

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, MAY 17, 2021

PORTSMOUTH, NH
TIME: 7:00PM [or thereafter]

At 6:00 p.m., Anticipated Non-Public Sessions were held regarding three topics:

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

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

At 7:05 p.m. Assistant Mayor Splaine 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

Assistant Mayor Splaine asked for a moment of silent prayer.

VI. PLEDGE OF ALLEGIANCE

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

VII. ACCEPTANCE OF MINUTES – APRIL 19, 2021 AND MAY 3, 2021

Councilor McEachern moved to accept and approve the minutes of the April 19, 2021 and May 3, 2021 City Council meetings. Seconded by Councilor Huda and voted.

IX. PUBLIC COMMENT SESSION – *Participation via Zoom*

Arthur Clough spoke opposed to the proposed parking fine increases and said it feels like it is another grab by the City for additional monies.

Jackie Cali-Pitts – said she hopes that the City moves forward with the McIntyre project. She also spoke to a meeting that was to take place between the Peirce Island Committee and the Recreation Board. She stated because there has been no meeting between the two groups that the Recreation Board has been left out of the process.

Roy Helse asked if the Planning Board works for the City or developers. He said every time a variance is given the residents must pay more.

Stephanie Lazenby spoke in support of Indigenous Peoples' Day being celebrated in place of Columbus Day. She stated there is no tradition with celebrating Columbus Day.

Andrew Bagley spoke in favor of the McIntyre Subcommittee motion that appears on the agenda this evening under Councilor Whelan's name. He said it has been a clear and transparent process and we need to move forward. He also spoke on the increase in parking fines and said he finds them to be too high. In addition, he said he looks forward to the Audit Committee meetings in the future.

Ron Ulrich spoke regarding the current vote on Option I for the McIntyre project. He said as a member of Revisit there has been many claims on transparency. He spoke in support of the Binnie proposal for the McIntyre project. He asked the City Council what they have done differently from the former Council.

May Catino, Portsmouth High School student, Rye, NH spoke in support of Indigenous Peoples' Day instead of Columbus Day. She said there is currently a petition supporting Indigenous Peoples' Day which contains over 1,000 signatures.

William Downey thanked the City Council for entertaining questions and concerns over the last week regarding the McIntyre project. He said the plan in front of the City Council is based on an apathy approach. He stated it was disingenuous to say 50% supported the plan. He said the number of hours spent on this matter is not a validation for the community. He asked for a reconsideration of the rank choice survey.

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

Public Hearing – *Participation via Zoom*

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

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

Lilia Potter-Schwartz, Portsmouth High School, Rye, NH spoke in support of Indigenous Peoples' Day. She advised the City Council that it was first proposed to be recognized in 1977 and said currently over 100 cities and counties are recognizing Indigenous Peoples' Day.

Leo Swainbank said Columbus Day is not important enough to recognize Christopher Columbus. He spoke in support of Indigenous Peoples' Day being recognized moving forward.

Mya McKinnon, Portsmouth High School, spoke in support of Indigenous Peoples' Day and asked the City Council to stay true to their Resolution for racial justice. She stated she would like to make sure history is accurate and teachers provide an accurate learning experience for all.

Steve Zadavec, Superintendent, thanked the City Council for holding this public hearing and supporting our young leaders. He requested that the City Council recognize Indigenous Peoples' Day because it is the right thing to do.

Andrew Bagley spoke in support of Indigenous Peoples' Day and the work of the Portsmouth High School students. He said it is long overdue for the City to recognize Indigenous Peoples' Day.

Kristin Jeffrey, School Board Chair, spoke in support of changing Columbus Day to Indigenous Peoples' Day. She thanked the City Council for conducting this public hearing to discuss this request. She spoke to the Racial Justice Resolution that was adopted by the City Council and stated recognizing this would honor that Resolution and what the work looks like in practice. She thanked "We Speak" of Portsmouth High School for all of their work bring this matter forward.

Jackie Cali-Pitts said we need to look at some of the statements made about Christopher Columbus and what he was responsible for. She said who were the indigenous people and what happened to them. She stated it is important to get our history straight.

After three calls Mayor Becksted announced there were no further speakers this evening.

Mayor Becksted expressed concerns that there was no motion on the agenda regarding this matter and does feel more people would have come forward to speak if they knew there would be a motion made this evening.

Councilor Lazenby said he feels the motion is what is stated under the public hearing title of the agenda.

Councilor Lazenby moved to recognize Indigenous Peoples' Day each year instead of what has been typically designated by the State of New Hampshire as Columbus Day. Seconded by Assistant Mayor Splaine.

Councilor Lazenby asked City Attorney Sullivan what language would be appropriate for a motion because he was told this matter could come forward and be voted upon in one meeting. He spoke to the City Council agreeing to hold a public hearing on this matter in the future. He expressed his support for this request.

