

CITY COUNCIL MEETING

PUBLIC PARTICIPATION TO BE CONDUCTED VIA ZOOM ONLY.

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_WSWGMA-mT1GtdChqAwoxRw

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>.

THE CITY COUNCIL, CITY MANAGER, CITY ATTORNEY & CITY CLERK WILL BE MEETING IN PERSON

DATE: MONDAY, MAY 17, 2021

TIME: 6:00PM

• 6:00PM ANTICIPATED NON-PUBLIC SESSIONS:

1. FIRE CHIEF EMPLOYMENT AGREEMENT – RSA 91-A:3, II (a)
2. SCHOOL SUPERINTENDENT EMPLOYMENT AGREEMENT – RSA 91-A:3, II (a)
3. COLLECTIVE BARGAINING NEGOTIATIONS UPDATE – RSA 91-A:3, II (a)

AGENDA

- I. WORK SESSION – THERE IS NO WORK SESSION THIS EVENING
- II. PUBLIC DIALOGUE SESSION [when applicable – every other regularly scheduled meeting] - **POSTPONED**
- III. CALL TO ORDER [7:00 p.m. or thereafter]
- IV. ROLL CALL
- V. INVOCATION
- VI. PLEDGE OF ALLEGIANCE
- VII. ACCEPTANCE OF MINUTES – APRIL 19, 2021 AND MAY 3, 2021
- VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS
- IX. PUBLIC COMMENT SESSION – (*Via Zoom*)
- X. PUBLIC DIALOGUE SUMMARY [when applicable] - **POSTPONED**
- XI. PUBLIC HEARING AND VOTES ON ORDINANCES AND/OR RESOLUTIONS

Public Hearing

- A. RECOGNIZING INDIGENOUS PEOPLES' DAY EACH YEAR INSTEAD OF WHAT HAS BEEN TYPICALLY DESIGNATED BY THE STATE OF NEW HAMPSHIRE AS COLUMBUS DAY

First Reading of Ordinance:

Revised the language for the two items under Councilor Huda

- B. First Reading of Ordinance amending Chapter 7, Article VII, Section 7.702 – Truck Traffic Prohibited – and Report Back on City Council Concerns Related to Bartlett Street Truck Restriction

Third and Final Reading of Ordinance:

- C. Third and Final Reading of Ordinance amending Chapter 7, Article IX, Section 7.901 – PENALTIES, FORFEITURES AND SEPARABILITY

XII. MAYOR BECKSTED

1. Appointments to be Considered:
 - Richard Adams Reappointment to the Trees & Public Greenery Committee
 - Michael J. Griffin Reappointment to the Trees & Public Greenery Committee
 - Peter J. Loughlin Reappointment to the Trees & Public Greenery Committee
 - Dennis Souto Reappointment to the Trees & Public Greenery Committee
2. *Appointments to be Voted:
 - Daniel Brown to the Historic District Commission

XIII. CITY COUNCIL MEMBERS

A. COUNCILOR WHELAN

1. McIntyre Subcommittee (***Sample motion – move that the McIntyre Subcommittee as presently constituted authorized to commence negotiations with the City’s development partner Redgate/Kane in an effort to bring about the withdrawal of the SoBow Square LLC vs. City of Portsmouth lawsuit by means of an agreement under which SoBow Square would construct and operate the McIntyre project in general conformance with the preferred design Concept (Scheme I) presented by the report of the Principle Group dated May 4th, with any such agreement being brought back to the City Council for final approval***)

B. COUNCILOR KENNEDY

1. *Walking trails on Peirce Island (***Sample motion – move for a report back from the city on the following:
What is the city’s plan to groom the walking trails on Peirce Island?
What is the design plan for public areas after the treatment plants updates?***)

C. COUNCILOR HUDA

1. ***Report back to the Council on the first meeting of the Mayor’s Blue Ribbon Audit Committee including a recommendation for an audit firm to be voted on by the Council***
2. ***As advised by City Legal Counsel, I would like to request that another Councilor make a motion to approve the recommendation of the auditor by the Mayor’s Blue Ribbon Audit Committee and authorize the Audit Committee and the City Legal Department to move forward with the negotiation of a contract)***

D. COUNCILOR TRACE

Revised the language for the two items under Councilor Huda

1. *A Report from the Historic District Commission – The unanimous vote by the Commission to have the City Council Representative bring forward to the City Council the Commissioners’ frustration with not being allowed to participate as residents in the McIntyre process to date (***Sample motion – move for a report back/presentation from City Attorney Sullivan at this Council meeting, on the Quasi-Judicial nature of the Land Use Boards. Presentation to include legal obligations of Members and Commissioners as they pertain to taking a public stance/opinion on a project before the project is formally brought before them by the applicant. Electronic and/or hard copy from the City of Portsmouth Legal Department to be provided to all Land Use Board Members and Commissioners following the City Council meeting***)

2. *McIntyre Subcommittee (***Sample motion – move to support voting on the motion brought forward by Councilor Whelan as Chair of the McIntyre Subcommittee as listed under his name and as follows:***
 - 1) ***Move that the McIntyre Subcommittee as presently constituted by authorized to commence negotiations with the City’s development partner Redgate/Kane in an effort to bring about the withdrawal of the SoBow Square LLC vs. City of Portsmouth lawsuit by means of an agreement under which SoBow Square would construct and operate the McIntyre project in general conformance with the preferred design Concept (Scheme I) presented in the report of the Principle Group dated May 4, with any such agreement brought back to the City Council for final approval)***

As moved by Chairman Whelan of the McIntyre Subcommittee

XIV. APPROVAL OF GRANTS/DONATIONS

(There are no items on this section of the agenda)

XV. CITY MANAGER’S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager’s Items Which Require Action:

1. Approval of Fire Chief Employment Agreement
2. Approval of Superintendent Employment Agreement

XVI. CONSENT AGENDA

- A. Request for License to Install a Projecting Sign for owner Marianne Janik of Callib., for property located at 21 Daniel Street (***Anticipated action - move to approve the aforementioned Projecting Sign Licenses 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;***

Revised the language for the two items under Councilor Huda

- **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**

XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence (**Sample motion – move to accept and place on file**)
- B. Request of Restoration of Involuntary Merged Lot – 135 Thaxter Road (**Sample motion – move to refer to the Planning Board and City Assessor for report back**)

XVIII. CITY MANAGER’S INFORMATIONAL ITEMS

1. Report Back on March 2021 Monthly Summary Report as Requested by Councilor Huda at the May 3rd City Council Meeting
2. *Report Back on all North Mill Pond Development Projects and Endangered Species as Requested by Councilor Trace at the May 3, 2021 City Council Meeting
3. Update on Reimbursement for COVID-19 Vaccination Efforts
4. Household Hazardous Waste Collection Day

XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

XX. ADJOURNMENT [at 10:30 p.m. or earlier]

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

**Indicates verbal report*

Date: May 13, 2021

To: Honorable Mayor Rick Becksted and City Council Members

From: Karen S. Conard, City Manager *KSC*

Re: City Manager's Comments on City Council Agenda of May 17, 2021

XI. Public Hearings and Votes on Ordinances and/or Resolutions:

A. Public Hearing Regarding Recognition of Indigenous Peoples' Day Each Year Instead of What Has Been Typically Designated by the State of New Hampshire as Columbus Day:

At the April 17, 2021 City Council meeting, the City Council unanimously voted to hold a public hearing for the City of Portsmouth to recognize Indigenous Peoples' Day each year instead of what has been typically designated by the State of New Hampshire as Columbus Day. This public hearing was a request of WE Speak NH Listens, a student group at Portsmouth High School.

This public hearing was scheduled at the May 3rd City Council meeting to occur at this evening's meeting.

B. First Reading of Ordinance Amending Chapter 7, Article VII, Section 7.702 – Truck Traffic Prohibited – and Report Back on City Council Concerns Related to Bartlett Street Truck Restriction:

At the May 3, 2021 City Council meeting, there were several questions and requests posed by Councilors for additional information relating to the proposed restriction of truck traffic on Bartlett Street after the opening of the new Hodgdon Way (Cate Street Connector) roadway to the Route 1 Bypass. The first request was regarding the potential impacts and consequences, intentional or unintentional, of prohibiting truck traffic on Bartlett Street. The second request was for an update of other measures to reroute trucks in the area, such as the restricting of left turns from the Bypass onto Cottage Street. The third request was for the remaining options for trucks in the Dennett Street area. [Attached please find a map](#) indicating the area being addressed.

The consequences of restricting truck traffic on any street is that trucks must find another route to their destination. This means that the volume of truck traffic will increase on other streets in the area that still allow for truck traffic.

In the case of Bartlett Street, the only nearby available streets will be Cottage Street and the new Hodgdon Way, as well as the section of Dennett Street between Woodbury Avenue and Bartlett Street. In order to reduce the impact of prohibiting truck traffic on Bartlett Street, the ordinance should be amended to prohibit truck traffic on this section of Dennett Street as well. Cottage Street allows truck traffic, but if trucks drive all the way up Cottage Street to Woodbury Avenue, they are directed to turn left onto Woodbury Avenue and then back onto the Route 1 Bypass. In the other direction, trucks are allowed on Maplewood Avenue, but this road would not be expected to see any significant increase in truck traffic as it leads to downtown.

Trucks using Bartlett Street are not destined for the downtown due to low clearance under the railroad bridge on Bartlett Street which restricts all but the lowest trucks.

At this time, there are no other measures planned to restrict trucks or traffic in the area. The possibility of restricting left turns from the Bypass onto Cottage Street is part of a long term planning consideration that would require coordination with the NHDOT and the provision of a connector roadway between Coakley Road and Borthwick Avenue. This measure could be pursued if the future traffic conditions on the Bypass warrant the removal of the traffic signal at the intersection of Coakley Road, Cottage Street and the Bypass.

As part of the Hodgdon Way connector roadway work, the intersection of Bartlett Street and Cate Street will be reconfigured to move the STOP sign from the Cate Street approach to the Bartlett Street approach. This will help to reinforce that Cate Street/Hodgdon Way is the intended primary route between Islington Street and the Route 1 Bypass, and will help to discourage cut-through traffic on Bartlett Street.

With the truck restriction on Bartlett Street, trucks should have no reason to exit from the Bypass onto Woodbury Avenue unless they are making a local delivery to a business or residence on a local street in the neighborhood. City ordinances allow for trucks on truck restricted streets if they are making a delivery to an address on that street and there is no other route to access the location. City staff will work with the NHDOT to determine if NO TRUCK signs can be placed at the exit ramps to Woodbury Avenue at the Bypass.

At its April 8, 2021 meeting, the Parking and Traffic Safety Committee (PTSC) voted to unanimously recommend to the City Council that truck traffic be prohibited on Bartlett Street as soon as Hodgdon Way (Cate Street Connector) is open to traffic. The PTSC considered this recommendation as part of modifications to truck traffic in the Bartlett Street area in response to residents' concerns to calm traffic and create a more pedestrian friendly environment. On May 3rd, the City Council moved to schedule first reading at the May 17th meeting of an ordinance that would prohibit truck traffic on Bartlett Street as soon as practicable. [The attached ordinance](#) amends Chapter 7, Article VII, Section 7.702, TRUCK TRAFFIC PROHIBITED, to restrict truck traffic on Bartlett Street once Hodgdon Way is open for public travel and makes other minor amendments to the ordinance to effectuate the implementation of the revised truck route.

I recommend that the City Council move to pass first reading, and schedule a public hearing and second reading at the June 7, 2021 City Council meeting.

C. Third and Final Reading of Ordinance Amending Chapter 7, Article IX, Section 7.901 – Penalties, Forfeitures and Separability:

In its ongoing effort to ensure compliance with applicable City Ordinances, the Parking Division deploys a citation protocol with a view to encouraging residents and visitors to pay the meter system for the use of City-managed parking inventory. This protocol includes patrolling the City's parking spaces to ensure payment, and to issue parking citations when payment is not made, or a driver has allowed their session to expire without renewal. The current fine structure was last revisited in 2013.

The Parking Division recognizes that the City's fine structure no longer encourages the desired behavior, particularly as it pertains to the new daily maximum rates under the Stay and Pay system. Out-of-town guests who find a \$15 citation on their vehicle are now more prone than before to simply skip payment for the remainder of the day, rather than be encouraged to either vacate the space or continue their parking session. Additionally, research of surrounding towns shows that Portsmouth lags behind peer averages in several violation categories.

To address this ongoing issue, the Parking Division initially recommended revisiting the fine structure in March 2020 to modify the four most-utilized citation categories. Those recommendations were brought before the Parking and Traffic Safety Committee (PTSC) on March 5, 2020, resulting in a unanimous vote to forward to the City Council for first reading on March 16th prior to the COVID-19 outbreak, which put this item on hold.

The request to update the fine structure was scheduled for first reading at the February 8, 2021 City Council meeting through an amendment to Chapter 7, Article IX, Section 7.901, Penalties, Forfeitures and Separability.

The proposed amendment recommended changes to the four most utilized citation categories of parking fines: session expired; parking in no parking area; emergency snow ban and commercial loading zone.

The amendment proposed increasing those fines to \$50, and after 30 days, to \$75 or \$100. The proposed amendment to Chapter 7, Article IX, Section 7.901 did not pass first reading on February 8, 2021. Council members noted they received comments from citizens concerned about the amount of the proposed increase to these parking fines and voted unanimously to refer the proposed parking fine schedule to the PTSC for a report back.

After receiving public comment, the PTSC reviewed the proposed fines for session expired, parking in no parking area, emergency snow ban and commercial loading zone at its March 8, 2021 meeting. After discussion, the PTSC voted unanimously to recommend that the parking fines for session expired, parking in no parking area, emergency snow ban and commercial loading zone be increased to \$35, and if not paid in 30 days, increased to \$55. The PTSC also acknowledged the need to review additional parking violations including safety related violations and enhanced penalties for frequent offenders at a future meeting.

The Fee Committee reviewed the PTSC's recommendations to increase parking fines as set forth above at its March 29, 2021 meeting. The Fee Committee voted unanimously to endorse these recommendations to the City Council to increase the parking fines as described in the [attached schedule](#).

The [attached amendment to Chapter 7, Article IX](#) has been changed since presented at the April 5th Council meeting. Some housekeeping amendments have been removed because the ordinance is going back to PTSC for review of the ordinance as a whole in order to simplify the ordinance, delete obsolete sections and recommend penalties for safety violations and repeat offenders. The [attached amendment](#) includes the proposed fine increases and updates the current section numbers and titles, lists the amount each penalty will increase after 30 days and references parking violations that were in other sections of Chapter 7 but were not included in the penalty section.

On May 3rd, the City Council moved to schedule a third and final reading at this evening's meeting.

I recommend that the City Council move to adopt the third and final reading of the proposed amendments to Chapter 7, Article IX, Section 7.901 – Penalties, Forfeitures and Separability.

XV. City Manager's Items which Require Action:

1. Approval of Fire Chief Employment Agreement:

The City Council reviewed an employment agreement for Fire Chief, Todd Germain, in a Non-Public Session earlier this evening. Attached is the [proposed agreement](#).

I recommend that the City Council move to ratify the agreement as presented with Fire Chief, Todd Germain.

2. Approval of Superintendent Employment Agreement:

The City Council reviewed an employment agreement for School Superintendent, Steve Zadravec, in a Non-Public Session earlier this evening. Attached is the [proposed agreement](#).

I recommend that the City Council move to ratify the agreement as presented with School Superintendent, Steve Zadravec.

XVI. Consent Agenda:

A. Projecting Sign License – 21 Daniel Street:

Permission is being sought to install a [projecting sign at 21 Daniel Street](#) that extends over the public right of way, as follows:

Sign dimensions: 24" x 48"

Sign area: 8 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. *Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:*

- 1. The license shall be approved by the Legal Department as to content and form;*
- 2. Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and*
- 3. Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the signs, 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.*

XVIII. City Manager's Informational Items:

1. **Report Back on March 2021 Monthly Summary Report as Requested by Councilor Huda at the May 3rd City Council Meeting:**

A [report back is attached](#) addressing the questions and comments posed by Councilor Huda at the May 3, 2021 City Council meeting in regards to the [March 2021 Monthly Summary Report](#).

2. **Report Back on all North Mill Pond Development Projects and Endangered Species as Requested by Councilor Trace at the May 3rd City Council Meeting:**

At the May 3, 2021 Council meeting, the Council requested a report back as requested by Councilor Trace on currently proposed development projects bordering the North Mill Pond, including what percentage of the proposed buildings and/or parking areas fall within the 50 and 100 foot wetland buffer areas. In addition, the Council requested a report back on any endangered species that use and or make North Mill Pond home.

Summary of Recently Proposed or Approved Development Projects

The summaries below indicate the amount of impervious surface (areas covered by pavement or buildings where surface water cannot penetrate) for each project.

105 Bartlett Street

- This project was approved by the Planning Board on April 15, 2021.
- Within the 0' to 25' buffer zone the total existing impervious area is 12,788 square feet (includes existing paved areas), and the total proposed impervious area is 6,788 square feet (including sidewalk and existing driveway), which represents a net reduction of 6,000 square feet.
- Within the 25' to 50' buffer zone the total existing impervious area (including existing buildings and paved areas) is 30,478 square feet and the total proposed impervious area is 22,394 square feet (including portions of existing driveway and sidewalks, but no buildings). This is a net reduction of buildings and paved areas in this buffer zone of 8,084 square feet.

- Within the 50' to 100' buffer zone the total existing impervious area is 66,844 square feet and the total proposed is 52,543 square feet (including a small portion of the new buildings, some of the existing Ricci Lumber buildings, and the existing driveway and sidewalks), which represents a net reduction of 14,301 square feet.

53 Green Street

- This project received a unanimous recommendation for approval from the Conservation Commission on April 14, but is still pending final review by the Technical Advisory Committee, Historic District Commission, and Planning Board.
- Within the 25' to 50' wetland buffer zone the total existing impervious area is 745 square feet (buildings and parking), total proposed is 98 square feet (pathway), which represents a net reduction of 647 square feet.
- Within the 50' to 100' wetland buffer zone the total existing impervious area is 10,836 square feet (buildings and parking), total proposed is 8,425 square feet (buildings and pathway), which represents a net reduction of 2,411 square feet.

1 & 31 Raynes Avenue and 203 Maplewood Avenue

- This project is currently pending review by the Conservation Commission, Technical Advisory Committee, Historic District Commission, and Planning Board.
- All of these numbers are as proposed in the application submitted for Conservation Commission review for the May 11th meeting.
- Within the 0' to 25' wetland buffer zone the total existing impervious area is 848 square feet (parking), the total proposed is 0 square feet, which represents a net reduction of 848 square feet.
- Within the 25' to 50' wetland buffer zone, the total existing impervious area is 3,006 square feet (parking and existing buildings), total proposed is 67 square feet (city sidewalk), which represents a net reduction of 2,939 square feet.
- Within the 50' to 100' wetland buffer zone, the total existing impervious area is 24,473 square feet (parking and existing buildings), total proposed is 24,528 square feet (mostly parking), which represents a net increase of 55 square feet.

Endangered and Threatened Species

Lists of species that are considered “endangered” or “threatened” are maintained at both the state and federal level. The North Mill Pond includes salt marsh and estuarine habitat. Species with state level endangered or threatened designations that may be found in these natural habitats in Portsmouth are listed below. The actual presence of these species at the pond has not necessarily been confirmed. Any that are also included on the federal endangered (E) or threatened (T) species lists are starred.

Birds/Mammals:

- Northern long-eared bat (T)*
- Common tern (T)

Fish:

- Atlantic sturgeon (T)*
- Shortnose sturgeon (E)*

Plants:

- Dwarf glasswort (E)
- Salt marsh gerardina (T)
- Marsh elder (T)

3. **Update on Reimbursement for COVID-19 Vaccination Efforts:**

The City will be reimbursed by the State of New Hampshire for the Fire Department's COVID-19 vaccination efforts. A memorandum providing more information on this reimbursement is [attached](#).

4. **Household Hazardous Waste Collection Day:**

Please find attached a [press release](#) announcing Household Hazardous Waste Collection Day on Saturday, May 22nd.