

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, JUNE 21, 2021 TIME: 6:00PM

Members of the public also have the option to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser:

https://zoom.us/webinar/register/WN_eyJX7P3bMQVSTumeRf_67Uw

6:00PM – ANTICIPATED NON-PUBLIC SESSION:

1. **1386B COLLECTIVE BARGAINING TENTATIVE AGREEMENT IN ACCORDANCE WITH RSA 91-A:3 II (a)**
2. **DEER STREET ASSOCIATES – LEGAL ADVICE – RSA 91-A:3, II (I)**
3. **ACQUISITION OF REAL ESTATE – RSA 91-A:3, I (d)**

AGENDA

- I. **WORK SESSION – THERE IS NO WORK SESSION THIS EVENING**
- II. **PUBLIC DIALOGUE SESSION [when applicable – every other regularly scheduled meeting] – N/A**
- III. **CALL TO ORDER [7:00 p.m. or thereafter]**
- IV. **ROLL CALL**
- V. **INVOCATION**
- VI. **PLEDGE OF ALLEGIANCE**
- VII. **ACCEPTANCE OF MINUTES – JUNE 7, 2021; OCTOBER 5, 2020; OCTOBER 19, 2020 & OCTOBER 26, 2020 (Sample motion – move to accept and approve the minutes of the June 7, 2021; October 5, 2020; October 19, 2020 and October 26, 2020 City Council meetings)**
- VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**
 - A. *2021 Division II NHIAA Girls Lacrosse Champions – Portsmouth High School Clippers
 - B. *2021 Division II NHIAA Boys Lacrosse Champions – Portsmouth High School Clippers
- IX. **PUBLIC COMMENT SESSION – (Via Zoom)**
- X. **PUBLIC DIALOGUE SUMMARY [when applicable] – N/A**
- XI. **PUBLIC HEARING AND VOTES ON ORDINANCES AND/OR RESOLUTIONS**

Public Hearing:

- A. **AUTHORIZE THE CITY MANAGER TO APPLY FOR, ACCEPT AND EXPEND THE CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS THROUGH THE AMERICAN RESCUE PLAN ACT OF 2021 IN THE AMOUNT OF \$6,441,140.00**

- PRESENTATION
- CITY COUNCIL QUESTIONS
- PUBLIC HEARING SPEAKERS
- ADDITIONAL COUNCILOR QUESTIONS AND DELIBERATIONS

(Sample motion – move to authorize the City Manager to apply for, accept and expend the Coronavirus State and Local Fiscal Recovery Funds through the American Rescue Plan Act of 2021 in the amount of \$6,441,140.00, with the final approval on the plan for expenditures by the City Council and subject to the attached terms and conditions of the offer and the rules and regulations pertaining thereto)

First Reading of Ordinance:

- B. First Reading of Ordinance amending Chapter 1, Article IV – COMMISSIONS AND AUTHORITIES, Section 1.414 AUDIT COMMITTEE *(Sample motion – move to pass first reading and schedule a public hearing and second reading at the July 12, 2021 City Council meeting)*

Third and Final Reading of Ordinance:

- C. Third and Final Reading of Ordinance amending Chapter 7, Article VII, Section 7.702 – Truck Traffic Prohibited *(Sample motion – move to pass third and final reading of the ordinance)*

XII. MAYOR BECKSTED

1. Clarification Regarding Indigenous Peoples' Day Vote on 6/7/2021
2. Resignation of Steven Gray from the Cable Television & Communications Commission
3. *Appointments to be Voted:
 - Appointment of Henry Mellynychuck to the Conservation Commission
 - Appointment of Beth Margeson to the Zoning Board of Adjustment

XIII. CITY COUNCIL MEMBERS

A. COUNCILOR McEACHERN

1. *Request Presentation on Creating a Community Housing Trust

B. COUNCILOR HUDA

1. Resolution – Appropriation for Funds *(Sample motion - move to adopt a Resolution relative to NH RSA 31:95-B, Appropriation for funds made available during the year. (Unanticipated Moneys – I.E. ARP Funds)*
2. Final Report Back regarding MBRC to Reopen Portsmouth *(Sample motion – move for a Final Report Back from the City Manager on the MBRC to Reopen Portsmouth)*

XIV. APPROVAL OF GRANTS/DONATIONS

(There are no grants/donations on the agenda this evening)

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager's Items Which Require Action:

1. Renewal of Boarding House Permits
2. *Request to Schedule Work Session Regarding Community Power

XVI. CONSENT AGENDA

(Proper Motion for Adoption of Consent Agenda - move to adopt the Consent Agenda)

- A. Letter from Richard Mason, Veterans Count, requesting permission to hold the 8th Salute-Our-Soldiers on Friday, September 10, 2021 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Letter from Ken LaValley, Out of the Darkness, requesting permission to hold Out of the Darkness Community Walk on Saturday, October 2, 2021 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- C. Letter from Josh Denton, Commander of V.F.W. Post 168, requesting permission to hold an End of the Afghanistan War Parade on Saturday, September 25, 2021 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***

XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence ***(Sample motion – move to accept and place on file)***
- B. Letter from Michael Griffin, Portsmouth Lodge of Elks, requesting the City Council approval to place a referendum question on the Municipal Election ballot to allow KENO to be offered in Portsmouth
- C. Letter from George Remick requesting a referendum question to be placed on the Municipal Election ballot to allow KENO to be offered in Portsmouth
- D. Letter from Derek Nadeau regarding providing enhanced Public Safety and continual commerce of high traffic city area and provide law enforcement with video footage (no audio), for monitoring and follow up investigation purposes for a period of 2 weeks (not traffic enforcement)
- E. Letter from Attorney Timothy Phoenix on behalf of Bluestone Properties of Rye, LLC, requesting the City Council to authorize City Manager Conard to execute the Parking Agreement confirming the 20 year term for 5 parking space in the Worth Lot behind 135 Congress Street

XVIII. CITY MANAGER'S INFORMATIONAL ITEMS

1. Report Back on Assistant Mayor's Request from 6/7/2021 Regarding Extension to 60 Days for Parking Payment Citations Increases
2. Report Back on Assistant Mayor's Request from 6/7/2021 Regarding PFAS in Playing Fields

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*

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, JUNE 7, 2021

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

III. CALL TO ORDER

Mayor Becksted called the meeting to order at 7:03 p.m.

IV. ROLL CALL

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

V. INVOCATION

Mayor Becksted asked everyone to join in a moment of silent prayer.

VI. PLEDGE OF ALLEGINANCE

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

VII. ACCEPTANCE OF MINUTES – MAY 17, 2021; JUNE 1, 2021; AUGUST 18, 2020; SEPTEMBER 14, 2020 & SEPTEMBER 22, 2020

Councilor McEachern moved to accept and approve the minutes of the May 17, 2021; June 1, 2021; August 18, 2020; September 14, 2020 and September 22, 2020 City Council meetings. Seconded by Councilor Lazenby.

Councilor Huda requested a change to page 5 of the minutes of May 17, 2021 relative to her response regarding first reading of truck traffic to read as follows: *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 the area of Dennett Street and Woodbury Avenue for two to three hours.*

Motion passed.

VIII. RECOGNITION AND VOLUNTEER COMMITTEE REPORTS

- A. Recognition of Fire Department and Health Department Staff for COVID-19 Vaccination Efforts

Mayor Becksted, on behalf of the City Council and City of Portsmouth, expressed his sincere thanks and appreciation to Fire Chief Germain and Health Officer McNamara for all they did during the COVID-19 vaccination efforts. Mayor Becksted presented both Fire Chief Germain and Health Officer McNamara with a City of Portsmouth coin.

B. Sustainable Practices Committee Presentation: Community Power – Councilor Lazenby & Portsmouth High School Eco Club – Darla Mahoney and Maya McKinnon

Councilor Lazenby said he appreciates the time the City Council is giving for this presentation and said the Sustainable Practices Committee has been working on this for the past 8 months. He said the Sustainability Committee aim to move climate solutions towards Drawdown as quickly, safely, and equitably as possible. He introduced Portsmouth High School Eco Club members Darla Mahoney and Maya McKinnon.

Ms. McKinnon said Drawdown is the future point in time when levels of greenhouse gases in the atmosphere stop climbing and start to steadily decline. She said electricity is one of the top ten items of importance.

Councilor Lazenby said the Sustainability Practices Committee would like to have a work session with the City Council to discuss these matters further. He spoke to a program with the State of New Hampshire regarding supply sources of electricity.

Benefits of Community Power:

- Cost Savings through coordinated purchasing, municipalities receive opportunities to buy electricity supply at lower cost for consumers
- Aggregation of Local Renewables Cleaner & renewable energy options generated locally – solar, hydro, wind
- Municipal Cooperation of Sustainable Energy NH communities share best practices and improved leverage to use Greener power with better efficiency

Ms. Mahoney stated Community Power authorized under NH RSA 53-E, empowers cities and towns to aggregate local power and/or manage electricity suppliers for residences and businesses using existing distribution carriers.

Councilor Lazenby said the Sustainability Practices Committee has met with some of the communities pursuing Community Power. He said we have learned best practices from existing programs:

- Town of Hanover
- City of Lebanon
- City of Nashua
- City of Keene
- Town of Harrisville
- Cheshire County
- 30+ NH towns/cities/counties already considering Community Power

Councilor Lazenby said the Sustainability Practices Committee would like to hold a work session and review Community Power in-depth and form an Energy Committee. He spoke to the creation of such a committee would review the details and the City Council representatives and City Staff representative would bring further recommendations on moving forward.

Ms. Mahoney said in closing, she hopes the City Council will support Community Power.

Councilor Lazenby moved to suspend the rules to bring forward Item XIII. C.1. – Work Session regarding Community Power. Seconded by Assistant Mayor Splaine and voted.

C. COUNCILOR LAZENBY

1. Work Session Regarding Community Power

Councilor Lazenby moved to schedule a City Council Work Session regarding Community Power during the summer 2021. Seconded by Assistant Mayor Splaine.

City Manager Conard said she would like the City Council to consider the following dates for a work session, July 19th or August 9th.

Motion passed.

Mayor Becksted expressed his appreciation and thanks to Steve Jones and students of the CTE Program for the painting of the barriers and the building of the planters. He said we are open and ready for a great summer ahead. He said the downtown outdoor dining establishments have been transformed with the barriers and planters.

IX. PUBLIC COMMENT SESSION – (Via Zoom)

Jackie Cali-Pitts said the city needs to take time and look at Indigenous Peoples' Day versus Columbus Day. She also suggested the closing of Congress Street for the outdoor dining experience.

Andrew Bagley spoke in support of the budget. He said that we are losing teachers at Little Harbor School which he opposes. He addressed the six foot distancing inside of restaurants and how that is negatively impacting small establishments.

Zelita Morgan said it is good to see the City Council back in the Chambers. She thanked the City Council for their leadership in the current state of the country. She further thanked the City Council for listening, being respectful and keeping civility.

Bill Downey spoke to data he requested on Revisit McIntyre and said it was not satisfactory. He called out to the City Council to bring forward the information. He said the City Council should provide the same effort to the McIntyre issue like they did for the bike lanes. He thanked Assistant Mayor Splaine for coming up big on the vote at the last City Council meeting. He said we should not move forward on McIntyre as it is on shaky ground.

Carly Galantia spoke to the mask mandate and said we are the only community that is causing people to wear masks. She said people have had enough with wearing masks and some are not wearing them correctly anymore.

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

Public Hearings/Second Reading of Ordinances:

- 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.

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 Councilor Tabor.

Councilor Huda moved to amend to add the choice of recognizing Indigenous Peoples' Day or Columbus Day until such time as the State or Federal laws recognize the need for the change for elimination of the current name. Seconded by Councilor Kennedy.

Andrew Bagley said it is time to move forward and celebration Indigenous Peoples' Day independently from Columbus Day. He said he would suggest moving forward with the amendment.

Lilia Potter-Schwartz, Portsmouth High School (PHS), We Speak, spoke opposed to the amendment and expressed her support for the original motion. She advised the City Council that We Speak has a petition with over 1,000 signatures in support of recognizing Indigenous Peoples' Day.

Harini Subramanian, PHS, We Speak, spoke in opposition to the amendment and is supportive of the original motion made. She said Columbus was not the first person to discover America. She said celebrating Columbus Day is causing stress to the indigenous people. She spoke of indigenous peoples' hardships and urged the City Council to pass the motion to recognize Indigenous Peoples' Day.

Sue Polidura spoke opposed to renaming Columbus Day to Indigenous Peoples' Day. She said it is a Federal holiday and should remain as so. She said if individuals want to celebrate Indigenous Peoples' Day it could be done at any time.

Jackie Cali-Pitts thanked Councilor Huda for the amendment and asked who the indigenous people are. She said she does not know who or what we would be changing Columbus Day to.

Maya McKinnon, PHS, We Speak, said that she does not support the amendment to the original motion. She said this is the third time students have brought this matter forward. She said Columbus Day is painful to indigenous people and Columbus afflicted so much harm to the indigenous people.

Becky Sidwell, PHS, We Speak, spoke opposed to the amendment because it would recognize Columbus. She said a majority of residents may not be affected but this is for racial justice.

Nora (inaudible) spoke in favor of Indigenous Peoples' Day. She urged the City Council to approve the request of We Speak.

Darla Mahoney, PHS, We Speak, spoke opposed to teaching Columbus Day with honor. She said indigenous people are forced to sit in classrooms and listen to the stories of Columbus which cause them pain.

Kristin Jeffrey, School Board Chair, spoke in support of the name change and opposed to the amendment to the motion. She said students now have 1,058 people supporting this change and we need to be more thoughtful on how history is taught in our schools.

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

Assistant Mayor Splaine said he respects the maker of the motion to arrive at a compromise. He said Columbus did not discover America and said he would not support the amendment but will support the original motion. He said he would hope that the City Council support moving forward the main motion.

Councilor Kennedy thanked the students for coming forward. She said Indigenous Peoples' Day should be celebrated separately and she would support the amendment because it allows choice.

Councilor McEachern said he would not be supporting the amendment. He expressed his support of We Speak for coming forward and the education process for Indigenous Peoples' Day.

Councilor Tabor said Portsmouth High School students are challenging the Council to tell the truth about Indigenous Peoples' Day. He spoke opposed to the amendment and feels we are going a step backwards with the amendment. He said the City of Portsmouth could be a leader in celebrating Indigenous Peoples' Day.

Councilor Lazenby thanked the students of We Speak for getting the ball rolling and bringing this to the City Council's attention. He requested the maker of the amendment to allow for us to celebrate both days.

Councilor Lazenby moved to amend the motion to change the word "or" to "and". Seconded by Councilor Tabor.

Councilor Lazenby said this will move us further into the future and provides a compromise to celebrate Columbus Day.

Councilor Lazenby amendment passed with Councilor Huda opposed.

Councilor Lazenby said the motion was specific last year with a date of October 12, 2020 and we committed to holding a public hearing and did not set a policy.

Councilor McEachern moved to amend the motion to strike the State requirement of enabling legislation to celebrate Indigenous Peoples' Day alongside Columbus Day. Seconded by Assistant Mayor Splaine.

Councilor Trace said this allows an individual the choice to celebrate Indigenous Peoples' Day or Columbus Day. She said this is about having the freedom to make our own choice and she wants residents to have a choice.

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

On a roll call vote 4-5, main motion as amended failed to pass. Assistant Mayor Splaine, Councilors McEachern, Lazenby and Tabor voted in favor. Councilors Whelan, Kennedy, Huda, Trace and Mayor Becksted voted opposed.

B. "REOPENING OF PUBLIC HEARING REGARDING FY22 BUDGET"

Mayor Becksted reopened the public hearing on the FY22 Budget and called for speakers.

Andrew Bagley spoke opposed to losing teachers at Little Harbor School. He said we are getting a large amount of money from the Federal Government, therefore we should not be losing teachers.

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

Mayor Becksted said the School budget was passed on the recommendations of the School Department.

C. PUBLIC HEARING/ORDINANCE AMENDING CHAPTER 3, ARTICLE XI, FACE COVERINGS DURING THE COVID-19 PANDEMIC IS HEREBY REPEALED IN ITS ENTIRETY

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

Carly Galantia said businesses are suffering from this mask mandate and people are choosing to go out in other communities rather than Portsmouth. She said the majority of people are vaccinated and last week we were on track to be at less than 1%. She spoke opposed to keeping the mandate in place until the end of June. She stated that people wearing the masks are not wearing them properly because they don't want to wear them at all.

Andrew Bagley asked the City Council to overturn the mask mandate and not to make any amendments to the ordinance. He said a number of restaurants and stores are not requiring masks inside.

Carly Galantia she spoke to the meeting last week where it was stated that people disobeying the ordinance could be charged with trespassing and finds that concerning.

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

Assistant Mayor Splaine moved to pass second reading. Seconded by Councilor McEachern.

Councilor Tabor said the Health Director and the Health Task Force are recommending keeping the mask requirement for indoors. He asked that we amend the motion to eliminate masks outdoors but keep the indoor requirement until June 30th.

Councilor Tabor moved to amend the ordinance to eliminate the outside mask requirement but keep the inside mandate until the ordinance naturally ends on June 30, 2020. Seconded by Councilor Lazenby.

Councilor Tabor said this supports our schools who voted to keep the mask mandate in place. He said the Assistant Mayor has said moving slowly we are not moving forward. He said we are trying to do what is best and moving towards slowly opening again is the right thing.

Assistant Mayor Splaine said he opposes the amendment and no one was more supportive than him for the mandate. He spoke to the mandate saving lives and now it is extraordinarily difficult to know what to do. He read a letter from a business that said the mandate is costing him business.

Councilor McEachern said he agrees with Assistant Mayor Splaine that we are at a low transfer risk and below every county in the state for number of cases. He spoke to hearing from a business today where they required the mask up until last Friday and they will not require it any longer. He said we need to support the businesses and those that want to wear a mask. He does not feel this is a political issue.

Councilor Lazenby said he agrees with the tenor of the conversation. He said everyone is asking that we continue the mask mandate inside and we should respect those groups and continue the mandate. He asked the City Attorney if businesses could still require masks. City Attorney Sullivan said a business is allowed to have the right to require masks. Councilor Lazenby said the Arts Committee asked that we allow an easy way to reinstate the masks if necessary. City Attorney Sullivan explained that it would require three readings. Councilor Lazenby said he would not support the amendment.

Mayor Becksted provided numbers of where Portsmouth stands and Rockingham County on the virus. He said the City Council is being asked to eliminate the mandate and we are in a good place to make this decision this evening.

Councilor Trace said there are non-profits, specifically museum's that will support their employees to wear a mask. She said it is clear to support the passage of the main motion this evening.

Assistant Mayor Splaine asked how the vote of the Council would affect the schools and City Hall. City Manager Conard said City Hall will follow the course of the action by the City Council. She indicated the Library would like to continue to require the masks and the School Department is requiring masks until the end of the school year.

On a voice vote 1-8, motion to amend the ordinance failed to pass. Councilor Tabor voted in favor. Assistant Mayor Splaine, Councilors McEachern, Whelan, Lazenby, Kennedy, Huda, Trace and Mayor Becksted voted opposed.

On a roll call 8-1, voted to pass the main motion. Assistant Mayor Splaine, Councilors McEachern, Whelan, Lazenby, Kennedy, Huda, Trace and Mayor Becksted voted in favor. Councilor Tabor voted opposed.

Assistant Mayor Splaine moved to suspend the rules to take up third and final reading of the ordinance. Seconded by Councilor McEachern.

Councilor Trace said the outdoor event for the prom that took place this weekend was a special event. She said she had never seen so many happy faces to be outside without a mask.

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

Assistant Mayor Splaine moved to pass third and final reading of the ordinance. Seconded by Councilor McEachern. On a unanimous roll call 9-0, motion passed.

D. PUBLIC HEARING/ORDINANCE AMENDING CHAPTER 7, ARTICLE VII, SECTION 7.702 – TRUCK TRAFFIC PROHIBITED

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

Transportation & Parking Engineer Eby provided a brief presentation on the map outlining the locations of truck traffic that is prohibited.

City Manager Conard announced that at the end of June, Eric Eby will be leaving the City to go and work for the Vermont DOT. Mayor Becksted and the City Council wished Mr. Eby well and thanked him for his work with the City of Portsmouth.

After three calls and no speakers, Mayor Becksted declared the public hearing closed.

Councilor McEachern moved to pass second reading and schedule third and final reading at the June 21, 2021 City Council meeting. Seconded by Councilor Lazenby and voted.

At 9:17 p.m., Mayor Becksted declared a brief recess. At 9:27 p.m., Mayor Becksted called the meeting back to order.

E. Adoption of Budget Resolutions for Fiscal Year July 1, 2021 through June 30, 2022 (FY22)

➤ Adoption of Budget Resolution No. 7-2021 – Municipal Fees

City Manager Conard advised the City Council that the reduction of \$650,000.00 from the proposed health insurance will result in a decrease of \$366,462.00 over FY21 Budget. She reported the reduction of \$650,000.00 from the FY22 appropriations will result in the utilization of approximately \$755,000.00 from Committed Fund Balance at the close of FY22.

Considerations:

<i>Reduction in Health Insurance</i>	<i>\$650,000.00</i>
<i>Possible use of ARPA Funds – Capital Projects</i>	<i>\$400,000.00</i>
<i>Inspection Permit Revenue Increase</i>	<i>\$300,000.00</i>
<i>Use of Unassigned Fund Balance – McIntyre Building Maintenance</i>	<i>\$480,000.00</i>

Reduction in estimated tax rate if adopted *Rounded to \$.29*

These adjustments will result in an estimated tax rate of \$15.07 or \$.37 over prior year of which \$.26 is directly related to the NHRS rate increase.

Councilor Kennedy said we need to add the retirement costs in. She said the budget is not at 2% with those costs. Councilor Kennedy thanked City Manager Conard, Finance Director Belanger, Deputy Finance Director Purgiel and Assistant City Attorney Ferrini for working with her and Councilor Huda in regards to the budget.

The matter of whether there needed to be a public hearing for the acceptance of federal funds followed. City Attorney Sullivan stated that the requirement for a public hearing is for a town form of government however, the City Council could have a public hearing if it chooses to.

Councilor Huda recommended that the fees be increased to \$550,000.00. City Manager Conard said figure is conservative and we are not comfortable going over that, as we don't know what to expect.

Finance Director Belanger spoke to the increase in Inspection revenue over the last year. She advised the City Council that she spoke with Planning Director Walker and Building Inspector Marsilia regarding the expected revenue and she feels comfortable leaving the increase in-line with \$1.2 million and she prefers to be conservative and does not want to be over confident.

Councilor Huda said she agrees to disagree with Finance Director Belanger as we are always take in more money in revenues and this figure does not seem sufficient. Finance Director Belanger spoke to the ramifications of raising the revenues too high.

Councilor Kennedy also spoke in support of increasing the fees and stated she would like to see an additional \$.8 off the tax rate, which would bring us down to the cost of living increase.

City Manager Conard said Mayor Becksted and other Mayor's in the State have been made aware of an increase of 30% in meals and rooms tax. She reported a conservative estimate could mean an additional \$385,000.00 in funding which, would equal \$.6 off the tax rate and we may see additional funding from the County level. She indicated she would advise the Council where we are in terms of the tax rate in the fall. Finance Director Belanger indicated any changes in revenue would require the tax rate to be changed. Discussion followed on the parking revenues. Mayor Becksted said many other communities use parking revenues for other areas in the budget to lessen the burden on the taxpayers.

Councilor McEachern moved to adopt Resolution #7-2021 – Municipal Fees. Seconded by Councilor Tabor.

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

➤ **Resolution No. 8-2021 – General Fund Expenditures**

City Manager Conard reported the budget total is \$123,209,033.00.

Councilor Lazenby moved to adopt Resolution #8-2021 – General Fund Expenditures. Seconded Councilor Tabor.

Councilor Kennedy said with the revaluation taxes will change and she would support a cost of living increase for the budget.

Councilor Tabor said the rate is going to \$15.07 or \$.37 over the prior year. He spoke to the increase of retirement costs. He stated he feels that this is a good budget and well managed.

Councilor McEachern said that this is a good budget and coming in at 2.5% increase, which reflects the value of the City of Portsmouth.

Councilor Whelan spoke in support of the budget and said he is looking at it in a 2 year span. He stated we are expanding services and improving some things. He said the key point is our head count has gone down. He complimented the City Manager and staff for their work on the budget.

Mayor Becksted said he supports Councilor Whelan's comments. He stated we went down \$.16 last year and there was no increase in assessments. He stated we could possibly see an additional \$.6 reduction, and we will be having a work session on better understanding the CARES Act funding. He stated he would support the budget. He indicated it was a little higher but we need to start somewhere and there are avenues to take in the next several months. Mayor Becksted said he has some ideas of getting more revenues and would be working with the Legislative Committee in the coming months.

Councilor Trace thanked City Manager Conard and staff for a thoughtful budget. She said we are coming out of the pandemic and this moves us forward in a health standpoint.

Councilor Lazenby complimented the City Manager, Finance Department and staff for their work on the budget. He expressed concerns regarding the McIntyre project and the DSA lawsuit not being in the budget. He said a zero cost for the McIntyre project is not reality.

Councilor Lazenby moved to include in the Capital Improvement Plan a placeholder for McIntyre Redevelopment Cost or Settlement of Litigation. Seconded by Councilor McEachern.

Mayor Becksted said he understand the intent, we're still in litigation and we still don't know some of the answers but putting this in the CIP obligates us somewhere.

Councilor Kennedy said she would not support the motion. She said this matter should have been brought forward during the previous discussions and vote of the Capital Improvement Plan.

On a voice vote 1-8, motion failed to pass. Councilor Lazenby voted in favor. Assistant Mayor Splaine, Councilors McEachern, Whelan, Kennedy, Huda, Tabor, Trace and Mayor Becksted voted opposed.

Councilor Lazenby moved the Islington Street Phase II Project to Fiscal Year 24 to allow the Resolution of the Contingency Liabilities of the McIntyre Project and the Deer Street Associates versus City of Portsmouth law suit. Seconded by Councilor McEachern.

Councilor Lazenby said he thinks about people trying to pay bills and we are trying to plan that.

Councilor McEachern asked City Attorney Sullivan if this motion put us in a better or worst situation. City Attorney Sullivan said these are issues the City would need to face. He said the matter becomes more difficult because the negotiator sees our cards before they are played. He said it is not good to place a number on these types of things.

Councilor Trace said we are under threat of litigation that could be applied to Deer Street Associates or McIntyre. She said there are much more complexities with Islington Street and the project will help the North Mill Pond and the South Mill Pond.

Councilor Lazenby said he did not put a number on the projects but we have to acknowledge these things. He said he is asking for us to hold off on a seven digit expenditure for the Islington Street project as we do not have an endless amount of money.

On a voice vote 1-8, motion *failed* to pass. Councilor Lazenby voted in favor. Assistant Mayor Splaine, Councilors McEachern, Whelan, Kennedy, Huda, Tabor, Trace and Mayor Becksted voted opposed.

On a voice vote 8-1, main motion passed to adopt Resolution #8-2021 – General Fund Expenditures in the amount of \$123,209,033.00. Assistant Mayor Splaine, Councilors McEachern, Whelan, Kennedy, Huda, Tabor, Trace and Mayor Becksted voted in favor. Councilor Lazenby voted opposed.

Department	Appropriation
General Government	\$21,458,910.00
Police	\$12,553,495.00
Fire	\$9,816,421.00
School	\$53,492,241.00
Collective Bargaining	\$108,000.00
Transfer to Indoor Pool	\$150,000.00
Transfer to Prescott Park	\$177,486.00
McIntyre Building Maintenance	\$480,000.00
Non-Operating	\$24,972,480.00
Total	\$123,209,033.00

Councilor Kennedy moved to suspend the rules to continue the meeting beyond 10:30 p.m. Seconded by Councilor Huda and voted.

➤ **Resolution No. 9 -2021 – Sewer Fund Expenditures**

Assistant Mayor Splaine moved to adopt Resolution #9-2021 – Sewer Fund Expenditures. Seconded by Councilor Whelan and voted. Mayor Becksted abstained from voting on this Resolution.

- ***Appropriate sum of \$19,269,492.00 to defray expenses for the operations of the sewer system***
- ***Cash requirement of \$21,919,035.00 to defray expenses for the operations of the sewer system***

- ***Sewer user rate effective July 1, 2021 is \$14.89 per unit for the first 10 units of consumption per month, and \$16.38 per unit for all units used thereafter to yield a portion of revenue to meet the cash requirements for the operation of the sewer system***
- Adoption of Budget Resolution #10-2021 – Water Fund Expenditures

Assistant Mayor Splaine moved to adopt Resolution #10-2021 – Water Fund Expenditures. Seconded by Councilor McEachern and voted.

- ***Appropriate sum of \$9,941,953.00 to defray expenses for the operations of the water system***
- ***Cash requirement of \$10,377,764.00 to defray expenses for the operations of the water system***
- ***Water user rate effective July 1, 2021 is \$4.40 per unit for the first 10 units of water consumed per month, and \$5.30 per unit of all units consumed thereafter to yield a portion of revenue to meet the cash requirements for the operation of the water system***
- ***Water irrigation user rate effective July 1, 2021 is \$5.30 per unit for the first 10 units of water consumed per month, \$10.00 for consumption over 10 and up to 20 units consumed, and \$12.34 per unit for all units consumed thereafter to yield a portion of revenue to meet the cash requirements for the operation of the water system***
- Adoption of Budget Resolution #11-2021 – Special Revenues, Debt Service Fund, and Committed Fund Balance for Necessary Expenditures

Assistant Mayor Splaine moved to adopt Resolution #11-2021 – Special Revenues, Debt Service Fund, and Committed Fund Balance for Necessary Expenditures. Seconded by Councilor McEachern and voted.

- Adoption of Budget Resolution #12-2021 – Investment Policy

Assistant Mayor Splaine moved to adopt Resolution #12-2021 – Investment Policy. Seconded by Councilor McEachern and voted. Councilors Kennedy and Huda voted opposed.

XII. MAYOR BECKSTED

1. Resignation of John Formella from the Zoning Board of Adjustment

Mayor Becksted announced that John Formella has resigned from the Zoning Board of Adjustment.

2. Appointments to be Considered:
 - Appointment of Henry Mellynchuck to the Conservation Commission
 - Appointment of Beth Margeson to the Zoning Board of Adjustment

The City Council considered the appointments listed above which will be acted upon at the June 21, 2021 City Council meeting.

3. Appointments to be Voted:
 - 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

Councilor Kennedy moved to reappoint Richard Adams, Michael Griffin, Peter Loughlin and Dennis Souto to the Trees & Public Greenery Committee until June 7, 2024. Seconded by Councilor McEachern and voted.

XIII. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR SPLAINE

1. Allowing for 60 days instead of 30 days for the payment of parking fees before they are increased due to non-payment

Assistant Mayor Splaine moved to request City Manager Conard and Parking & Traffic Safety Committee to make a recommendation on this item and report back to the City Council in 60 days. Seconded by Councilor McEachern and voted.

2. PFAS / Playing Fields

Assistant Mayor Splaine moved to refer to City Manager Conard for a response back in 30 days to the City Council. Seconded by Councilor Kennedy.

City Manager Conard reported that we have letters indicating that there is no PFAS.

B. COUNCILOR McEACHERN

1. Request to Update Housing Needs Assessment

Councilor McEachern requested a report back to the City Council regarding an update to the Housing Needs Assessment and to look at actual data on what the City takes on in the future.

D. COUNCILOR KENNEDY

1. Portsmouth Skateboard Park Fund

Councilor Kennedy moved to set up a designated city fund for the Portsmouth Skateboard Park. The fund will allow individuals and businesses to donate to the city on behalf of the new Portsmouth Skateboard Park. Seconded by Councilor Huda and voted.

2. Greenleaf Skateboard Park Event

Councilor Kennedy moved to grant permission for the Mayor's Blue Ribbon Committee to hold a celebration at the Greenleaf Skateboard Park. The event will occur on National Skateboard Day Monday, June 21, 2021 from 5:00 p.m. to 7:00 p.m. We would like to invite everyone for Pizza, Skateboard Tricks, Prizes and Fun. Seconded by Councilor Huda and voted.

E. COUNCILOR HUDA

1. Creation of Ordinance Re: Independent Audit Committee

Councilor Huda moved to create an ordinance that the City of Portsmouth permanently create and maintain an Independent Audit Committee. This Audit Committee will be composed of 5 members, one of whom will be a City Councilor, for the purpose of annually selecting & engaging an independent Certified Public Accounting Firm reporting directly to the City Council in compliance with the City Charter Section 7.4 – Independent Audit and the applicable laws of the State of New Hampshire. Seconded by Councilor Kennedy.

Councilor McEachern said not all boards/commissions have a City Council representative such as the Zoning Board of Adjustment. He said that this is a specific task to a Councilor relative to the RFP process.

City Attorney Sullivan said that he would meet with Councilor Huda for the drafting of this ordinance.

Motion passed.

2. Discussion on City Manager & Staff responding to questions from the Council

Councilor Huda asked for clarification on City Manager and staff responding to questions of the Council.

City Attorney Sullivan explained in detail the Right-to-Know law regarding communication by the City Council with the City Manager and staff. He advised the Council, if more than five Councilors are involved in City business it becomes a meeting. He indicated that the City Council has the authority to deal directly with the City Manager, City Attorney, Finance Director or the City Clerk.

XIV. APPROVAL OF GRANTS AND DONATIONS

- A. Acceptance of Community Development Block Fund Grants (**Sample motion – move to accept and expend a Community Development Block Grant in the amount of \$531,393 from the U.S. Department of Housing and Urban Development**)
- B. Acceptance of Memorial Bench Donation in Memory of Joe Iudice (**Sample motion – move to approve and accept the donation for a bench in memory of Joe Iudice, as presented**)
- C. Acceptance of Memorial Bench Donation in Memory of Rus Wilson (**Sample motion – move to approve and accept the donation for a bench in memory of Rus Wilson, as presented**)
- D. Acceptance of Grant from the NH Department of Safety to the Portsmouth Police Department for Night Vision Equipment (**Sample motion – move to accept and approve the grant for the Police Department from the NH Department of Safety in the amount of \$7,801.75 for night vision equipment**)
- E. Acceptance of Amended Grant from the NH Office of Highway Safety to the Portsmouth Police Department for FY21 Highway Safety (**Sample motion – move to accept and approve the amended grant for the Police Department from the NH Office of Highway Safety as presented**)
- F. Acceptance of a Donation of a Baby Gate from Port City Veterinary Referral Hospital to the Portsmouth Police Department’s Animal Control Officer (**Sample motion – moved to accept and approve the donation of a baby gate from Port City Veterinary Referral Hospital as presented**)

Councilor Kennedy moved to accept and approve the Grants and Donation as presented. Seconded by Assistant Mayor Splaine and voted.

XV. CITY MANAGER’S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

- 1. Proposed Art Donation by Dan Rawling

City Manager Conard said this is a donation of a painting entitled, “Victory of Peace Kimono” being offered by resident Dan Rawling and painted by local artist Dustan Knight. She reported that the Advisory Group met on May 4, 2021 and in accordance with the criteria for public art acquisitions as set forth in the Public Art Acquisition Policy 2009-06 they unanimously agreed to recommend that the City Council accept the painting.

Councilor Lazenby moved to accept the proposed Portsmouth Peace Treaty commemorating painting, “Victory of Peace Kimono,” by Dustan Knight and display it in City Hall with an appropriate interpretive plaque. Seconded by Councilor McEachern and voted.

2. Acceptance of American Rescue Plan Act Funds and Request for Related Work Session

City Manager Conard reported the City has received the first half of our funds in the amount of \$6,441,140.00 which has been deposited in a special revenue fund. She recommended the Council vote to accept these funds this evening.

Councilor McEachern moved to schedule a work session on Monday, June 14, 2021 at 7:00 p.m. to assess our community’s needs and to begin creating a plan to expend the Coronavirus State and Local Fiscal Recovery Funds received through the American Rescue Plan Act of 2021. Seconded by Councilor Trace.

Councilor Kennedy stated she would not be available for the work session.

City Manager Conard said the Council could hold a public hearing at the June 21, 2021 City Council meeting but the work session needs to happen first.

Motion passed.

3. Report Back on 900 Middle Road Request for Unmerger of Involuntarily Merged Lots

City Manager Conard reported that the City Assessor has reviewed the request as well as the Planning Board and it is recommended that the City Council deny the request.

Councilor Kennedy moved to deny this request as recommended by the Planning Board and the City Assessor. Seconded by Assistant Mayor Splaine and voted.

XVI. CONSENT AGENDA

- A. Letter from Bruce Hurley, Seacoast Half Marathon, requesting permission to hold the 16th Annual Seacoast Half Marathon on Sunday, October 31, 2021 **(Anticipated action – move to refer to the City Manager with Authority to Act)**
- B. Letter from Lilia Potter-Schwartz, Race to Educate, requesting permission to hold the 6th Annual Race to Educate on Saturday, July 31, 2021 **(Anticipated action – move to refer to the City Manager with Authority to Act)**
- C. Letter from Matt Junkin, Seacoast Rotary, requesting permission to hold the 13th Annual Seacoast Rotary Turkey Trot 5k on Thursday, November 25, 2021 **(Anticipated action – move to the City Manager with Authority to Act)**

- D. Letter from Michelle Bitterli requesting permission to hold free yoga classes at Prescott Park beginning June 7, 2021 through August 30, 2021 on Monday's and Wednesday's at 12:00 p.m. – 12:45 p.m. (***Anticipated action – move to the City Manager with Authority to Act***)

Assistant Mayor Splaine 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. Letter from Tina Sawtelle, The Music Hall, requesting permission for the closure of Chestnut Street, 1 lane of Hanover Street between Fleet Street and the Portwalk Garage entrance, and the southern half of Portwalk Place to present a multi-stage outdoor Music Festival on Saturday, September 25, 2021 to benefit the community's first responders and frontline essential workers

Councilor Kennedy moved to refer to the City Manager with Authority to Act. Seconded by Councilor McEachern and voted.

- C. Letter from Tricia Donohue, Beth Hartnett and Tamara Henderson, Portsmouth Community Garden Steering Committee, requesting permission for the creation of a Portsmouth Community Garden partnership with the City of Portsmouth and require the following support
- Space at the Route 33 city-owned NH Rideshare Lot which has unused, open space with parking, sun exposure and flat topography
 - Extension of the water line to create two water stations at either end of the garden area
 - Any additional liability rider to existing city insurance policy to cover this Portsmouth Community Garden
- D. Letter from James Petersen and Mark Stebbins of the BRC to Reopen Portsmouth, and Kathryn Lynch of the BRC on Health, requesting the continuation of the indoor mask mandate when physical distancing cannot be maintained from persons outside one's household/cohort

Councilor Kennedy moved to refer the letter from the Community Garden Steering Committee to the Legal Department for report back and the letter from the BRC to Reopen Portsmouth and the BRC on Health to accept and place on file. Seconded by Councilor McEachern and voted.

XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

Councilor Kennedy asked for a status update on her request for a report back from City Manager Conard on the sound barriers and site walk at Pannaway Manor and New Franklin School area.

Councilor Huda requested that the City Manager select a different color for her memorandum when outlining attachments and recommended motions. She indicated that the blue color is difficult to see.

XX. ADJOURNMENT

At 11:30 p.m., Councilor Huda moved to adjourn. Seconded by Councilor Kennedy 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

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, OCTOBER 5, 2020

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_q1HrtMtYTCibKQD6TVxG9Q

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 2020-18, 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.

III. CALL TO ORDER

Mayor Becksted called the meeting to order at 7:00 p.m.

IV. ROLL CALL

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

V. INVOCATION

Mayor Becksted asked for a moment of silent prayer in memory of Michael Croteau.

VI. PLEDGE OF ALLEGIANCE

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

VII. ACCEPTANCE OF MINUTES *(There are no minutes on for acceptance this evening)*

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

1. Recognition of Senior Center Volunteer

Brinn Sullivan, Senior Services Supervisor recognized Anna Howard for her volunteer work since 2017 with the Senior Center and for her transition during the coronavirus pandemic where she provided Zumba and Line Dancing classes via Zoom 7 days a week to keep Portsmouth's seniors engaged and active.

IX. PUBLIC COMMENT SESSION

Gerald Duffy spoke regarding Assistant Mayor Splaine's motion to create an outdoor use policy. He said this is a great idea and would be willing to help businesses going forward. He also spoke regarding the McIntyre survey that was to be provided for the residents to review and it has not.

Clare Kittredge spoke regarding the September 3rd memorandum regarding the charge against Councilor Kennedy. She said she feels she is politically a way to try and get rid of Councilor Kennedy.

Andrew Bagley asked why the City Council is spending so much time on the McIntyre matter and bike lanes.

Mark Brighton spoke regarding the vagueness for the last non-public session. He said we don't need another ethics complaint.

Harini Subramania, Portsmouth High School – We Speak Organization, requested the City recognize Indigenous Peoples' Day instead of Columbus Day.

Aulia Castellano, Portsmouth High School – We Speak Organization, asked the City Council to stay true to their Social Justice Resolution and change Columbus Day to Indigenous Peoples' Day.

Arden Griffin, Portsmouth High School – We Speak Organization, said future generations should have an accurate account and not a white washed version of Columbus Day. He said this is key to our society and we need to educate the public.

Lilia Potter-Schwartz, Portsmouth High School – We Speak Organization, spoke in support of recognizing Indigenous Peoples' Day versus Columbus Day. She said that there are over 100 cities that have adopted Indigenous Peoples' Day.

Rosayla Gonzelez, Portsmouth High School – We Speak Organization, said changing Columbus Day to Indigenous Peoples' Day will change the story and recognize the lives of indigenous people.

Kristin Jeffrey spoke in support of the request by We Speak to recognize Indigenous Peoples' Day over Columbus Day. She addressed the policy initiated by UNH for Indigenous Peoples' heritage.

Elizabeth Barrett, spoke in support of We Speak Organization request to recognize Indigenous Peoples' Day. She said it is time to make this change.

Councilor McEachern moved to suspend the rules to take up Item XIII. E.1. – Safe Water Advisory Group. Seconded by Councilor Lazenby.

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

Councilor Lazenby moved to suspend the rules to allow Andrea Amico and Lindsey Carmichael to address the City Council regarding the establishment of the Safe Water Advisory Group. Seconded by Councilor Kennedy.

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

Councilor Lazenby recognized the work of Andrea and Lindsey on safe water and safe drinking water. He said he is pleased they are here to speak on this matter this evening.

Lindsey thanked Councilor Lazenby and Councilor McEachern for working on this matter which she and Andrea have been spear heading since 2014. She spoke to the need for a Safe Water Advisory Group and that safe water and drinking water is a current issue for the City.

Andrea said that the Safe Water Advisory Group would be studying PFAS issues with regulations continuing to evolve. She spoke to grant funding which could be used to fund these means. She said she looks forward to starting the work on this issues.

Assistant Mayor Splaine said Andrea and Lindsey have done great work on this matter. He spoke to looking into the Coakley and Jones landfills and also evaluate the value of desalination.

Councilor Kennedy said she is pleased to hear that Andrea and Lindsey are working on the Tolend site as well.

Councilor Tabor said he supports the task forces and spoke to the changes in the regulatory environmental matters.

Councilor Trace thanked Andrea and Lindsey for stepping up and working on this matter. She expressed concerns regarding the Tolend site and our main water supply.

Mayor Becksted spoke in support of Andrea and Lindsey for working on these matters. He said he would like Andrea or Lindsey to be the Chair of the Safe Water Advisory Group.

Councilor Lazenby moved the formation of the Portsmouth Safe Water Advisory Group as an advisory group related to Safe Drinking Water. Seconded by Councilor McEachern.

Councilor Lazenby said having Lindsey or Andrea as the Chair is a great opportunity for the City. He said we will wait until late November or early December to meet on this matter as a group. He said water quality and quantity is an issue.

Mayor Becksted said we are fortunate to have three City Councilors that know a great deal regarding this matter, Councilor Kennedy, Councilor Trace and Councilor Whelan.

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

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

First Reading of Ordinances:

- A. First reading of Ordinance amending Chapter 7, Article III, Section 7.326 – Limited Parking – Daniel Street: southerly side, ~~first five~~ three metered spaces ~~east from Market Square~~ running between 102 and 160 feet west of Penhallow; and Hanover Street delete ~~northerly side, first two spaces east from Bridge Street~~

Councilor Lazenby moved to pass first reading and schedule a public hearing and second reading at the October 19, 2020 City Council meeting. Seconded by Councilor Tabor.

Councilor Kennedy said she would like to know where we are making up the parking spaces that are being deleted.

Councilor Lazenby said this ordinance was reviewed by Parking & Traffic Safety Committee and passed unanimously and was considered previously by the City Council and voted unanimously to bring first reading forward.

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

- B. First reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking by the addition of Little Harbor Road: Both sides of the roadway beginning at the east side of the Wentworth Coolidge Mansion driveway, running easterly for a distance of 155 feet to the gate at the end of the pavement

Councilor Lazenby moved to passed first reading and schedule a public hearing and second reading at the October 19, 2020 City Council meeting. Seconded by Councilor Tabor.

Councilor Lazenby said Parking & Traffic Safety Committee reviewed this matter and passed it unanimously, after which the City Council considered the action sheet and minutes and approve those by a unanimous vote.

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

- C. First reading of Ordinance amending Chapter 7, Article III, Section 7.336 – One Way Streets by the deletion of ~~Parker Street northerly from Tanner Court to Hanover Street~~

Councilor Lazenby moved to pass first reading and schedule a public hearing and second reading at the October 19, 2020 City Council meeting. Seconded by Councilor McEachern.

Councilor Lazenby said this ordinance was reviewed by Parking & Traffic Safety Committee and passed unanimously and was considered previously by the City Council and voted unanimously to bring first reading forward.

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

- D. First reading of Ordinance amending Chapter 7, Article VI, Section 7.601 – Limited Hours Loading Zones by the addition of Pleasant Street: easterly side, beginning 94 feet south of the southerly curb line of Daniel Street and running southerly for a distance of 45 feet

Councilor Lazenby moved to pass first reading and schedule a public hearing and second reading at the October 19, 2029 City Council meeting. Seconded by Councilor Trace.

Councilor Lazenby said this ordinance was reviewed by Parking & Traffic Safety Committee and passed unanimously and was considered previously by the City Council and voted unanimously to bring first reading forward.

Councilor Kennedy said she would like the hours that are being changed for the next meeting.

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

Public Hearings and Second Reading of Ordinances:

- E. ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.326 – LIMITED PARKING – 15 MINUTES BY THE DELETION OF ~~DEER STREET: ONE SPACE ON THE NORTHERLY SIDE OF THE STREET, BEGINNING 13 FEET WEST OF THE EXTENSION OF THE WESTERLY CURB LINE OF HIGH STREET, AND RUNNING 20 FEET IN AN EASTERLY DIRECTION.~~ THE ADDITION OF **HANOVER STREET: SOUTHERLY SIDE, FIRST TWO SPACES EAST FROM MAPLEWOOD AVENUE**

Councilor Kennedy asked what we are doing to support the area by taking away the spaces. Parking & Transportation Engineer Eby said 1 out of 7 spaces should be available for use in the area.

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

Andrew Bagley said the Parking & Traffic Department is doing a great job during COVID and creating the temporary spaces and 15 minutes spots is appreciated.

With no further speakers, Mayor Becksted declared the public hearing closed.

Councilor Lazenby moved to pass second reading and schedule a third and final reading at the October 19, 2020 City Council meeting. Seconded by Councilor McEachern.

Assistant Mayor Splaine said the process is important and would not like to suspend the rules and bring forward the passage this evening. He said passage should occur at the next City Council meeting.

Councilor Kennedy said she agrees with Assistant Mayor Splaine.

Councilor Lazenby said he understands that in all these cases these items were thoroughly reviewed by the Parking and Traffic Safety Committee and no opposition to speak of. He would like to have the ordinance passed this evening.

Mayor Becksted said that he agrees that we should have third reading at the next City Council meeting.

Councilor McEachern said he agrees with Councilor Lazenby and would like to move the ordinance forward for passage this evening. He said that this is a fully vetted matter with the parking revenue we are giving up by not adopting this ordinance this evening would in error.

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.

- F. **ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.330 – NO PARKING BY THE ADDITION MIDDLE STREET: WESTERLY SIDE, BEGINNING AT THE NORTHERLY CURB LINE OF ALDRICH ROAD, AND RUNNING NORTHERLY FOR A DISTANCE OF 76 FEET**

City Manager Conard reported that these ordinance prohibits parking at one spot and it was brought forward by residents concerning site line on Aldrich Road.

Councilor Kennedy asked if moving the cars back to the curb would be a problem and where are at with moving cars due to the bike lanes.

Councilor Huda said we should wait until results come back to act on this matter.

Councilor Kennedy moved to postpone until we hear back the results from the DOT and moving the cars back to the curb. Seconded by Councilor Huda.

City Attorney Sullivan informed the City Council if this motion passes the public hearing would be postponed as well.

Councilor Tabor asked if we could leave this space blocked until we hear back on the bike lanes issue.

Mayor Becksted asked Parking & Transportation Engineer Eby why was this matter regarding the spaces was not brought forward until the spring. Parking & Transportation Engineer Eby said this space was done early this year and the second was brought out a few months ago. He informed the City Council that a total of three spaces have been eliminated in this area.

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

- G. **ORDINANCE AMENDING CHAPTER 7, ARTICLE VI, SECTION 7.601 – LIMITED HOURS LOADING ZONES BY THE ADDITION OF VAUGHAN STREET: WESTERLY SIDE, BEGINNING AT THE INTERSECTION WITH RAYNES AVENUE AND RUNNING SOUTHERLY FOR A DISTANCE OF 60 FEET, FROM 6:00AM TO 9:00AM**

City Manager Conard reported that this was requested by 111 Maplewood Avenue.

Mayor Becksted read the legal notice, declared the public hearing open and called for speakers. With no speakers, Mayor Becksted closed the public hearing.

Councilor Lazenby moved to pass second reading and schedule a third and final reading at the October 19, 2020 City Council meeting. Seconded by Councilor Huda.

Mayor Becksted asked if this could be done in other parts of the City. He said that this is something that we should look into. Parking & Transportation Engineer Eby said this is a good option to consider.

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

Councilor Whelan moved to suspend the rules in order to take up Items XVII A. – Presentation by Health Officer Kim McNamara regarding COVID-19 Update and XVII B. – Update on the Portsmouth Citizens Response Task Force. Seconded by Councilor Huda.

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

XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Presentation by Health Officer Kim McNamara regarding COVID-19 Update

Health Officer McNamara provided a report on the current COVID numbers in the City of Portsmouth, Rockingham and Hillsborough Counties. She also, reviewed the global number of cases and deaths. She announced that the United States leads in infections and deaths. Discussion followed regarding the closing of an establishment in the City and the need for open communication.

The City Council asked various questions of Health Officer McNamara and made statements regarding this matter. Mayor Becksted and City Councilors thanked Health Officer McNamara and her staff for all their work during this pandemic.

B. Update on the Portsmouth Citizens Response Task Force

James Petersen, Co-Chair reported that Popup New Hampshire will wrap up programming on October 18, 2020 and have all materials removed from the Bridge Street Lot. The City Council requested that Mr. Petersen participate in the November 9, 2020 Work Session at 6:30 p.m. regarding COVID Planning and the Future of the Citizens Response Task Force.

Assistant Mayor Splaine said the Task Forces exceeded expectations and he would not be asking for the creation of an outside City Use Police this evening. He said he would like the Task Force to look at that question and to consider extending street use until the end of October or end of year.

Co-Chair Petersen advised Assistant Mayor Splaine that he has not heard from any establishments that want to stay open until the end of the year.

Councilor Huda spoke to the survey that the Chamber was conducting and asked about the results. City Manager Conard said that Valerie of the Chamber is working to convene a group on Wednesday to look in to the survey results. Mayor Becksted said we could hear Valerie's results of the survey next week.

XII. MAYOR BECKSTED

1. Request to Establish Work Session COVID Planning and the Future of the Citizens Response Task Force – Monday, November 9th at 6:30 p.m.

Councilor Kennedy moved to schedule a Work Session on Monday, November 9, 2020 at 6:30 p.m. regarding COVID Planning and the Future of the Citizens Response Task Force. Seconded by Councilor Huda.

Mayor Becksted said we need to see what the next stage is on this matter. We need to start the conversation next year and move us forward and how improvements can be made. He said we need representation from the City Council on this matter.

Assistant Mayor Splaine said we need this type of work session on what to do we need to make sure it is nonpolitical.

Councilor Huda said that is a short period of time, could the City Manager contact Valerie and the Chamber of Commerce on data regarding this matter. City Manager Conard said we could have informal information and data to review and consider.

2. Appointments to be Considered:
 - Appointment of David Adams to the Historic District Commission as a Regular Member
 - Reappointment of Richard Katz to the Library Board of Trustees
 - Appointment of Maria Peppas to the Library Board of Trustees
 - Appointment of Kelly Delekta to the Library Board of Trustees
 - Appointment of Latonya Wallace to the Library Board of Trustees
 - Appointment of Daniel Main to the Portsmouth Housing Authority

The City Council considered the reappointment and appointments outlined above, which will be voted upon at the October 19, 2020 City Council meeting.

3. Appointments to be Voted:
 - Appointment of Margot Doering to the Historic District Commission as a Regular Member filling the unexpired term of Cyrus Beer
 - Appointment of Michelle Consolazio to the Citizens Advisory Committee

Councilor Kennedy moved to appoint Margot Doering to the Historic District Commission as a Regular Member filling the unexpired term of Cyrus Beer until June 1, 2022 and the appointment of Michelle Consolazio to the Citizens Advisory Committee. Seconded by Councilor Huda.

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

4. Resignations:
 - Joseph M. O'Neill as an Alternate from the Conservation Commission
 - Adrienne Harrison from the Conservation Commission
 - Nathan Moss from Portsmouth Citizen Response Task Force
 - Samantha Finigan from Portsmouth Citizen Response Task Force
 - Ruth L. Griffin from the Portsmouth Housing Authority

Councilor Kennedy moved to accept with regret the resignations of Joseph O'Neill and Adrienne Harrison from the Conservation Commission, Nathan Moss and Samantha Finigan from Portsmouth Citizens Response Task Force and Ruth L. Griffin from the Portsmouth Housing Authority with a letter to be sent acknowledging their service to the City. Seconded by Councilor Trace.

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

At 9:10 p.m., Mayor Becksted called for a brief recess. At 9:20 p.m., Mayor Becksted called the meeting back to order.

XIII. CITY COUNCIL MEMBERS

B. COUNCILOR McEACHERN

2. Report Back regarding NHMA Conference

Councilor McEachern provided a report back on Policies adopted by the NHMA Membership and expressed his thanks and appreciation to Assistant City Attorney Ferrini for her hard work on this matter.

3. Extend Outside Dining to end of November

Councilor McEachern moved to extend outside dining until the end of November where possible. Seconded by Assistant Mayor Splaine.

Councilor McEachern said some establishments might want to put together more work and he would like to extend to the end of November to give establishments to take us up on the offer.

Assistant Mayor Splaine said he agrees we leave it up to the market on this. He said many other communities to the North do this. He said we should go to the end of November, if possible as there is no downside to this.

Councilor Huda said she would like to review the data from the Chamber for a better idea on this. She said this is not just revenue side businesses would have to spend money they don't have.

Councilor Tabor said many establishments thought they could just do takeout but takeout was good revenue and many thought they could not spend money for outside dining, will blankets and heaters work, we don't know.

Councilor Whelan said he would support the motion and the businesses are pretty resourceful and will make their own decisions on this matter. He said this City Council owes establishments time to make some money, we need to let the market determine the process moving forward.

Councilor Lazenby said he appreciated the intent to be creative but we need to hear more demand from establishments on this. He said there may be a mix on how much this would be used. He said we need to look at what might be good for them. He said he does not want to go against the ideal and a great chance to hear from the Chamber of Commerce at the next meeting and would like to wait until then on the vote.

Mayor Becksted said he would like to wait until October 19th to see if establishments want to go past November on the operation. He said Public Works Director Rice said we can do what we want but once the snow and ice hit it will be a deterrent.

Councilor McEachern said he has a different view of government. He said if the City Council will not support this it will be a moot point and all the establishments will close this extends to private property cafés owners as well. He hears the position we don't want to have ice removal and if an establishment wants to remain open the cost to us is on the low side. He said we should need to allow more planning for the establishments to order supplies to remain open.

Councilor Trace asked if it would be possible to have a full report through the City Manager and Public Works Director on the removal of snow. She said we need to think about getting snow in November and maybe we need to have this reviewed with a report back.

Assistant Mayor Splaine said this is an excellent idea but we never know when we have two or three nice days in November, which would allow outside establishments to provide dining and make a few extra dollars.

Mayor Becksted said there did not seem to be interest in extending dining to the end of November. He said we need to remove the items to make way for winter.

Councilor Lazenby moved to table this motion until the October 19, 2020 City Council meeting. Seconded by Councilor Huda.

Councilor Trace said she would like to hear from City Manager Conard on this matter. City Manager Conard said if we need to clear the snow from areas it is worth considering and she would provide a report back from Public Works Director Rice at the next meeting.

On a roll call 5-4 vote, motion passed. Councilors Lazenby, Kennedy, Huda, Trace and Mayor Becksted voted in favor. Assistant Mayor Splaine, Councilor McEachern, Whelan and Tabor voted opposed.

C. COUNCILOR WHELAN

1. McIntyre Update

Councilor McEachern said the survey results were dramatic and reviewed the findings. He reported that the public wants a new project.

Councilor Whelan moved to appropriate with Council approval up to \$150,000.00 as a supplemental appropriation to redesign plans and drawings to better reflect the public input from the recently designed and returned survey and the past legal actions should be settled before planning funding's are dispersed to our planning partners. Seconded by Councilor Trace.

City Manager Conard spoke to residents want larger open space and returning the post office to its former location.

Further discussion followed on the findings of the survey and the City Council stated that Redgate Kane knows we need a new design. The Council said we need to take the next step and move forward.

Councilor McEachern said that this is in the best interest of moving the project forward. He said we want input from the public and have a public hearing on the special appropriation and put the law suit behind us.

Councilor Whelan said the project is to important and the land downtown is a once in a life time opportunity.

Councilor Lazenby asked what we would receive for the \$150,000.00. Councilor Whelan said the development partners need the funds for redesign and schematics. Councilor Lazenby said we could work in public process for this. Councilor Whelan said Redgate Kane wants to know what it would look like for redesigning the project.

Councilor Trace said she supports the work of the members of the subcommittee and Councilor Whelan was very transparent and the subcommittee is telling the City Council what they know to date.

Councilor Kennedy thanked everyone for their work. She said the survey tells what direction residents want to go. She asked if the public would have an opportunity to provide options in a more informal way. She asked if the public would have input or would a charette on spending the money because we need to hear that.

Councilor Huda asked if it would be possible to do this with FY20 surplus funds. She asked how many designs we will receive on this project.

Councilor Whelan said how much would be needed for design work from Redgate Kane. He said we are going to do the best we can.

Councilor Huda said she would like to receive more details and is this the only architect we can use.

Councilor Whelan said we have a signed development agreement with Redgate Kane and that is our obligation to move forward. He said we need to design a project and see if the public likes it and move forward.

City Attorney Sullivan said the \$150,000.00 would not obligate the City to anything further. He said negotiations are a bit of a dance. He feels the survey was a major step forward on the project which helped bring the parties to an agreement.

Mayor Becksted said he agrees with Councilor Huda's comment and what funds are remaining in surplus.

Councilor McEachern said the charge we have is to work with our development partner and we want to do it with full transparency and the development partner knows we are ready to move forward with every step and no money will be spent without the public involved.

Councilor Tabor said we want to keep the public engaged at a high level and charettes may be difficult with COVID but there could be zoom rooms and long range costs from their meetings.

Councilor Lazenby said if we move ahead at the next meeting is there assurances from Redgate Kane that they would drop the lawsuit. City Attorney Sullivan said no assurances that the lawsuit would be dropped.

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

2. Parking and Traffic Safety Committee Action Sheet and Minutes of the August 6, 2020 meeting

Councilor Whelan moved to approve and accept the action sheet and minutes of the August 6, 2020 Parking and Traffic Safety Committee meeting. Seconded by Councilor McEachern.

Councilor McEachern said the action sheet leaves out two stop signs near his home and if we do not accept the minutes does that mean the stop sign does not go into effect. Councilor Whelan said approval of the action sheet would have items go into effect for a one year period. City Attorney Sullivan said if the City Council does not approve the minutes the stop sign would not go into effect.

Councilor McEachern moved to remove Item VIII for Thornton Street and Sparhawk Street and vote on them individually. Seconded by Councilor Kennedy.

Councilor Kennedy said she would not approve the minutes. She would like the item to be voted on under the City Manager.

Mayor Becksted said something needs to be done with Parking & Traffic Safety Committee.

City Attorney Sullivan recommended amending Councilor Whelan motion to remove Item VIII on roll call voted.

Councilor Kennedy moved to remove #8 – All-Way Stop at intersection of Thornton Street and Sparhawk Street, by residents of the area, from the Action Sheet. Seconded by Councilor Huda.

Councilor Lazenby said we need to approve the minutes to avoid 30 separate motions on Parking & Traffic Safety Committee action sheets and minutes.

Councilor McEachern withdrew his motion and Councilor Kennedy her second to the motion.

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

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

D. COUNCILOR LAZENBY

1. Nomination of Dan Rawling for Appointment as a regular member of the Historic District Commission

Councilor Lazenby moved for the reappointment of Dan Rawling as a regular member of the Historic District Commission. Seconded by Councilor Tabor.

Mayor Becksted said he spoke with Mr. Rawling to advise him that he would not be reappointing him to the Historic District Commission.

Councilor Lazenby said he would like a dedicated public servant to be reappointed. He said that Mr. Rawling has worked hard and attends all the meeting.

Assistant Mayor Splaine said it is hard to come across whether he is in favor or opposed to the motion. He spoke to the process in place whereby the Mayor has the authority to make appointments. He said he would not vote to take away the authority of the Mayor on the appointment process.

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

Assistant Mayor Splaine moved to continue the meeting beyond 10:30 p.m. Seconded by Councilor Kennedy.

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

C. COUNCILOR WHELAN

2. Parking and Traffic Safety Action Sheet and Minutes of the August 6, 2020 meeting

All-Way Stop at Intersection of Thornton and Sparhawk Street

Councilor McEachern moved to install an All-Way Stop at Intersection of Thornton Street and Sparhawk Street. Seconded by Councilor Trace.

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

F. COUNCILOR HUDA

1. The Final FY20 Budget Surplus Amounts by Budget Unit as Estimated to the Mayor in June 2020 (Due to the Insightful Response of the City Manager to put a Freeze on Spending Immediately, a FY20 Surplus was Expected)

	Estimate @ 6/30/2020	Actual @ 9/30/20 (Unaudited)
Police	\$350,000.00	?
Fire	\$250,000.00	?
Municipal	\$450,000.00	?
School	\$200,000.00	?

(Sample motion – move for a report back from the City Manager to the residents and City Council on the outlined information listed above)

2. On the Financial Impact to the City of Portsmouth Resulting from the State of NH suspending all State Aid Grants (SAGS)

(As reported in the Portsmouth Herald on 9/27 Exeter is Facing Serious Shortfalls in meeting Debt Service Payments on their just completed Wastewater Treatment Plant)

Since our WWTP is scheduled to be completed this year, is the City of Portsmouth facing the same issues?

3. Update on the Status & Solutions being discussed per the Emergency Police Commission Meeting on the Re-Occurrence of Mold in the Police Department

Councilor Huda moved for a report back from the City Manager to the residents and City Council on the outlined information listed above for all three items. Seconded by Councilor Kennedy.

City Manager Conard provided information on Items 1 & 2 and a report back will be brought forward on Item 3.

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

XIV. APPROVAL OF GRANTS/DONATIONS

- A. Acceptances of CARES ACT Election Grant

Councilor McEachern moved to authorize the City Manager to apply for, accept and expend funds through the CARES Act for election support in the amount of \$64,899.72 (80% direct grant of \$54,083.09 and 20% match of \$10,816.62) subject to the Terms of any offer, rules 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 Whelan.

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

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. 33 Northwest Street Request for Revocable License

City Manager Conard outlined the request for the Revocable License.

Councilor Lazenby moved to execute and deliver a Revocable License allowing Michael and Rebecca Bernier of 33 Northwest Street to locate a retaining wall on City Property inside of an existing wooden fence as described in Land Use Application LU-20-118. Seconded by Councilor Whelan.

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

2. Greenleaf Recreation Center Concession Agreement

City Manager Conard said that this would be a two year extension to the Concession Agreement.

Councilor Lazenby moved to accept an extension on the Greenleaf Recreation Center Concession Agreement effective through April 15, 2022. Seconded by Councilor Kennedy.

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

3. Request to Name New Public Street Located Between Cate Street and Route 1 Bypass

City Manager Conard outlined the request for naming the new public street. She indicated that the Planning Board would be holding the public hearing on this matter.

Councilor Lazenby moved to refer the request for naming of the public street to the Planning Board for a recommendation. Seconded by Councilor Whelan.

Councilor Kennedy said she would like to know about the list of recommended names and would like to refer to that list.

Planning Director Walker advised the City Council how a list with the Planning Board is used as reference and make a recommendation.

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

4. Establish Polling Hours for the November 3, 2020 General Election

Councilor Lazenby moved to establish polling hours for the November 3, 2020 General Election from 8:00 a.m. to 8:00 p.m. Seconded by Councilor Huda.

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

5. Request to Exempt the Peirce Island Wastewater Treatment Facility from the Public Art Requirement

City Manager Conard said this would be an exemption to the public art requirement.

Councilor Trace said the signs are required as part of the consent decree as to absolve the Wastewater Treatment Facility from using \$150,000.00 for a piece of art she would not take away that as every other public building has the requirement. She said she would like something up for Fort Washington at the facility.

Councilor Kennedy moved to exempt the Peirce Island Wastewater Treatment Facility from the Public Art requirement as cited in Chapter 1, Article XVII. Seconded by Councilor Huda.

Councilor McEachern said he would not support the motion.

Assistant Mayor Splaine said he would not support abandoning this matter. He said Paul McEachern said nations are remember the way things going back centuries.

Deputy City Attorney Woodland said the request does only pertain to the Peirce Island Wastewater Treatment Facility with no other impact. She said historical markers will be outside and said the ordinance is to look at getting information from Art Speak.

Councilor Lazenby said if we don't want to exempt the project it would not require a motion. We could have public art somewhere on Peirce Island and we can do that without a motion from the City Council.

Councilor Tabor said staff put forward the recommendation how would the \$150,000.00 be used. Deputy City Attorney Woodland said that budget is getting low and felt the City Council needs to make a decision as there are needs from the project standpoint, it is the City Council's decision to make on this matter.

Councilor Whelan said two-thirds vote would be needed to exempt art. He said he would like an Art Commission established to look at items that meet the ordinance.

Mayor Becksted said the sewer plant is part of it and the bridge would also be part of that. He said we could have more green entrances, from a view perspective we need to do it without making a motion.

Deputy City Attorney Woodland said the \$150,000.00 could remain and the staff could come before the City Council with suggestions on the matter.

Councilor Kennedy suggested having an update before a vote on \$150,000.00 for a \$79 million dollar project.

Deputy City Attorney Woodland said we are working on estimates and the staff felt it was important to bring this matter before the City Council.

Councilor Kennedy moved to postpone any action until October 19th with a presentation on the Wastewater Treatment Plant and what is occurring financially. Seconded by Councilor Trace.

Councilor Trace requested that City Engineer Desmarais provide a complete list of change order forms and what the estimate is to replace the pipe line from the bridge to the Waste Water Treatment Plant and what the cost is to replace the pipe under the bridge and will that be replaced before the replacement of the bridge.

Councilor Kennedy withdrew the motion and Councilor Huda withdrew her second to the motion.

Councilor Kennedy and Councilor Huda said they would like a full report back on the Wastewater Treatment Plan.

Councilor Kennedy withdrew her motion to postpone with Councilor Trace withdrawing her second to the motion.

No action was taken on this matter.

6. Request to Schedule First Reading of Sewer Ordinance Amendment

City Manager Conard said we would be codifying the waiver a part of the ordinance.

Mayor Becksted said there is a difference between a gravity feed to a low pressure sewer system. Deputy City Attorney Woodland said some residents felt that the staff statement was not strong enough and the motion will provide some confidence to residents and make a decision on whether to connect.

Councilor Tabor moved to schedule a first reading at the October 19, 2020 City Council meeting regarding an amendment to the Sewer Ordinance to codify allowing waiver of sewer tie-in following extensions. Seconded by Councilor Lazenby.

Councilor Kennedy said at first reading she would like a presentation and where the State law is different and how that affects the City. She said there is a conflict between State law and what we are doing.

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

XVI. CONSENT AGENDA

- A. Request for License to Install a Projecting Sign for owner River-Wharf, LLC, SOL, LLC for property located at 111 State 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 Lazenby moved to adopt the Consent Agenda. Seconded by Councilor Kennedy.

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

XVII. PRESENTATIONS & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

C. Email Correspondence

Councilor Lazenby moved to accept and place on file. Seconded by Councilor Huda.

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

XVIII. CITY MANAGER'S INFORMATIONAL ITEMS

1. Racial Equity Initiatives as a Result of City Council Resolution #13-2020
2. Report Back on Use of CARES Act Funding
3. Report Back on Election Officials Salaries as Requested at the September 14, 2020 City Council Meeting
4. Parking Citation Fine Structure Recommendations
5. Letter from Citizen Response Task Force to Commissioner Caswell Regarding Business Reopening
6. Memorandum on Field and Right-of-Way Maintenance

Assistant Mayor Splaine moved to establish an additional \$50.00 stipend for the Pre-Processing of Absentee Ballots. Seconded by Councilor Lazenby.

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

Councilor McEachern urged people to review the website on Racial Equity Initiatives which has detailed information.

City Manager said a timeline was provided to the City Council on the CARES Act Funding. She read for her memorandum on this matter. Discussion followed by Councilor Kennedy regarding funds for busing children. School Business Administrative Linney said that was not the same as student transportation. Discussion followed regarding the funds received and applied by Finance Director Belanger. She provided an outline of what items could be submitted as to not leave any funds on the table.

City Manager Conard spoke to the Parking Citation Fine Structure and advised the City Council that current structure was last reviewed in 2013. She said the recommended fines were brought to the Parking and Traffic Safety Committee in March for review. She said we would like to do a presentation at a future meeting regarding this matter.

City Manager Conard said the co-chairs of the Citizen Respond Task Force provided information on on-street dining. She reported that Governor Sununu has recent ruling on use of liquor is extended to November 15th.

XIX. MISCELLANEOUS/UNFINISHED BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

Councilor Lazenby recognized We Speak of Portsmouth High School matter forward regarding changing the name of Columbus Day to Indigenous Peoples' Day. City Attorney Sullivan said the holiday was named by the State Legislature and it is Columbus Day on a statewide basis.

Councilor Lazenby moved that the City of Portsmouth recognize October 12th as Indigenous Peoples' Day to run coincidentally with what the State call Columbus Day. Seconded by Councilor Trace.

Assistant Mayor Splaine requested that a public hearing be held on this matter in November or December that we as a City would recognize Indigenous Peoples' Day. Councilor Lazenby accepted this as a friendly amendment and Councilor Trace agreed.

Councilor Trace asked why we couldn't give Indigenous Peoples' Day their own day.

Councilor McEachern agrees that a public hearing should take place on this matter.

Councilor Tabor said Councilor Lazenby's motion was to recognize Indigenous Peoples' Day alongside of Columbus Day. He said this is a statement we can take as a community.

Mayor Becksted said there was nothing on the agenda that we would take action on this matter..

Councilor Lazenby said the side by side recognition would be alongside Columbus Day and we should have a public hearing on anything more formal.

Assistant Mayor Splaine said he would like for this year on October 12th.

Councilor Huda added a friendly amendment to the motion to read – Columbus/Indigenous Peoples' Day 2020 with a public hearing to be held at the call of Mayor Becksted. Councilor Lazenby accepted the friendly amendment and Councilor Trace agreed.

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

XX. ADJOURNMENT

At 12:15 a.m., Councilor Kennedy moved to adjourn. Seconded by Councilor Huda.

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



KELLI L. BARNABY, MMC/CNHMC
CITY CLERK

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, OCTOBER 19, 2020

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_HKOWY18tTnG3zYh4PquikPA

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 2020-18, 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.

A Non-Public Session was held Re: McIntyre Project – RSA 91-A:3, II (e) and Interim Chief of Police Employment Agreement – RSA 91-A:3, II (a).

III. CALL TO ORDER

Mayor Becksted called the meeting to order at 7:00 p.m.

IV. ROLL CALL

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

V. INVOCATION

Mayor Becksted 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 *(There are no minutes on for acceptance this evening)*

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

A. Presentation by Sustainability Committee – Drawdown Portsmouth – Bert Cohen, Chair

Bert announced that on Thursday, October 22, 2020 at 6:30 p.m. an in-depth review of drawdown will take place. He outlined the history on Sustainability. Environmental Planner/Sustainability Coordinator Britz spoke to the 10 year Master Plan and that we are an Eco-Municipality. Tracey Cameron spoke on the topic of flattening the curve and the impact emissions have on the environment.

B. Report Back from Board of Ethics

Councilor Tabor spoke to the process followed by the Board of Ethics regarding the ethics complaint against Councilor Kennedy. He reported that the Board held deliberations and unanimously found that a violation had occurred. He indicated that the matter is now before the City Council and a variety of measures could be taken. He asked that a Special City Council meeting be held next Monday, October 26th for the City Council to make a decision.

Mayor Becksted passed the gavel to Councilor McEachern because Assistant Mayor Splaine would be making a motion.

Assistant Mayor Splaine moved to accept the report and place it on file from the Board of Ethics and there be no further action needed. Seconded by Mayor Becksted.

Assistant Mayor Splaine said we need to get beyond this matter. He spoke to the many issues before the Council currently that require attention and said he felt that moving forward is in the best interest of the Council.

Councilor Lazenby said he agrees that the Council needs to move quickly on this matter. He said the public should be allowed to provide testimony on this matter and the Council should hold a separate meeting and do the job we have been elected to do.

On a roll call vote 3-5, motion failed to pass. Assistant Mayor Splaine, Councilor Whelan and Mayor Becksted voted in favor. Councilors McEachern, Lazenby, Huda, Tabor and Trace voted opposed. Councilor Kennedy recused from voting.

Councilor Whelan returned the gavel to Mayor Becksted.

IX. PUBLIC COMMENT SESSION

Clare Kittredge urged the City to focus on real economic issues and said only two violation issues have occurred in the last 40 years. She spoke to the right-to-know request she filed to receive a copy of the affidavit filed on the violation and said it should have been open and available for the public to review. She urged the City Council to stop wasting time on this complaint.

Roy Helsel said he does not understand why Councilor Kennedy bought the name and offered it back.

Andrew Bagley said we need to find a yes for outdoor dining. He said the task force is doing a great job and we need to move the matter of outdoor dining forward. He spoke opposed to the City Council not allowing the public to speak to the ethics violation.

Dagan Migirditch said he would like outdoor dining to remain and if it does not continue some businesses will need to close. He said the City needs to find creative solutions for these challenges that businesses are facing.

Arthur Clough said a number of things went wrong with the Board of Ethics violation and process. He stated Councilor Kennedy was told how to testify which took away from her ability to defend herself.

Zelita Morgan spoke on the ethics complaint regarding Councilor Kennedy and said that Councilor Kennedy is a leader and represents the entire community. She said the complaint had nothing to do with an ethics violation. She urged the City Council to dismiss the complaint.

Mayor Becksted said he would like to see a camera installed at the Dog Park and area opened at Peirce Island.

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

First Reading of Ordinances:

- A. First reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking by the addition of Dearborn Street; easterly side, from the North Mill Pond running northerly for a distance of 25 feet

Councilor McEachern moved to pass first reading and schedule a public hearing and second reading at the November 16, 2020 City Council meeting. Seconded by Councilor Whelan.

Councilor Kennedy said we seem to always be taking away parking and asked for the rationale in removing parking spaces.

Parking & Transportation Engineer Eby said it was a request by residents at the end of the street. He said the parking spots cannot be replaced but people could park on Maplewood Avenue and walk in.

Councilor Kennedy urged residents to come and speak on this matter.

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

- B. First reading of Ordinance amending Chapter 7, Article IVA, Section 7-A.402 – Bus Stops Designated – Hanover Street: southerly side of Hanover Street ~~90 feet east of~~ from Fleet Street to a point 285 feet east of Fleet Street

Councilor McEachern moved to pass first reading and schedule a public hearing and second reading at the November 16, 2020 City Council meeting. Seconded by Councilor Whelan.

Mayor Becksted said we have taken away four parking spaces and we are losing revenue by removing parking.

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

- C. First reading of Ordinance amending Chapter 7, Article XI, Section 7.1100 – Speed Limits E. Speed Limit: 25 MPH by the addition of South Street, from Middle Road to Lafayette Road

Councilor McEachern moved to pass first reading and scheduled a public hearing and second reading at the November 16, 2020 City Council meeting. Seconded by Councilor Whelan.

On a unanimous roll call 9-0 motion passed.

- D. First reading of Ordinance amending Chapter 11, Article II, Sewers, Section 11.203 and Section 11.203 and Section 11.204 – Waiver from Connection to Public Sewer

Deputy City Attorney Woodland provided a brief presentation regarding the ordinance. She indicated this would change Chapter 11, Article II of the Sewer Ordinance. She stated it would also allow home owners to hook up separately.

Councilor Trace said we started with this project as part of the consent decree that needed to be brought onto public sewer and now we are making exceptions. She stated it is the septic systems that were the direct cause for the consent decree.

Deputy City Attorney Woodland explained the exceptions which covers anyone that put a system in the last five years and provides them to use it for the life of the system.

Councilor Trace said she feels the City is drawing a broad brush to address systems before 1985. She asked how the state law comes into play with the consent decree.

Deputy City Attorney Woodland stated 50%-75% of the state law before 1985 would not be covered. She stated that we are codifying what has been best practice.

Mayor Becksted spoke to the state law being very specific on systems. He would like additional information on the law for pump systems versus gravity feed.

Councilor McEachern moved to pass first reading and schedule a public hearing and second reading at the November 16, 2020 City Council meeting. Seconded by Councilor Whelan.

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

- E. Resolution authorizing a Supplemental Appropriation the sum of up to One Hundred Fifty Thousand Dollars (\$150,000.00) from the Unassigned Fund Balance for the Design and Engineering of Alternate Plans for the Redevelopment of McIntyre Federal Building and surrounding property

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

Councilor Whelan said this is a request from the McIntyre Subcommittee. He said the process would move forward with Portsmouth Listens in November through December. He stated this would be from the ground up process for designing the project.

Councilor Huda said she would like to see what residents would be paying or getting for the \$150,000.00. She said we have a vague description and really have no details on this.

Councilor Whelan said the process must design the project first and we will use funds to come forward with drawings for the building.

Councilor Tabor said in terms of the process, we had paused on the project and said let's find out what the public wants. He spoke to the 3,700 that participated in the survey and stated we need to look at how to achieve a new process and added public space along Bow Street. Councilor Tabor stated the funds are important to the process.

Councilor Lazenby asked City Manager Conard how much we have spent thus far on McIntyre. City Manager Conard said legal fees are \$96,000.00 and total amount expended is \$107,690.00. Councilor Lazenby expressed concern regarding how much we have spent and how much we are continuing to spend on the McIntyre.

Councilor McEachern said these are expenditures to move the project forward. He requested that the City Council pass the Resolution to move the process forward and involve the public in the next step.

Assistant Mayor Splaine said that this is an investment and people want to revisit McIntyre. He said we need to make sure that there is balance with public involvement.

Councilor Tabor spoke to the process and how it would work moving forward.

Councilor Whelan said the GSA wants a leader in support of taking over the building in early March. He said we have worked with drafting the letter, which shows our intent to take the building over. He said we need to inform the National Park Service by early January and the process with Portsmouth Listens will be a great deal of work in a short amount of time.

Councilor Kennedy said this is a good way to give the residents a voice. She spoke in support of the Portsmouth Listens process.

City Manager Conard and Finance Director Belanger spoke to the non-reoccurring expense to come from Fund Balance. Finance Director Belanger spoke to the closing of FY20 and that final documents would not be available until January. She indicated that she has no concerns with the \$150,000.00 coming from Unassigned Fund Balance.

Councilor Whelan moved to adopt the resolution authorizing a supplemental appropriation from the Unassigned Fund Balance in the sum of up to \$150,000.00 for the funding of alternate plans for the redevelopment of the McIntyre Federal Building and surrounding property. Seconded by Councilor Trace.

Andrew Bagley said we should not be expending funds in the middle of a pandemic and said he would not be in favor of spending money on the design at this time.

Mark Brighton said we need to spend funds to correct the mistake and design the project.

With no further speakers, Mayor Becksted declared the public hearing closed.

Councilor Lazenby said legal action should be settled before expending funds. City Attorney Sullivan said Councilor Lazenby could attach conditions on the expenditure of the funds. He said one possibility is the funds would not be expended until the City has an agreement with Redgate Kane for the withdrawal of the lawsuit but it is not necessary to have that as part of the motion because the Subcommittee is aware of this.

**Councilor Lazenby moved to amend to include at the end of the sentence “and the past legal action should be settled before planning funds are dispersed to our planning partners.”
Seconded by Assistant Mayor Splaine.**

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

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

- F. Ordinance amending Chapter 7, Article III, Section 7.326 – Limited Parking – Daniel Street: Southerly Side, ~~First Five Three~~ metered Spaces ~~East from Market Square~~ running between 102 and 160 feet West of Penhallow Street, and Hanover Street delete ~~Northerly Side, First Two Spaces East from Bridge Street~~

Councilor Tabor moved to pass second reading and schedule third and final reading at the November 16, 2020 City Council meeting. Seconded by Councilor Huda.

Mayor Becksted read the legal notice, declared the public hearing open and called for speakers. With no speakers, Mayor Becksted closed the public hearing.

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

- G. Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking by the addition of Little Harbor Road: Both Sides of the Roadway beginning at the East Side of the Wentworth Coolidge Mansion Driveway, running Easterly for a distance of 155 feet to the gate at the end of the pavement

City Manager Conard advised the City Council that this was requested by abutters.

Mayor Becksted read the legal notice, declared the public hearing open and called for speakers. With no speakers, Mayor Becksted declared the public hearing closed.

Councilor Whelan moved to pass second reading and schedule third and final reading at the November 16, 2020 City Council meeting. Seconded by Councilor Huda.

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

- H. Ordinance amending Chapter 7, Article III, Section 7.336 – One Way Streets by the deletion of ~~Parker Street Northerly from Tanner Court to Hanover Street~~

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

City Manager Conard said this would be 2-way traffic on the street.

With no speakers, Mayor Becksted declared the public hearing closed.

Councilor Whelan moved to pass second reading and schedule third and final reading at the November 16, 2020 City Council meeting. Seconded by Councilor Huda.

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

- I. Ordinance amending Chapter 7, Article VI, Section 7.601 – Limited Hours Loading Zones by the addition of Pleasant Street: Easterly Side, beginning 94 feet south of the Southerly Curb Line of Daniel Street and running Southerly for a distance of 45 feet

City Manager Conard said this would create a loading zone.

Mayor Becksted read the legal notice, declared the public hearing open and called for speakers. With no speakers, Mayor Becksted declared the public hearing closed.

Councilor Tabor moved to pass second reading and schedule third and final reading at the November 16, 2020 City Council meeting. Seconded by Councilor Huda.

Mayor Becksted asked what the hours of the loading zone would be. Parking and Transportation Engineer Eby said the hours would be 6:00 a.m. to 7:00 p.m. Monday through Saturday. Mayor Becksted said he would like to limit the hours of the loading zone to allow parking during off times. Parking and Transportation Engineer Eby said they could report back after monitoring the spot. Mayor Becksted asked to start monitoring the area right away.

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

Third and Final Reading of Ordinances

- J. Third and Final Reading of Ordinance amending Chapter 7, Article III, Section 7.326 – Limited Parking – 15 Minutes by the Deletion of ~~Deer Street: One space on the Northerly Side of the Street, Beginning 13 Feet West of the Extension of the Westerly Curb Line of High Street, and Running 20 Feet in an Easterly Direction.~~ The addition of **Hanover Street: Southerly Side, First Two Spaces East from Maplewood Avenue**

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

Councilor Kennedy stated that we are not losing any spaces or gaining anything with this change.

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

- K. Ordinance amending Chapter 7, Article VI, Section 7.601 – Limited Hours Loading Zone by the Addition of **Vaughan Street: Westerly Side, Beginning at the Intersection with Raynes Avenue and Running Southerly for a Distance of 60 Feet, from 6:00 a.m. to 9:00 a.m.**

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

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

Assistant Mayor Splaine moved to suspend the rules in order to bring forward Item XVII. A. – Presentation by Health Officer Kim McNamara regarding COVID-19 Update and XVII. B. – Update on the Portsmouth Citizens Response Task Force. Seconded by Councilor Huda.

Mayor Becksted said that the Parking & Traffic Safety Committee is important and gives the public a way to weigh in on an ordinance change. He said he feels there is a better way to do this and redefine what Parking & Traffic Safety Committee is.

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

XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

A. Presentation by Health Officer Kim McNamara regarding COVID-19 Update

Health Officer McNamara provided global and state statistics for COVID-19. She reported that Portsmouth has 30 active cases and the total confirmed cases in Portsmouth is 146. She indicated that the positive rate has climbed to 1.1% and the NH curve is going in the wrong direction.

B. Update on the Portsmouth Citizens Response Task Force

City Manager Conard reported that this was the final weekend of PopUp NH. She stated we are currently in a holding pattern on extending outdoor dining.

Councilor Trace asked if there is discussion on extending outdoor liquor licenses. City Manager Conard said that we have not spoken with the State on that matter. Mayor Becksted said the State does the extensions in segments.

At 9:40 p.m., Mayor Becksted called for a brief recess. At 9:50 p.m., Mayor Becksted called the meeting back to order.

XII. MAYOR BECKSTED

1. Appointments to be Considered:
 - Appointment of Karen Bouffard to the Historic District Commission as an Alternate
 - Reappointment of Robert Marchewka to the Economic Development Commission

The City Council considered the appointments to be voted on at the next City Council meeting.

2. Appointments to be Voted:
 - Appointment of David Adams to the Historic District Commission as a Regular Member
 - Reappointment of Richard Katz to the Library Board of Trustees
 - Appointment of Maria Peppas to the Library Board of Trustees
 - Appointment of Kelly Delekta to the Library Board of Trustees
 - Appointment of Latonya Wallace to the Library Board of Trustees
 - Appointment of Daniel Main to the Portsmouth Housing Authority

Councilor Kennedy moved to appoint David Adams to the Historic District Commission as a Regular member until June 1, 2023; the reappointment of Richard Katz to the Library Board of Trustees until October 1, 2023; appointment of Maria Peppas to the Library Board of Trustee until October 1, 2023; appointment of Kelly Delekta to the Library Board of Trustees until October 1, 2023; appointment of Latonya Wallace to the Library Board of Trustees until October 1, 2023; and appointment of Daniel Main to the Portsmouth Housing Authority replacing Ruth Griffin's unexpired term until April 1, 2023. Seconded by Assistant Mayor Splaine.

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

3. Special City Council Meeting for Monday, October 26, 2020 at 6:30 p.m. regarding Ethics Board Matter

Mayor Becksted said he would like to have a special meeting on October 26, 2020 and have public comment on the agenda for this matter. He said we have very important matters to move forward, not that this is not important but we need to move forward on other things.

Councilor Trace advised that October 26th will be a public meeting. She said she does not want to see people put Councilor Kennedy's good name in a bad light.

Councilor Huda said at this point we have gone through the entire process and it is time for the City Council to make a decision on this matter.

Councilor McEachern said it is important for the process to be held in public. He said we need a public process on what course of action we are going to take as a City Council.

4. Joint NH Mayors' Letter to the NH Legislature relative to Homelessness Issues

Mayor Becksted reported on the October 13th meeting with NH Mayors' and spoke briefly regarding a letter to be drafted to the NH Legislative relative to Homelessness Issues.

5. Request for First Reading for Postponement of the Activation of Single-Use Bag Ban

Mayor Becksted said the last City Council put a single-use bag ordinance in place throughout the community which would make it illegal to distribute plastic bags. He would like to postpone the single-use ban and have City Attorney Sullivan draft an amended ordinance for first reading at the November 16, 2020 City Council meeting.

Councilor Trace moved to postpone the ordinance until we can enforce the law through a state mandate and to have the City Attorney draft an amended ordinance for first reading at the November 16, 2020 City Council meeting. Seconded by Councilor Huda.

Councilor Trace said most stores will not use plastic bags and we would be mandating a law that would make it impossible for stores to supply these type of bags.

Assistant Mayor Splaine said that we are in a non-reusable situation right now. He spoke to protecting our stores at this time and not putting the ban in place.

Councilor McEachern said we need to have a conversation regarding this matter.

Councilor Lazenby said we are all interested in this issue but feels we should not make an ordinance without the document in front of the Council.

Mayor Becksted said how do we backup this matter. City Attorney Sullivan said the ordinance to amend requires three readings. He further stated if the Council authorizes first reading he would bring an ordinance to be in front of the entire City Council.

Councilor Trace said her intent was to move the first reading. She said she wants to make sure we keep people healthy.

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

XIII. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR SPLAINE

1. Letter from Tom Morgan Re: Planning Board Zoning Amendments

Assistant Mayor Splaine said Mr. Morgan is asking the City Council to take a look at solar farms in the area.

Assistant Mayor Splaine moved to send the letter to the Planning Board for report back. Seconded by Councilor Kennedy.

Councilor Kennedy said she has information on solar farms and if we have property available she would encourage us to look at this as something to do.

Councilor Tabor said he would like to look at a long term alternative.

Councilor Huda said she would like the Planning Board to come back with suggestions of where five-acre solar installations should be in the City and how many homes we can affect with this type of zoning amendment.

Assistant Mayor Splaine accepted this as a friendly amendment and Councilor Kennedy accepted the language as the second to the motion.

On a unanimous roll call 9-0, voted to send the letter to the Planning Board for report back with suggestions of where five-acre solar installations should be in the City and how many homes we can affect with this type of zoning amendment.

Councilor McEachern moved to continue the meeting beyond 10:00 p.m. Seconded by Councilor Kennedy.

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

Councilor McEachern said his motion regarding extending outdoor dining was back in front of the City Council.

B. COUNCILOR McEACHERN

1. Extend Outside Dining to end of November

Councilor McEachern moved to extend outside dining until the end of November where possible. Seconded by Assistant Mayor Splaine.

Assistant Mayor Splaine moved to amend the motion and have a report back at the next City Council meeting from the City Manager and the Portsmouth Citizens Response Task Force as to their judgment of extending outside dining even further through the winter months and how that would work. Seconded by Councilor McEachern.

Councilor Huda said businesses with private property and parking lots should not be handled by the City Council and remain out of their hands.

City Attorney Sullivan said the only control the City would have is with zoning and site planning but but if the City Council took no action there would be questions of what covers properties.

Councilor McEachern said he intended this to apply to all private property owners and they should do what they feel is necessary to get through the pandemic. He stated we could deal with streets separately and look at that at the next City Council meeting.

Councilor Kennedy said she has no problem extending this but her concern is the safety of lots. She said she would like to have City Manager Conard make sure that residents are taken care of.

Councilor McEachern said he would designate the City Manager and Public Works Director to determine where that would be possible.

Councilor Trace said there are spots in the City you can easily remove snow, but in some areas there is no way to get rid of the snow. She said there is a cost factor involved to the City.

City Manager Conard said with the intent to work on this matter, we have started the conversation.

Councilor McEachern said our Public Works Department keep the streets spotless and would continue to do so.

Councilor Lazenby said he would like a report back regarding parking and if there continues to be parking spots displaced, do we need to continue looking at other 15 minutes spots. He said he also wants to make sure all the businesses downtown are being considered.

Councilor Huda stated that the area of the 31 establishment's downtown is the most expensive area of the City to remove snow.

Mayor Becksted said he supports the motion and plans may change if we have an easy winter. He said it could be a constant removal of snow in parts and expenditures would be significantly more.

Councilor Huda asked City Manager Conard to report back on liability insurance as to servers going back and forth.

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

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

C, COUNCILOR WHELAN

1. Action Items Needing City Council Approval:

- Approval to renew Valet Parking License Agreements for a term of one (1) year for Marriott Residence Inn and Portsmouth Harbor Events & Conference Center
- Approval to renew Valet Parking License Agreements for a Term of one (1) year for the Hampton Inn & Suites

Councilor Whelan moved to approve the 2 Valet Parking Agreements for Marriot Residence Inn and Portsmouth Harbor Events & Conference Center and Hampton Inn & Suites. Seconded by Councilor Lazenby.

Councilor McEachern asked when a Parking & Traffic Safety Committee discussion should take place on moving items forward.

Mayor Becksted said a work session could be held prior to a City Council meeting. Councilor Whelan said the Retreat is coming up and we could make this one of the items.

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

D. COUNCILOR LAZENBY

1. Sustainability Committee – Drawdown Portsmouth an Eco-Municipality Update

Councilor Lazenby said he looks forward to community discussions on October 22nd regarding this matter and steps we could take.

Councilor McEachern thanked Councilor Lazenby for his work on this matter. He said he supports the work of the Committee.

Councilor Lazenby said attention should be given to the first 10 items such as solar areas and the importance of what we do with disposing of refrigerators.

XIV. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation to Coalition Fund
 - Town of Rye - \$5,000.00

Councilor Kennedy moved to approve and accept the donation, as listed, to be place in the Coalition Fund. Seconded by Councilor McEachern.

Councilor Kennedy asked the City to pay close attention to the school funding and how the City could be effected.

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

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Parking Agreement for Deer Street Associates

City Manager Conard said the Parking Agreement would be guaranteed parking spaces in the garage.

Staff Attorney McCourt explained the agreement in detail which provides off-street parking for two developments.

Councilor Huda asked how long the agreement was. Staff Attorney McCourt stated the agreement was as long as the garage is owned, but not less than 30 years.

Councilor Trace asked if Mr. Rogers sells the lots would the 68 spaces go along with the lots. Staff Attorney McCourt said if he assigned the spaces, they would. Councilor Trace said we are giving Mr. Rogers more value for the project. Staff Attorney McCourt said the development as a whole includes the Foundry Garage. Councilor Trace expressed concern regarding Mr. Rogers not having any of the developments built.

Mayor Becksted said we should not be giving something without receiving something in return.

Councilor Lazenby asked Staff Attorney McCourt if DSA would pay market prices for the space. Staff Attorney McCourt stated that was correct. Councilor Lazenby asked what would the impact to the City be if we did not authorize the parking agreement. Staff Attorney McCourt said it would be a breach and would be costly to the City.

Councilor Huda said if you look at this Mr. Rogers does not have to build anything so it is not a benefit to the taxpayers.

Discussion followed amongst the City Council regarding this matter.

Councilor Lazenby moved to authorize the City Manager to execute a parking agreement with Deer Street Associates in a form substantially similar to the document presented. Seconded by Councilor McEachern.

Councilor McEachern said it would seem like this is not the agreement the City Council wants, but we are bound to uphold it or expensive litigation would take place. He said it is before us to act in accordance with the agreement that was struck and we have to support this.

Staff Attorney McCourt said the agreement is needed for DSA to receive financing for the developments.

Mayor Becksted and Councilor Kennedy asked for more information on this matter.

Councilor Whelan moved to table until the next meeting with a report back. Seconded by Councilor Kennedy.

Mayor Becksted said City Manager Conard understands the concerns of the Council and the need for more information.

Councilor Tabor said we have a contract and are obligated for which we authorize the City Manager with power to sign the agreement.

On a roll call 6-3, voted to table until the next meeting with a report back. Assistant Mayor Splaine, Councilors Whelan, Kennedy, Huda, Trace and Mayor Becksted voted in favor. Councilors McEachern, Lazenby and Tabor voted opposed.

2. Public Art Sculpture for McEachern Park

Assistant Mayor Splaine moved to refer the proposed public art fish sculpture donation for McEachern Park to the City Manager with power for establishment of an ad hoc advisory group consisting of Councilor McEachern and Jon Wyckoff for the purpose of evaluating the fish sculpture for compliance with the public art acquisition guidelines and make a recommendation back to the City Council for approval. Seconded by Councilor Tabor.

Councilor Huda said she has a problem with there being so many staff members in the group.

Councilor Trace said in the interest of time the Neighborhood Group would like to do this as soon as possible. She said the entire Neighborhood Group has done a great job and they want to get this done before the snow flies.

Councilor Kennedy said she wants to make sure we do not set a precedence. She said she feels some of the process and procedures need to be reviewed, such as having less employees as part of the decision making.

Councilor McEachern said he appreciates the enthusiasm but he wants the buy in of the community. He said if the Ad-Hoc Committee is being designed, how do we define the Neighborhood Group. City Manager Conard said we would take direction from the neighborhood.

Deputy City Attorney Woodland suggested that the City Council make a motion of how the Ad Hoc Committee should be created.

Councilor Trace suggested Councilor McEachern be part of the Committee because she is sure he would like input in a park that is honoring his father.

Deputy City Attorney Woodland said the Committee would be making a recommendation then it would go back to the City Council. She said we could get input and come back to the City Council for approval.

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

3. Approval of Interim Chief of Police Employment Agreement

City Manager Conard said this is an agreement with Interim Chief of Police Newport.

Councilor McEachern moved to ratify the agreement as presented with Interim Chief of Police, Mark Newport. Seconded by Councilor Huda.

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

XVII. PRESENTATIONS & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

D. Email Correspondence

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

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

E. Letter from Cynthia and Lew Harriman regarding Set up of new Voting Center and making voting safe and reliable in this most unusual year

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

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

- F. Letter from Kirsten Hunter, Director of Lifespan Ministries requesting to hold a Community-wide Candle Lighting ritual in downtown on December 24th

Councilor Whelan moved to refer to the City Manager with power to set up for a logistics meeting. Seconded by Councilor Kennedy.

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

- G. Letter from Jack McTigue, TFMoran, Inc. requesting road name for the Village at Banfield Woods to Walford Lane

Councilor Kennedy moved to refer to the Planning Board for report back. Seconded by Councilor Huda.

Councilor Kennedy expressed concern with not referring to our list of suggested street names.

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

XVII. PRESENTATIONS & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- C. Presentation by City Engineer Terry Desmarais regarding Update on the Peirce Island Wastewater Treatment Facility

City Engineer Desmarais provided a detailed update on the Peirce Island Wastewater Treatment Facility. He addressed the Mechanic Street Wastewater Pump Station. He spoke to moving forward with a temporary force main for the wastewater that is brought to the treatment plant. He said the estimated cost to replace the pipe is \$3.6 million as there is a need for upgrades to the water main and this is an emergency project. He informed that City Council that a new bond will be brought to the City Council for approval. He reviewed the limits we are attaining for the nitrogen levels and the upcoming project schedule.

Councilor Kennedy asked how long the work would impact the boat launch. City Engineer Desmarais said the work at the boat launch may require people to back down the road and could take 6-9 months.

Councilor Trace asked for a report back on when the dog area would be available to owners again. She spoke to the original request of funds was at \$3,000,000.00 and now you are asking for another \$4,000,000.00. She addressed the CSO's at South Mill pond which tells us how urgent this is. She stated that we do not have pipes large enough to move waste to the wastewater treatment plant.

The City Council thanked City Engineer Desmarais and Deputy City Attorney Woodland for their hard work on this matter.

Councilor Trace asked if the art funds need to be voted on this evening. Deputy City Attorney Woodland said you don't have to make a decision this evening.

XVIII. CITY MANAGER'S INFORMATIONAL ITEMS

The City Council discussed the report back on the status and solutions being discussed per the Emergency Police Commission meeting on the re-occurrence of mold in the Police Department. The City Council expressed concern that this matter is still on-going considering this was discussed 6 months ago. Public Works Director Rice spoke concerning this matter and discussed the improvements that have been made.

XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

Councilor Lazenby said our mask mandate runs out January 4th and asked what would need to be done in order to extend the date. City Attorney Sullivan explained it would require three readings, however the Council could vote to suspend the rules in order to take up third and final reading after second reading has passed in order to accomplish the vote within two meetings.

XX. ADJOURNMENT

At 12:30 a.m., Councilor McEachern moved to adjourn. Seconded by Councilor Trace.

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



KELLI L. BARNABY, MMC/CNHMC
CITY CLERK

CITY COUNCIL SPECIAL MEETING MINUTES

MUNICIPAL COMPLEX
DATE: MONDAY, OCTOBER 26, 2020

PORTSMOUTH, NH
TIME: 6:30 PM

Remote Meeting via Zoom Conference Call

I. CALL TO ORDER

Mayor Becksted called the meeting to order at 6:31 p.m. and read the following:

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 2020-20, 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.

II. ROLL CALL

Present: Mayor Becksted, Assistant Mayor Splaine, Councilors McEachern, Whelan, Lazenby, Kennedy, Huda, Tabor and Trace.

Also Present: City Manager Karen Conard, City Attorney Robert Sullivan, and Legal Secretary Marian Steimke.

III. INVOCATION

Mayor Becksted asked for a moment of silence during these uncertain times that everyone continue to stay safe and well.

IV. PLEDGE OF ALLEGIANCE

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

V. BOARD OF ETHICS REPORT

Mayor Becksted referenced the report and asked if anyone felt they were under obligation to recuse themselves from this matter to please speak. He added they would get the matter resolved that night.

Mayor Becksted asked Councilor Tabor to give a summary of the Board of Ethics report. The Mayor then said he would ask Councilor Kennedy to speak.

Councilor Tabor spoke about the letters he and Councilor Lazenby received from Councilor Kennedy's attorney, Duncan McCallum demanding recusal. Councilor Tabor described his letter and said he would not recuse.

Councilor Tabor continued with his summary. He said the Ethics Board was asked to determine if Councilor Kennedy, by registering the tradename Popup Portsmouth, engaged in a transaction which sought to defeat a legislative goal established by the City Council, and therefore acted in conflict with her duties as a Councilor – i.e., did she undermine the efforts of the Council.

Councilor Tabor listed the members of the Board of Ethics: Commissioner Tom Hart, Commissioner Richard Gamester, Member Ann Walker and himself as Chair. He spoke about the three meetings that the Board held, with one night for each of Nancy Pearson and Councilor Kennedy to speak, with cross examination of each and the third night for final statements and deliberation. The Board voted 4-0 to find a violation existed in Councilor Kennedy's actions. He summarized the four specific findings that the Board found:

- 1) Councilor Kennedy had a direct interest in the outcome;
- 2) Identification of the conflicts;
- 3) The Board found she could have addressed her concerns in more productive ways and deliberately did not tell others; and
- 4) The testimony that the Pop Up was not illegal.

Councilor Tabor said Councilor Kennedy maintained she was not able to speak to the Task Force. Councilor Tabor asked City Attorney Sullivan if the City's Nonintervention Clause of the City Charter would have prevented Councilor Kennedy from speaking to the Task Force.

City Attorney Sullivan said the Nonintervention Clause is intended to keep politics out of the day to day operation of the City government installing a barrier between the elected officials and the City staff. This really means that Councilors cannot talk to people that work for the City Manager without the City Manager's approval. City Attorney Sullivan verified that the Task Force does not work for the City Manager.

Councilor Tabor moved that the Council accept the report and findings of the Board of Ethics as part of the process under the Ethics Ordinance so that the Council can move on to determine which action to take as a Council. Councilor Lazenby seconded the motion.

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

Mayor Becksted gave an opportunity for the accused to speak to her fellow Councilors.

Councilor Kennedy shared a screen. She said she wanted to give the rationale of why she did what she did and to give the outcomes of what she did. She spoke about her knowledge of using federal funds, and CARES act money. She spoke about the chronology of events including the formation of the entity.

Councilor Kennedy spoke of her concerns. She said the City was providing services to a non-entity. She discussed the Seacoast Repertory Theatre as fiscal sponsor and her concerns about proper insurance. She was also concerned that 12 out of 15 businesses were not Portsmouth-based businesses. She believed it was her duty to protect City funds. She said the pop-up group found out on July 19th about her registration of the name Popup Portsmouth and one day later by July 20th they formed Popup NH. The Councilor said she had brought up her concerns with the City Manager and with other Councilors.

Mayor Becksted asked if anyone else had anything to say.

Councilor Lazenby moved to accept the report of the Board of Ethics and to censure Councilor Kennedy for violating Section 1.802A of the City Code of Ethics. Councilor McEachern seconded.

Discussion on motion:

Councilor Lazenby asked for clarification from City Attorney Sullivan regarding the standards for recusal and if it was correct there is no provision in the City Ordinance for the City Council to make a decision on recusal. For example, with Councilor Kennedy being the subject of the violation, there is no provision that gives City Council the power over Councilor Kennedy's decision to not recuse herself, essentially giving her the opportunity to be her own jury. Is that correct, he asked. City Attorney Sullivan answered that was correct.

Councilor Lazenby asked for further clarification regarding Mayor Becksted's recusal earlier in the process due to having family that worked for Councilor Kennedy, and not recusing himself at this point in the process – that it is up to him and not something that the Council has any influence over, is that correct? City Attorney Sullivan answered that was correct.

Councilor Lazenby commented that the appeal which Councilor Kennedy just presented was unexpected, as the prior appeal occurred under oath with an opportunity for response. He added that Councilor Kennedy did not speak to the actions she took that were the subject of the complaint and the hearing. Councilor Lazenby discussed the process that began with an ethics complaint being filed. He said Councilor Kennedy intervened on her own to take action, and it was the reason they were there that night.

Councilor Lazenby said the Council did not hear about the steps that were the subject of the Board of Ethics hearing. He added that the Council was there now to review what went on and figure out what to do about it. He said in thinking about what was best for the City we must respect the process in the ordinance. He said the Board of Ethics found one of our officers acted in a way that was in violation of our code. He spoke about the responsibility of the Council, the volunteers of Popup doing their best and cooperating, and in viewing the video he thought the system had been working fine. He said the Council has a role in setting a precedent, as this would be referred to in the future. He believed a consequence that fits the offence would be appropriate. He spoke about the options for action as dictated by the City ordinance, where innocence of wrongdoing was not appropriate since the Board of Ethics unanimously found Councilor Kennedy in violation. Removal from office would not fit the offence either. The Council should acknowledge the significance of the action via censure, he said.

Lastly, Councilor Lazenby spoke of the threat of litigation he received via letter from Duncan MacCallum, attorney for Councilor Kennedy. He was disappointed in that attempt by Councilor Kennedy and her attorney to coerce him and Councilor Tabor to recuse themselves from the process, he said. This, Councilor Lazenby said, should be addressed by the Council and he hopes it will be. For that night, however, the Council must determine sanctions for the violation, and he repeated censure would be the appropriate action for the Council to take.

Councilor Huda said she disagreed with the Ethics Board decision, and she does not want to accept the report. She said the Board of Ethics put little effort into verification and validation of data and statements by Ms. Pearson. She spoke about the events that were of concern to her including Popup not being an entity and contradictions she heard during testimony. She said this should have been reported to the Secretary of State and to the IRS, but said Councilor Kennedy did the nice method and gave Popup a chance to actually file. Councilor Huda referred to the report she submitted. She does not think that Councilor Kennedy should be punished for bringing the facts to light. She does not think that Councilor Kennedy benefited financially by this action and said Councilor Kennedy saved the City from liability.

Councilor Huda offered an Amendment to Councilor Lazenby's motion: she would move to find Councilor Kennedy innocent of any wrongdoing and exonerate her of all of this.

Assistant Mayor Splaine suggested to first vote on the motion made by Councilor Lazenby and then have a standalone motion, and Councilor Huda agreed.

Mayor Becksted stated that the motion seeks to approve and accept the findings. He asked City Attorney Sullivan if Council can go back into a motion since that was just voted down. City Attorney Sullivan answered that the Mayor would rule that part of the motion out of order.

Councilor Lazenby revised his motion and moved to censure Councilor Kennedy for violating Section 1.802A of the City Code of Ethics. Councilor McEachern seconded.

Discussion on Revised Motion:

Councilor Whelan asked how the Council could implement any action if they were not accepting the report of the Ethics Board. City Attorney Sullivan said there is no requirement in the Ordinance that the Council must accept the findings of the Board of Ethics. The Board made the findings, they are of record and the report exists. The Council can offer its viewpoint of those findings by voting. That is not the telling action that has to happen. The Council must pick one of the options out of the Ordinance. Councilor Lazenby offered one of the options out of the Ordinance via motion, he said.

Mayor Becksted asked what a censure means. City Attorney Sullivan said if the Council should vote to censure Councilor Kennedy, it would amount to a public statement saying the Council believes she has violated the Code of Ethics, and it is a criticism of her conduct. Essentially she would be guilty simply by the Council voting on a sanction.

Councilor McEachern was disappointed the Council did not accept the work of other elected officials. He's frustrated that Councilor Kennedy acted independently and this was discussed on social media. This has created a partisan atmosphere between new and old Council. He spoke of how hard the Popup volunteers worked to get running. While they faced challenges, he cannot accept that two wrongs make a right. Councilor Kennedy chose to remedy the situation through her own ways. He supports the Board of Ethics conclusion. He said it is Council's job to act in public and to represent the City of Portsmouth transparently. We must act as the best of our City because we represent it. When we err, we must admit so. We must vote to censure Councilor Kennedy's actions.

Councilor Tabor summarized the subtleties the Board of Ethics had considered. The Rep (Seacoast Repertory Theatre) was the fiscal sponsor and was the custodian of the donations. The Popup filed on July 2nd via LegalZoom to create the entity. There was a hold up with the previous 2015 use of the popup name, and this delayed their use of that name. Councilor Tabor stated it was an important distinction that Councilor Kennedy acted on her own. He added the Board of Ethics only needed Councilor Kennedy's own testimony to determine their conclusion. He believes Councilor Kennedy was advocating for the taxpayers, but the Board of Ethics found there were serious mistakes that undermined operation of Council. One Councilor cannot just go around the Council or a committee like the Task Force – to which the Council had given oversight responsibilities – and act as a lone wolf. The people that elect us expect us to work together and not act as a lone wolf. He provided the examples of what if someone decided to act independently and work around the McIntyre Subcommittee or City staff regarding the Boyle litigation. Censure would be appropriate if this were to happen, he stated. Councilor Tabor read the definition of censure as being "the official expression of disapproval" and that is all – so he supports the motion. He added another finding of the Ethics Board: could Councilor Kennedy have gone to City Attorney Sullivan, to Mayor Becksted to ask for a special meeting or could she have gone to the Council.

Assistant Mayor Splaine thanked Councilor Kennedy for what she did. He disagreed with Councilor Tabor on this point: The Assistant Mayor said there should never be an attitude to just go along if you disagree. He respects the work of the Board of Ethics, he watched all the meetings and read all the testimony. He very much respects the City Attorney and said they spoke for five hours weeks before to discuss the initial complaints to determine if they had merit to go on to the Board of Ethics. They found that a transaction had occurred, not that a violation had occurred. He spoke about the history of Ethics Boards and said it was important to go forward with the complaint to have the conversation and not seem to contribute to a cover-up. He added the Council should revisit the Conflict of Interest Code because it didn't make sense. Assistant Mayor Splaine said Councilor Kennedy did not benefit in any way from this. He talked about the times in his experience where he blew the whistle and the repercussions of each. He said he does not think Councilor Kennedy should be punished for this action, since there was no wrongdoing.

Mayor Becksted said he appreciated Assistant Mayor Splaine's views. The Mayor said he had many conversations with City Attorney Sullivan. The Mayor said he did not like the ethics process and added it was hard for him to sanction someone because he didn't see what the violation was. He referred to the statement made by the Popup group: due to the delay, Councilor Kennedy cost the organization \$25,000. The Mayor wondered how would that be possible. What we are all going through is no easy task. He wants this Council to fix the process and after this is done, continue to move forward with the best interest of the City, working together and using this as a lesson. He does not feel that Councilor Kennedy committed any ethics violation.

Councilor Lazenby said if we were to be looking at Councilor Kennedy's action as whistle blowing, it would have been good to see a video of her speaking to the Council to bring up her concerns, but it didn't happen. Councilor Lazenby said he brought up his concerns in the past about the new garage to the entire Council. This should have been an open discussion. Instead Councilor Kennedy did not blow the whistle, she took independent action without Council support, which was not whistle blowing. He agrees that the Council should look at the ethics review process. There will be a chilling effect on people being willing to raise their hand to say a Councilor did something that must be reviewed. Nancy Pearson was a whistle blower, she was put through the gauntlet and now it is looking like the Council will ignore the process. This is very disappointing.

Assistant Mayor Splaine said we are citizens first when we are elected as Councilors. We should be willing to stand up and speak out when we see something wrong.

Councilor McEachern said the Ethics Board looked at Councilor Kennedy's actions. She could have called the Popup group and said if you don't register this by tomorrow I'm going to register this name. Or she could have told any one of the Councilors. He said he did not see this as being a whistle blower. It placed her as an individual in a position to make demands. He is disappointed the Council will not accept the Ethics Board report.

Councilor Tabor said to keep the record straight, the Popup folks walked back the \$25,000 loss statement. He agreed with Councilor McEachern that it was in the way this action were taken. Volunteers were denied a fair chance to reply about the incorporation concern – there was no fair way to answer the charge. The volunteers were taken by surprise, and there were no efforts to use the arms of City government to get this addressed. Councilor Tabor does not want this to be the way that business is conducted. He agrees the Council are citizens first and understands Councilor Kennedy's intent, but it was done in a way that was unfair to the folks organizing the popup. Popup accomplished its goals and it generated revenue. He said it was unfortunate how it was done – the folks that pitched in and did their best never had a chance to reply to the accusation until they were threatened.

Councilor Huda responded saying the crux is: was this legal. Were we dealing with an entity. Getting a tradename is not a lengthy process. The Popup group had a month or longer to register. Popup needed to follow the law like everyone else. That is getting lost here, she said. We need to look at what was really happening. But everyone has to obey the law. To Councilor Tabor, Councilor Huda said even when the opinion of a tax lawyer was given, she's not sure he's clear on the difference between fiscal sponsorship and fiscal agency.

Councilor McEachern said to Councilor Huda: he understands her issue comes from legality of the actions taken by Popup NH, but it did not excuse Councilor Kennedy's actions and the actions she took outside the Council when a phone call to the organization could have solved this.

Councilor Tabor asked if Councilor Kennedy must be recused from this vote and City Attorney Sullivan answered that Councilor Kennedy determines if she votes or not.

*[Revised motion repeated here: **Councilor Lazenby revised his motion and moved to censure Councilor Kennedy for violating Section 1.802A of the City Code of Ethics. Councilor McEachern seconded.]***

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

Councilor Huda moved to find Councilor Kennedy innocent of all wrongdoing and exonerate her of all charges. Seconded by Councilor Trace.

Discussion of Motion:

Councilor Trace talked about the process and that Councilor Kennedy was denied a fair trial. The Councilor has the right to face her accuser and was not given that opportunity. This created an environment that was not overseen properly. For example, Ms. Pearson was not sworn in for 90% of her testimony. Councilor Trace thanked the Board of Ethics for the hours they put in, she thinks they did their best, but she believed there was misinformation that was not clarified. She referenced her two page letter and talked about the Zelin Affidavit that the Ethics Board voted to be irrelevant and which should have been posted on the City website. She said it was troubling that the Board of Ethics censured that document. Councilor Trace read the last two paragraphs of her letter in which she said Councilor Kennedy did not do anything wrong and did not delay the start of the Popup, but instead acted as a whistle blower. She said the Board of Ethics process was flawed including two violations of the 1st and 14th Amendments of the US Constitution. Councilor Trace added she was thrilled with the use of Bridge Street but she agrees with Assistant Mayor Splaine that the ethics procedures need to be completely revamped in the future. She believes Councilor Kennedy is innocent.

Councilor Whelan said the complaint never should have reached the Board of Ethics. It should have been quashed by City Attorney Sullivan and Assistant Mayor Splaine, he said. He added the code was originally written to address people benefiting from violations. We have better things to do with our time, and we need a total rewrite of this ethics law, he said. Councilor Whelan said he reads but does not post on Facebook, as he finds it very destructive in our community. This effort for popup should have been celebrated by everyone – it should not have been divisive. He will vote to support Councilor Kennedy and her efforts and not to damage her – there has been enough damage already to both the accused and to the accuser. It is time to stop, he said.

Assistant Mayor Splaine said the City would have been covering up something if we didn't give Councilor Kennedy a chance to discuss what she did and why. He said the five hours of meetings with the City Attorney were very productive and the Assistant Mayor said he learned a lot from City Attorney Sullivan,

who he said has a brilliant legal mind. He said they wrestled with the issue of “transaction” in the Ethics Ordinance and it underscores the value of revisiting the ordinance. The Code of Ethics needs to be made better. We needed to undertake this process so that citizens feel they can make a complaint, but we need to revisit the code to make something better out of it.

Councilor Lazenby said he was disappointed. The ordinance we have is the ordinance we have, he said and added the City has been following this process in good faith. The Board of Ethics reached a unanimous conclusion, and part of that conclusion was that Councilor Kennedy had different options, and that the ends don’t justify the means. This action will unfortunately set a precedent that the ends do justify the means, which was disappointing, he said. We should be following a clear simple path.

Councilor Tabor referenced the Zelin affidavit. In tackling the issue of whether to include this document the Ethics Board had to decide what relevant testimony was and was this affidavit relevant to whether the Councilor acted in a way that undermined the intent of the Council. The Board found that the affidavit had nothing to do with that question. It was vigorously denied by two parties that were named in it, and it was all based on one unnamed source that refused to be attributed. That is a dangerous path to go down with something that is not relevant.

Councilor Trace said to Councilor Tabor, that as Chair, it would have been better if you had given Councilor Kennedy the chance to explain to the Board the reason she felt the affidavit was appropriate for her. Councilor Tabor responded that her attorney did so.

Councilor McEachern said he was disappointed the Council was going down the path of finding Councilor Kennedy innocent of all wrongdoing. He added he was also disappointed the Council didn’t see Councilor Kennedy’s actions as a transgression. If the Council had done the right thing and censured the act, not the individual, we would be moving forward as a Council in a much better way than now. He said with public office you take all the arrows, but you get none of the credit, but you move forward. He does not want to set an example that if I don’t like the rules they can be disregarded. He said we should have met this head on as a Council and worries about their ability to move on now.

*[Motion repeated here: **Motion by Councilor Huda to find Councilor Kennedy innocent of all wrongdoing and exonerate her of all charges. Seconded by Councilor Trace.**]*

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

VI. ADJOURNMENT

At 8:38 p.m., Councilor Huda moved to adjourn, seconded by Councilor Whelan and voted. On a unanimous roll call 9-0, motion passed.

Respectfully submitted by:
Marian Steimke, Legal Secretary

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, June 21, 2021 at 7:00 p.m., at the Portsmouth Municipal Complex in the Eileen Dondero Foley Council Chambers, Portsmouth, NH, to authorize the City Manager to apply for, accept and expend the Coronavirus State and Local Fiscal Recovery Funds through the American Rescue Plan Act of 2021 in the amount of \$6,441,140.00, subject to the terms and conditions of the offer and the rules and regulations pertaining thereto.

KELLI L. BARNABY, MMC/CNHMC
CITY CLERK

LEGAL NOTICE

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KELLI L. BARNABY, MMC/CNHMC
CITY CLERK

OMB Approved No. 1505-0271
Expiration Date: November 30, 2021

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS

Recipient name and address: City of Portsmouth, New Hampshire 1 Junkins Avenue Portsmouth, New Hampshire, 03801	DUNS Number: 073976706 Taxpayer Identification Number: 026000714 Assistance Listing Number: 21.019
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Sections 602(b) and 603(b) of the Social Security Act (the Act) as added by section 9901 of the American Rescue Plan Act, Pub. L. No. 117-2 (March 11, 2021) authorize the Department of the Treasury (Treasury) to make payments to certain recipients from the Coronavirus State Fiscal Recovery Fund and the Coronavirus Local Fiscal Recovery Fund.

Recipient hereby agrees, as a condition to receiving such payment from Treasury, to the terms attached hereto.

DocuSigned by:
 Recipient: 

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Authorized Representative: Karen Conard

Title: City Manager

Date signed: 5/13/2021

U.S. Department of the Treasury:

Authorized Representative:

Title:

Date:

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 15 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS LOCAL FISCAL RECOVERY FUND
AWARD TERMS AND CONDITIONS

1. Use of Funds.
 - a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 603(c) of the Social Security Act (the Act), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.
3. Reporting. Recipient agrees to comply with any reporting obligations established by Treasury as they relate to this award.
4. Maintenance of and Access to Records
 - a. Recipient shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.
 - c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Recipient may use funds provided under this award to cover both direct and indirect costs.
7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.
8. Conflicts of Interest. Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112.

9. Compliance with Applicable Law and Regulations.

- a. Recipient agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Recipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Recipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.
- b. Federal regulations applicable to this award include, without limitation, the following:
 - i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
 - ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
 - iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
 - iv. OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - v. Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - vi. Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - vii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - viii. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.
 - ix. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
 - i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;

- ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
10. Remedial Actions. In the event of Recipient's noncompliance with section 603 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 603(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 603(e) of the Act.
11. Hatch Act. Recipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. False Statements. Recipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.
13. Publications. Any publications produced with funds from this award must display the following language: "This project [is being] [was] supported, in whole or in part, by federal award number [enter project FAIN] awarded to [name of Recipient] by the U.S. Department of the Treasury."
14. Debts Owed the Federal Government.
- a. Any funds paid to Recipient (1) in excess of the amount to which Recipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to section 603(e) of the Act and have not been repaid by Recipient shall constitute a debt to the federal government.
 - b. Any debts determined to be owed the federal government must be paid promptly by

Recipient. A debt is delinquent if it has not been paid by the date specified in Treasury's initial written demand for payment, unless other satisfactory arrangements have been made or if the Recipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

15. Disclaimer.

- a. The United States expressly disclaims any and all responsibility or liability to Recipient or third persons for the actions of Recipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any contract, or subcontract under this award.
- b. The acceptance of this award by Recipient does not in any way establish an agency relationship between the United States and Recipient.

16. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Recipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;
 - iii. The Government Accountability Office;
 - iv. A Treasury employee responsible for contract or grant oversight or management;
 - v. An authorized official of the Department of Justice or other law enforcement agency;
 - vi. A court or grand jury; or
 - vii. A management official or other employee of Recipient, contractor, or subcontractor who has the responsibility to investigate, discover, or address misconduct.
- c. Recipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Recipient should encourage its contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

18. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Recipient should encourage its employees, subrecipients, and contractors to adopt and enforce policies that ban text messaging while driving, and Recipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

OMB Approved No. 1505-0271
Expiration Date: November 30, 2021

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the recipient named below (hereinafter referred to as the “Recipient”) provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Recipient’s beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Recipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Recipient’s program(s) and activity(ies), so long as any portion of the Recipient’s program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Recipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Recipient acknowledges that Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency,” seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury’s implementing regulations. Accordingly, Recipient shall initiate reasonable steps, or comply with the Department of the Treasury’s directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Recipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient’s programs, services, and activities.
3. Recipient agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

OMB Approved No. 1505-0271

Expiration Date: November 30, 2021

4. Recipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Recipient and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Recipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

6. Recipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Recipient for the period during which it retains ownership or possession of the property.
7. Recipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Recipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Recipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Recipient also must inform the Department of the Treasury if Recipient has received no complaints under Title VI.
9. Recipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other

OMB Approved No. 1505-0271
Expiration Date: November 30, 2021

agreements between the Recipient and the administrative agency that made the finding. If the Recipient settles a case or matter alleging such discrimination, the Recipient must provide documentation of the settlement. If Recipient has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If the Recipient makes sub-awards to other agencies or other entities, the Recipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub-recipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient’s obligations as herein described, that any information submitted in conjunction with this assurances document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.

City of Portsmouth, New Hampshire

5/13/2021

Recipient

Date

DocuSigned by:
Karen Conard
4E2995E22EE44E7

Signature of Authorized Official

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 30 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

ORDINANCE #
THE CITY OF PORTSMOUTH ORDAINS

Chapter 1, Article IV COMMISSIONS AND AUTHORITIES

Section 1.414 AUDIT COMMITTEE

There shall be a permanent Audit Committee established and maintained for the purpose of advising the City Council on the adherence to the City Charter – Section 7.4 INDEPENDENT AUDIT.

- A. **Membership and Term:** The Audit Committee shall have five (5) members who shall be appointed by the Mayor and confirmed by the City Council, of which one member shall be a City Councilor. Audit Committee members shall possess experience in finance, accounting, auditing, and/or financial management and reporting. All members shall be independent of both City management and any auditing firm which may be under contract with the City. In order to enhance the integrity of the financial reporting, the independence of each member will be maintained throughout the duration of their term on the Audit Committee. In the event of a vacancy in a member position on the Audit Committee, a qualifying individual shall be appointed to fill the remainder of the term of the vacant member. The initial terms of the members of the Committee shall be for three (3) year terms except that the length of the initial terms to be staggered as follows: In year of initial appointment: three (3) members shall be 3-year terms and two (2) members shall be 2-year terms. Thereafter, all members shall serve a term of three (3) years. All members shall be residents of the City of Portsmouth throughout their term on the Audit Committee.
- B. **Duties and Powers:** The primary purpose of the Audit Committee is to procure, liaise and oversee the work of the City's external Auditor. The Audit Committee shall provide oversight of the financial reporting process, audit process, risk management, governance and the City's internal controls in compliance with laws and regulations. As such, the Committee will be directly responsible for the solicitation of proposals, selection of and recommendation to the City Council for appointment and retention of the external auditing firm. The Audit Committee is authorized to engage the services of financial experts, legal counsel, and other appropriate specialists as necessary to fulfill its responsibilities, subject to funding provided by the City Council.

The City Clerk shall properly alphabetize and/or re-number the ordinance as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

Rick Becksted, Mayor

ADOPTED BY COUNCIL ON _____, 2021

Kelli L. Barnaby, City Clerk

DRAFT

ORDINANCE

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 7, Article VII, Section 7.702 – **TRUCK TRAFFIC PROHIBITED** of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

ARTICLE VII: TRUCK AND BUS TRAVEL

Section 7.702: TRUCK TRAFFIC PROHIBITED

It shall be unlawful for any truck with a box, body or platform of over 12 feet in length to use the following streets subject to the exceptions of Section 7.704 of this Article.

1. Adams Avenue
2. Banfield Road
- ~~2.3.~~ **3. Bartlett Street**
- ~~3.4.~~ Broad Street (between South Street and Jones Avenue).
- ~~4.5.~~ Burkitt Street (between Dennett Street and the Maine/New Hampshire Interstate so-called).
- ~~5.6.~~ **Cate Street between Cottage Street and Hodgdon Way**
- ~~6.7.~~ Chestnut Street (from Congress Street to Porter Street)
- ~~7.8.~~ Circuit Road
- ~~8.9.~~ Cleveland Drive
- ~~9.10.~~ Coolidge Drive
- ~~10.11.~~ ~~Dennett Street (Between Bartlett Avenue to Maplewood Avenue)~~
- ~~11.12.~~ Dwight Avenue
- ~~12.13.~~ Echo Avenue
- ~~13.14.~~ Edgewood Road
- ~~14.15.~~ Farm Lane
- ~~15.16.~~ Fillmore Road
- ~~16.17.~~ F.W. Hartford Drive
- ~~17.18.~~ Garfield Road
- ~~18.19.~~ Granite Street
- ~~19.20.~~ Grant Avenue
- ~~20.21.~~ Greenleaf Avenue
- ~~21.22.~~ Harding Road
- ~~22.23.~~ Hayes Place
- ~~23.24.~~ Hoover Drive
- ~~24.25.~~ Mangrove Street
- ~~25.26.~~ Maplewood Avenue (from Central Avenue to Woodbury Avenue)
- ~~26.27.~~ McKinley Road

- ~~27.28.~~ Myrtle Avenue (between Dennett St. and the Maine/New Hampshire Interstate so-called)
- ~~28.29.~~ Nixon Park
- ~~29.30.~~ Pickering Street
- ~~30.31.~~ Polk Avenue
- ~~31.32.~~ Profile Avenue
- ~~32.33.~~ Ranger Way
- ~~33.34.~~ Rockhill Avenue
- ~~34.35.~~ Sherburne Road
- ~~35.36.~~ Taft Road
- ~~36.37.~~ Taylor Lane
- ~~37.38.~~ Thornton Street (between Woodbury Avenue and Bartlett Street)
- ~~38.39.~~ T.J. Gamester Avenue
- ~~39.40.~~ Truman Place
- ~~40.41.~~ Van Buren Avenue
- ~~41.42.~~ Wilson Road
- ~~42.43.~~ Woodbury Avenue, between Market Street and Bartlett Street

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

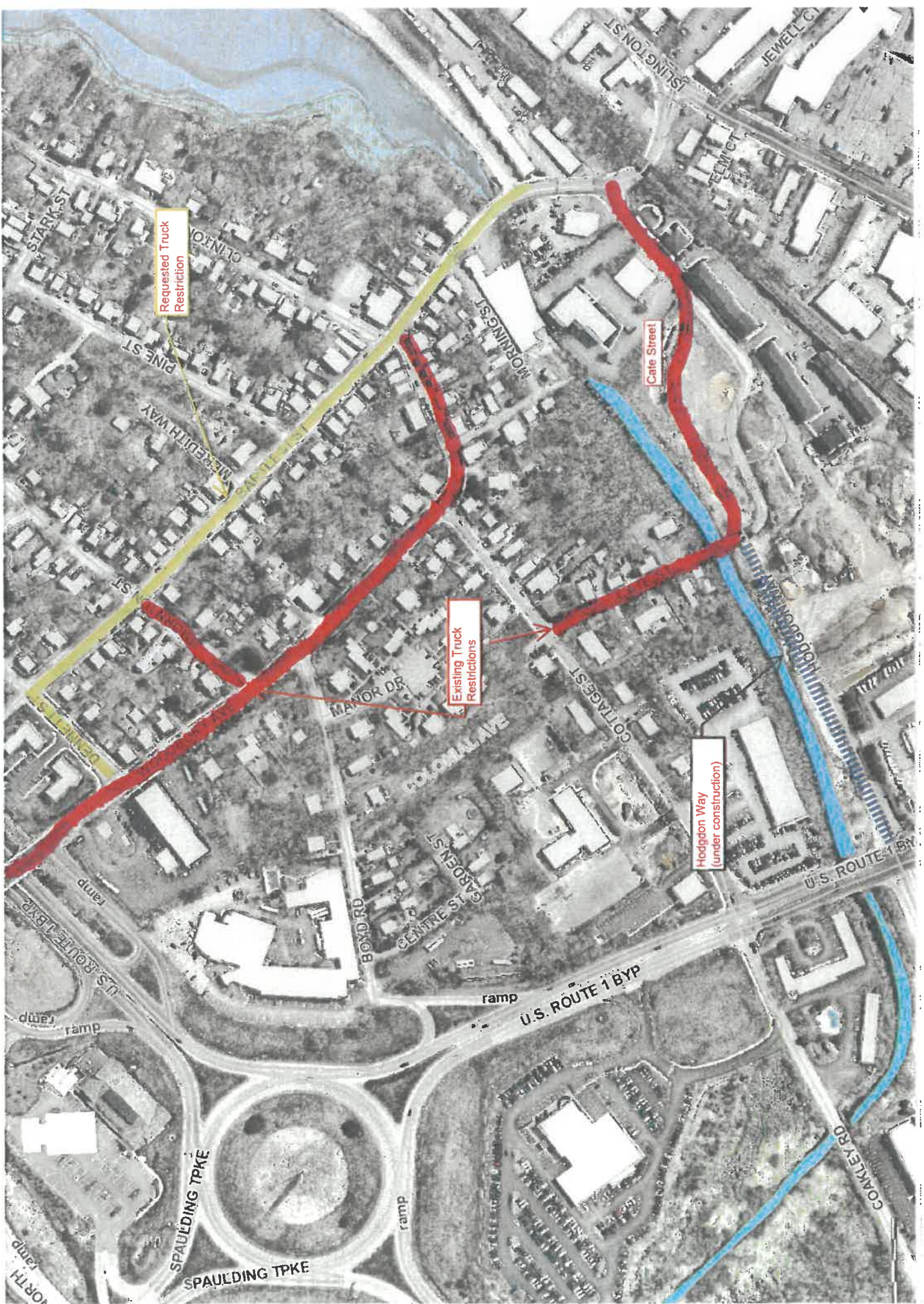
This ordinance shall take effect **when Hodgdon Way is open for public travel.**

APPROVED:

Rick Becksted, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk



Requested Truck Restriction

Existing Truck Restrictions

Cate Street

Hodgdon Way (under construction)

CITY OF PORTSMOUTH

LEGAL DEPARTMENT


MEMORANDUM

DATE: June 15, 2021

TO: MAYOR RICK BECKSTED

FROM: ROBERT P. SULLIVAN, CITY ATTORNEY

RE: INDIGENOUS PEOPLES DAY VOTE OF CITY COUNCIL ON JUNE 7, 2021



At the Council meeting of June 7, 2021, after considerable parliamentary proceedings, the City Council ultimately failed to pass a motion which would have had the effect of adding the words "and Indigenous Peoples Day" to the state holiday of Columbus Day. On the day following the meeting I received a number of telephone calls from members of the Council indicating that as a result of parliamentary confusion, the result sought by a majority of the City Council had not been achieved. It appears that the majority of the Council would prefer that within the City of Portsmouth the designation of the Columbus Day holiday include the phrase "and Indigenous Peoples Day." This memorandum is written to explain how this situation came about and to propose an expeditious parliamentary resolution.

To understand how the situation occurred on June 7, 2021, one must begin with the idea that Columbus Day is a holiday established by state law. In 2020, the Portsmouth City Council recognized that Columbus Day 2020 should also include reference to Indigenous Peoples Day. However, since the City Council vote of 2020 was specific to that year, unless the Portsmouth City Council in 2021 should pass a motion referencing Columbus Day, then the name of that holiday within the City would remain Columbus Day as contained in state law.

With that background, on June 7th the Council took the following actions in the order listed (reference the City Clerk's action sheet):

- Considered a motion, "to recognize Indigenous Peoples Day each year instead of what has been typically designated by the State of New Hampshire as Columbus Day." (the main motion)
- Passed a motion that amended that main motion by, "add(ing) the choice of recognizing Indigenous Peoples Day or Columbus Day until such time as the state or Federal Laws recognize the need for the change or elimination of the current name."
- Voted to further amend the previously amended motion by changing the word "or" to "and."

- Voted to further amend the amended motion by striking the state requirement of enabling legislation to celebrate Indigenous Peoples Day alongside Columbus Day.
- Failed on a 4-5 vote to ultimately pass the main motion which had been amended as described above.

Thus, the Council took no action in naming the holiday and therefore the name reverted to the state law name of Columbus Day.

A brief summary of what went wrong from a parliamentary perspective is that a majority of the members of the Council apparently believed that passage of the final amendment to the original motion constituted passage of the motion itself. A final motion, to “pass the motion as amended” would have accomplished what the City Council actually intended.

After reviewing the Council video from June 7th, as well as two versions of Robert’s Rules of Order, it appears that the most expeditious way to bring about the result actually intended by the City Council, that Columbus Day be known in Portsmouth as “Columbus and Indigenous Peoples Day” is as follows:

1. A member of the Council should make a motion, “to reconsider the action taken by the Council on June 7, 2021, with respect to Indigenous Peoples Day under suspension of the rules.” (This motion will require a two-thirds vote to be adopted.)
2. A member of the Council should then make a motion, “to pass the motion regarding Indigenous Peoples Day, as amended, so that in the City of Portsmouth the state holiday of Columbus Day shall be known as Columbus and Indigenous Peoples Day.” (This motion requires a simple majority in order to be adopted.)

Attachment

cc: Karen S. Conard, City Manager

June 12, 2021

Mayor Becksted and City Council

I recently moved out of Portsmouth to Rye and understand that I no longer meet the residency requirement to serve as a Cable Commissioner. Therefore, please accept my resignation.

Thank you,
Steve

Steve Gray
Luxury Property Specialist
RE/MAX Shoreline
Cell: 603-387-2488
Office: 603-431-1111
gray.steven@comcast.net
Licensed in NH, ME & MA

stevengrayrealestate.info

altonbaywinnipesaukee rentals.com

altonbaylakewinnipesaukeerealestate.com

nhlakefrontrentalbookdirect.com



Please click here: [BROKERAGE RELATIONSHIP DISCLOSURE](#) to review the information required by the State of NH prior to any discussion of real estate

www.oplc.nh.gov/real-estate-commission/documents/brokerage-relationship-disclosure-form.pdf

DATE: JUNE 16, 2021

**TO: CITY CLERK KELLI BARNABY
MAYOR BECKSTED
CITY MANAGER CONARD**

FROM: COUNCILOR HUDA

**SUBJECT: JUNE 21TH 2021 CITY COUNCIL MEETING AGENDA REQUEST
PLEASE PUT THIS UNDER MY NAME. THANK YOU**

- > I MAKE A MOTION TO ADOPT A RESOLUTION RELATIVE TO NH RSA 31:95-B, APPROPRIATION FOR FUNDS MADE AVAILABLE DURING THE YEAR. (UNANTICIPATED MONEYS- I.E. ARP FUNDS)**

- > I MAKE A MOTION FOR A FINAL REPORT BACK FROM THE CITY MANAGER ON THE MBRC TO REOPEN PORTSMOUTH.**

**THE CITY OF PORTSMOUTH
TWO THOUSAND TWENTY-ONE
PORTSMOUTH, NEW HAMPSHIRE**

RESOLUTION # 2021-_____

A RESOLUTION RELATIVE TO NH RSA 31:95-b, APPROPRIATION FOR FUNDS MADE AVAILABLE DURING THE YEAR

Resolved by the City Council of the City of Portsmouth as follows:

WHEREAS, the City Council of the City of Portsmouth hereby accepts the provisions RSA 31:95-b providing that until specific rescission of such the City Manager is authorized to accept and expend unanticipated money from the State, Federal, or other government unit or a private source which becomes available during the fiscal year.

WHEREAS, the City Council establishes the amount of the unanticipated funds required for notice under this subparagraph at \$10,000.

THEREFORE, for unanticipated moneys in the amount of \$10,000 or more, the City Council shall hold a prior hearing on the action to be taken. Notice of time, place, and subject of such hearing shall be published in the newspaper of general circulation in the relevant capacity at least seven (7) days before the hearing is held. The acceptance and expenditure of unanticipated moneys under this paragraph shall be made in public session of any regular City Council meeting.

BE IT FURTHER RESOLVED that this Resolution shall take effect upon its passage.

APPROVED:

Rick Becksted, Mayor

ADOPTED BY THE CITY COUNCIL

_____, 2021

Kelli L. Barnaby, City Clerk



Karen S. Conard
City Manager

CITY OF PORTSMOUTH

City Hall, One Junkins Avenue
Portsmouth, New Hampshire 03801
kconard@cityofportsmouth.com
(603) 610-7201

Date: June 17, 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 June 21, 2021

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

A. **Public Hearing Regarding Authorization for the City Manager to Apply For, Accept, and Expend the Coronavirus State and Local Fiscal Recovery Funds Through the American Rescue Plan Act (ARPA) of 2021 in the amount of \$6,441,140:**

On March 11, 2021, the American Rescue Plan Act of 2021 (ARPA) was signed into law which established the Coronavirus State and Local Fiscal Recovery Fund to provide direct support for local governments to respond to COVID-19's impact on our community, residents and businesses. It is, in essence, an economic stimulus bill to help every city and town correct the harm caused by COVID-19.

Under the ARPA, Portsmouth has been classified as a Metropolitan City, one of five in NH (along with Dover, Rochester, Manchester, and Nashua). The City has received the first half of our funds in the amount of \$6,441,140. The money has been deposited in a special revenue fund. The Interim Final Rules of the ARPA require each community to assess its needs, evaluate those needs and develop a plan on how to expend these funds within the parameters of the allowable and encouraged expenditures. We have recently learned that although Portsmouth has been identified as a Metropolitan City, it is not required to submit a formal Recovery Plan Performance Report to the Department of the Treasury. However, Portsmouth, like all recipients of these funds, will need to create a plan for how these funds can best serve our community.

In order to initiate the first of many conversations our community will have on these funds, the City Council held a work session on the ARPA funds on June 14, 2021 with public comment. During the work session, the Council discussed and approved the creation of an Ad Hoc ARPA Evaluation Committee comprised of City staff, City Councilors, and members of the public to help assess community needs, solicit public input, evaluate eligible projects, and create a recommended plan for the expenditure of these funds to the Council.

It is recommended that the Council vote to accept and expend these funds at this evening’s meeting, with the understanding that a plan for specific expenditures of ARPA funds will be presented to the Council at future meetings.

*I recommend that the City Council move to authorize the City Manager to apply for, accept, and expend the Coronavirus State and Local Fiscal Recovery Funds through the American Rescue Plan Act of 2021 in the amount of \$6,441,140, with the final approval on the plan for expenditures by the City Council and subject to the **attached terms and conditions of the offer** and the rules and regulations pertaining thereto.*

B. First Reading of Ordinance Amending Chapter 1, Article IV – