vision Equipment - \$15,392.26 (***Sample motion – move to approve and accept the grant for the Police Department from the NH Department of Safety in the amount of \$15,392.26 as presented***)
- C. Acceptance of Grant from the NH Department of Justice for expenses incurred and service provided for direct victim services – \$24,759.00 (***Sample motion – move to approve and accept the pending grant funds for the Police Department from the NH Department of Justice in the amount of \$24,759.00 as presented***)
- D. Acceptance of Donation of Two Animal Carriers from Port City Veterinary Referral Hospital for the Police Department (***Sample motion – move to approve and accept the donation of two animal carriers for the Police Department and Animal Control Officer***)

Councilor Kennedy moved to accept and approve the grants and donation as presented. Seconded by Councilor Huda.

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

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Portsmouth Waterfront, LLC's Temporary Construction License Request for 10 State Street

City Manager Conard reported on the encumbrance for the 1,000 square feet license area. She advised the City Council that the total cost for encumbering City land during the term of the license is \$11,550.00. She also informed the Council that the Planning and Legal Departments have reviewed and approved the proposed temporary construction license.

Councilor McEachern moved that the City Manager be authorized to execute and accept the temporary construction license regarding 10 State Street as submitted. Seconded by Councilor Lazenby.

City Councilors asked if the Fire Department had any issues with access to the area and the issuance of the permit.

Assistant Fire Chief McQuillen informed the City Council that the Fire Department has no issues with access for this permit.

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

2. Chevrolet Avenue Sidewalk Easements

City Manager Conard stated the construction of a sidewalk is critical to address pedestrian safety concerns. She reported in order to construct the sidewalk the City needs to secure rights to a section of land that is currently owned by the Malt House Exchange. She stated there would be an easement swap of roughly 2,547 square feet of area to be granted by the City, the City would acquire access to roughly 3,002 square feet of area.

Councilor McEachern moved to authorize the City Manager to convey and acquire interests in land necessary to construct a sidewalk in substantially similar form to the sidewalk depicted on the attached construction plan in the City Council packet. Seconded by Councilor Whelan.

Councilor Whelan reported that the Parking and Traffic Safety Committee discussed this matter and feels there are safety concerns with no sidewalk. He said the sidewalk will also slow down traffic along the roadway.

Councilor Lazenby asked why this project was getting done sooner than the sidewalks in Elwyn Park for Dondero School.

Public Works Director Rice explained that the Elwyn Park Sidewalk Project slipped off the project to do list. He said there are significant safety issues whereby the sidewalk needs to be secured and that it was a matter of moving forward if there was consensus. Councilor Lazenby said he understands opportunities coming up, but residents want an update from Public Works Director Rice regarding the installation of sidewalks in Elwyn Park leading to Dondero School.

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

3. Request to Schedule Public Hearing Regarding Indigenous Peoples' Day

Councilor Lazenby moved to schedule a public hearing at the May 17, 2021 City Council meeting. Seconded by Councilor Tabor.

Councilor McEachern asked if the City Council would be back in Chambers for the May 17, 2021 meeting and whether public comment would be in person. City Manager Conard said the meetings would be hybrid and participation by the public would be via zoom.

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

4. One-Year Extension of Operating and Lease Agreement with SIPP

City Manager Conard spoke to the reopening of the pool. She stated this is a one-year extension of the current agreement between the City and Save the Indoor Portsmouth Pool (SIPP) relative to the lease and operation of the Portsmouth Indoor Pool.

Councilor Kennedy moved to authorize the City Manager to enter into the one-year extension of the agreement between the City and SIPP as presented. Seconded by Councilor McEachern.

Councilor Huda asked with the necessary repairs and the deadline, will we deliver on this. Deputy City Attorney Woodland said the contractor is available and has placed us in the schedule. She said it would be 6-8 weeks before work can start and that will still leave us with time to reopen.

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

XVI. CONSENT AGENDA

- A. Letter from Monte Bohanan, Portsmouth Halloween Parade, requesting permission to hold the Halloween Parade on Sunday, October 31, 2021 at 7:00 p.m. (***Anticipated action – move to refer to the City Manager with Authority to Act***)

Councilor McEachern moved to adopt the Consent Agenda. Seconded by Councilor Kennedy.

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

XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence

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

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

- B. Request to Restoration of Involuntary Merged Lot – 635 Lincoln Avenue
C. Request of Restoration of Involuntary Merged Lot – 344 Aldrich Road

Councilor Kennedy moved to refer to the Planning Board and City Assessor for report back. Seconded by Councilor McEachern.

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

XVIII. CITY MANAGER’S INFORMATIONAL ITEMS

City Manager Conard shared the highlights of Fire Chief Germain’s report.

- 4,244 have been administered individual shots
- 1,650 persons are completely vaccinated
- 944 have received their first dose

As of May 18th, 2,594 members of our community will be fully vaccinated.

Councilor Trace recognized all the firefighters and Chief Germain for their work on vaccinating the community and providing assistance at other sites outside of Portsmouth.

Councilor Tabor recognized Fire Chief Germain and Brinn Sullivan for their work in scheduling the clinics, the Fire Department for administering vaccinations, and for conducting the clinics at the Senior Community Center. He said that this was a great public service.

XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

1. Citywide Neighborhood Committee Ward 1 Zoom Forum – March 31, 2021 Minutes
2. Citywide Neighborhood Committee Meeting – April 21, 2021 Minutes

The Citywide Neighborhood Committee minutes are provided as informational items only.

Councilor Kennedy moved to enter into Non-Public Session in accordance with RSA – 91-A:3 II (d). Seconded by Councilor Huda.

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

Councilor Kennedy moved to adjourn the Non-Public Session at 9:00 p.m., Seconded by Councilor Huda.

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

Councilor Kennedy moved to seal the minutes of the Non-Public Session. Seconded by Councilor McEachern.

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

XX. ADJOURNMENT

At 9:05 p.m., Councilor McEachern, moved to adjourn the regular City Council meeting. Seconded by Councilor Kennedy.

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



KELLI L. BARNABY, MMC/CNHMC
CITY CLERK