Councilor Tabor said he supports changing Columbus Day to Indigenous Peoples' Day. He said last year he requested to recognize both Columbus Day and Indigenous Peoples' Day. He spoke to the importance of this matter.

Assistant Mayor Splaine said he supports the motion. He said this day would be to educate people and we must tell the truth with real facts.

Councilor McEachern said he supports the motion and Indigenous Peoples' Day. He said this is not the first opposition to Columbus Day and now we have a group of students requesting the change.

Mayor Becksted said this is a sensitive issue and expressed concern with pitting one against the other.

Mayor Becksted moved to amend the motion to recognize Indigenous Peoples' Day and Columbus Day on the same day as a holiday. Seconded by Councilor Kennedy.

Mayor Becksted said he believes in sharing and not dividing and would like to see the motion on the next agenda.

City Attorney Sullivan said as Mayor, you are in charge of controlling the agenda and could rule items out of order, however, this ruling could be appealed and the affect would be to call for a vote and a majority vote over rules Mayor Becksted.

Mayor Becksted said he would like to have this discussion at the next City Council meeting and celebrate Indigenous Peoples' Day and Columbus Day.

Assistant Mayor Splaine asked Councilor Lazenby to place this motion on the next agenda and he would support it. He said it is not about groups it is about truth and education.

Councilor Lazenby said he has received 10 e-mails and most supported the idea and it was not lost on people, we were considering a motion. He does not feel anyone is pitting anyone against another, this is a positive step to consider.

Mayor Becksted said there was no motion on the agenda. He understands that if a motion is not on the agenda we do not act upon the issue.

Discussion ensued regarding whether or not the title was in fact intended to be the motion for the agenda.

City Attorney Sullivan explained that Columbus Day is a State holiday and you cannot change the name like the State can, but the City could hold conterminously with Columbus Day and the holiday would be called Indigenous Peoples' Day and this motion would accomplish this.

Councilor Lazenby asked would it work to continue the public hearing to the next City Council meeting with the intention to have a motion to act on in two weeks.

Councilor Kennedy asked how you put this motion forward if it is out of order.

City Attorney Sullivan said conterminously and naming Indigenous Peoples' Day with Columbus Day statewide.

Further discussion followed regarding this matter and moving forward with some sort of action.

Mayor Becksted said he would like the public hearing continued on the next City Council meeting with a motion on the agenda.

Councilor Lazenby said he respectfully requests that we have a motion and take action at the June 7, 2021 City Council meeting.

City Attorney Sullivan stated Mayor Becksted made a ruling that the motion be on the next agenda.

Mayor Becksted ruled to continue the Public Hearing at the June 7, 2021 City Council meeting with the motion to carry out the intent that the City Council would make a decision on Indigenous Peoples' Day over Columbus Day.

First Reading of Ordinance:

- B. First Reading of Ordinance amending Chapter 7, Article VII, Section 7.702 – Truck Traffic Prohibited – and Report Back

Councilor Kennedy moved to pass first reading and schedule a public hearing and second reading at the June 7, 2021 City Council meeting. Seconded by Councilor Huda.

Councilor Kennedy spoke regarding trucks that travel along roadways where they are prohibited.

Councilor McEachern spoke to the traffic calming measures that would come forward on this ordinance.

Mayor Becksted said that this will be a learning curve. He said spoke to trucks that would not be aware of this and how businesses would need to post notices.

Councilor Huda said being a former resident of Dennett Street, she witnessed a tractor trailer turning the wrong way on Woodbury Avenue in traffic which was paralyzing to area of Dennett Street and Woodbury Avenue for two to three hours.

Parking and Transportation Engineer Eby spoke to a map of routes that would be impacted by no truck traffic. He addressed the removal of part of the restrictions on Cate Street.

Motion passed.

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

Councilor Kennedy moved to adopt third and final reading of the ordinance. Seconded by Councilor Huda.

Assistant Mayor Splaine spoke opposed to the ordinance and increase in fines. He also stated that people should have more than 30 days to pay the fine.

Councilor McEachern said there is a need to move parked cars from the streets and maybe we look at other programs that could be created.

Councilor Whelan said he would support the motion and the recommendation to increase the fines by Parking Director Fletcher. He said the fine system is currently structured for people to over stay at the meters.

Mayor Becksted said he is concerned with the fee doubling. He said right now we need to bring people into the City as we come out of COVID. He said he would support the issuance of multiple tickets.

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

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

The City Council considered the reappointments as outlined above which will be voted upon at the June 7, 2021 City Council meeting.

2. Appointment to be Voted:
 - Daniel Brown to the Historic District Commission

Councilor Kennedy moved the appointment of Daniel Brown to the Historic District Commission until June 1, 2024. Seconded by Councilor Huda.

Councilor Lazenby asked who Daniel Brown would be replacing. Mayor Becksted advised the City Council that he decided to make a change and not reappoint Vincent Lombardi.

Councilor McEachern extended thanks and appreciation to Mr. Lombardi for his service to the community.

Councilor Lazenby thanked Mr. Lombardi for his service to the City and he would prefer it if the Mayor decided not to reappoint a person that the new appointee serve as an alternate and not a regular member of the board or commission.

Motion passed. Councilor Lazenby voted opposed.

XIII. CITY COUNCIL MEMBERS

A. COUNCILOR WHELAN

1. McIntyre Subcommittee

Councilor Whelan moved 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. Seconded by Councilor Trace.

Councilor Whelan said on May 4th the Principle Group presented the Vision Report. He said they appreciate all the questions and tried to address them all. He advised the City Council that the Subcommittee will have another session with the GSA and the National Park Service this week. He spoke to the number of hours spent over the last year on this matter and said this has been one of the most engaging processes, starting from the beginning. He stated that the project would be tweaked as we move through the process and not everyone will agree with the motion but he feels that the majority will, and that this has been an open and fair process.

Councilor Kennedy asked if there is a way to put a concept design into the motion. Councilor Whelan said the motion contains the language "preferred design concept."

Councilor Kennedy said she presented her items not as demands but for clarification. She spoke to the plan and the percentage that would be for community property and open space. She said the only two things not in the plan would be an opportunity to have historical pieces of the former State House and the set back on Bow Street, which was not delineated as a 70ft set back.

Councilor McEachern said we spent a great deal of time with City Attorney Sullivan on the motion. He said it is the Subcommittees assumption that things will need to change and things hopefully, will improve. He stated one group was adamant that the entire project was looked at that made a better plan. Councilor McEachern said that this is a work in progress and we want to see what the development partner wants to work on with us.

Councilor Huda said she participated in the process and does not feel it is the best concept for the residents, but is a start. She said we need to look to achieve more positive data.

Councilor Tabor said we inherited a tricky situation and the process was adopted in order to create a new process, which took time. He stated the original plan did not have public confidence. He spoke to the Portsmouth Listens process and said it was very fair, and the plan before us is the final selection by a significant score. He spoke to the various events that could take place with this plan and what it would look like bringing the post office back. Councilor Tabor urged the City Council to vote their conscience.

Councilor Trace thanked Councilor Tabor for his comments regarding what the Subcommittee tried to attain for the city. She said not once during the meetings did the Subcommittee make their opinions known. She stated the City Council should vote through the project that will benefit the greatest part of the City.

Councilor Lazenby said there is much to like about the plan and proposal. He said he appreciates the work of the Subcommittee and understands the concerns expressed along the way. He stated it is not a clear science how people think we should move forward with this matter. He spoke to amending the square footage in the table listed on page 88, which impacts values.

Councilor Whelan said there is still much to do with the plan and agreements before coming back to the City Council, Historic District Commission and Planning Board.

Assistant Mayor Splaine said he has thought a great deal regarding this matter. He said there has not been much discussions with Redgate Kane on any of the concepts. He stated he does not see an end in sight without having involved Redgate Kane up to this point. He spoke opposed to the survey and urged the Subcommittee to go into negotiations with Redgate Kane to not involve the rest of the Council.

Discussion followed regarding the process and moving forward.

On a roll call vote 8-1, motion passed. Councilors McEachern, Whelan, Lazenby, Kennedy, Huda, Tabor, Trace and Mayor Becksted voted in favor. Assistant Mayor Splaine voted opposed.

At 9:35 p.m., Mayor Becksted declared a brief recess. At 9:45 p.m., Mayor Becksted called the meeting back to order.

B. COUNCILOR KENNEDY

1. Walking trails on Peirce Island

Councilor Kennedy moved for a report back from the city on the following: 1) What is the city's plan to groom the walking trails on Peirce Island? 2) What is the design plan for public areas after the treatment plant updates? Seconded by Assistant Mayor Splaine.

Councilor Kennedy said she may consider doing a walk and inquired as to the responsibilities of the Peirce Island Committee to assist in the process. She also indicated that Peirce Island Committee and the Recreation Board has had their meeting and the Recreation Board can be involved with anything on Peirce Island.

Assistant Mayor Splaine said we need to make sure the Recreation Board is informed and invited. He said site walks are an excellent idea and thanked Councilor Kennedy for coming up with the approach.

Assistant Mayor Splaine moved to amend the motion to include a site walk of Peirce Island. Councilor Kennedy accepted this as a friendly amendment to the main motion.

Councilor McEachern said he would like to combine the site walk with opening up of Peirce Island. Councilor Kennedy accepted this as a friendly amendment to the main motion.

Councilor Trace inquired as to the status of Methuen Construction's remaining work at Peirce Island along with a review of the original plans versus what is actually taking place and further what was approved and included in the bid for the work being conducted. Councilor Kennedy accepted this as a friendly amendment to the main motion.

Motion passed as follows: Moved to conduct a site walk of Peirce Island that will coincide with the opening of the Island, with a report back from the City on the following: 1) What is the city's plan to groom the walking trails on Peirce Island? 2) What is the design plan for public areas after the treatment plant updates? and 3) the status of Methuen Construction's remaining work at Peirce Island along with a review of the original plans versus what is actually taking place and further what was approved and included in the bid for the work being conducted.

C. COUNCLOR HUDA

1. Report back to the Council on the first meeting of the Mayor's Blue Ribbon Committee Audit Committee including a recommendation for an audit firm to be voted on by the Council

Councilor Huda provided a brief report on the Mayor's Blue Ribbon Committee Audit Committee meeting. She said one proposal was received and that was from Melanson.

2. As Advised by City Legal Counsel, I would 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 Legal Department to move forward with the negotiations of a contract

Councilor Kennedy moved 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 the contract. Seconded by Councilor Tabor.

Councilor Tabor said in the future he would like us to find ways to get more firms to participate in the bid process.

Motion passed.

D. COUNCILOR TRACE

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

Councilor Trace advised the City Council that the Commissioners expressed their frustration with the inability to participate in the McIntyre process. She said that the Historic District Commission is quasi-judicial and should not have an opinion until it is presented to them. She said the members expressed concern as to why they were not allowed as residents to participate. She said it would make sense for the City Attorney to provide an opinion on this matter. She requested that City Attorney Sullivan make a presentation at the next meetings of the Land Use Boards regarding there Quasi-Judicial nature.

Mayor Becksted said perhaps it is time for a video or package to be prepared on this matter for the boards to refer to by the City Attorney. City Attorney Sullivan said he could provide a presentation much like he did five to six years ago relative to this matter.

2. McIntyre Subcommittee

Councilor Trace removed this item, as it was in support of Councilor Whelan's motion.

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

1. Approval of Fire Chief Employment Agreement

City Manager Conard said amendment to the Fire Chief's Employment Agreement relative to salary is before you for action this evening and recommended its approval.

Assistant Mayor Splaine moved to ratify the agreement as presented with Fire Chief Todd Germain. Seconded by Councilor Lazenby and voted.

2. Approval of Superintendent Employment Agreement

City Manager Conard stated a one year extension to the Employment Agreement with Superintendent Zdravec is before you for action this evening. She indicated the School Board is recommending its approval.

Councilor McEachern moved to ratify the agreement as presented with School Superintendent, Steve Zdravec. Seconded by Councilor Huda and voted.

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;***
- ***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 Kennedy moved to adopt the Consent Agenda. Seconded by Councilor McEachern and voted.

XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence

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

- B. Request of Restoration of Involuntary Merged Lot – 135 Thaxter Road

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

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

Councilor Trace requested a presentation on the different threats to the North Mill Pond and the endangered species of the pond in addition to, what is being done to protect them.

Councilor Kennedy asked what organization was used for obtaining the information provided. City Manager Conard said she would look up the source and provide that information to the City Council.

3. Update on Reimbursement for COVID-19 Vaccination Efforts

Councilor Huda asked if the reimbursement received would offset the expenses we have incurred and where we stand at this point in time.

4. Household Hazardous Waste Collection Day

City Manager Conard announced that Household Hazardous Waste Collection Day will take place on Saturday, May 22, 2021 at the Public Works Department.

XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

Councilor McEachern announced that resident Michelle Sechser and her rowing partner Molly Reckford are heading to the Tokyo Olympics to compete for a gold medal after winning the 2021 World Rowing Final Olympic Qualification Regatta.

Assistant Mayor Splaine asked for an update on where we are with the issue of opening buildings and the wearing of face coverings. City Manager Conard spoke to her meeting with Health Director Kim McNamara on vaccination rates. She stated that the mask mandate still exists and that city buildings will begin opening up to the public on Monday, May 24, 2021. Assistant Mayor Splaine said the City Council may revisit the matter of masks soon.

Councilor Kennedy asked when the City Council could expect the report back on the Demolition Committee.

XX. ADJOURNMENT

At 10:25 p.m., Councilor McEachern moved to adjourn. Seconded by Councilor Huda and voted.

A handwritten signature in black ink that reads "Kelli L. Barnaby". The signature is written in a cursive, flowing style.

KELLI L. BARNABY, MMC/CNHMC
CITY CLERK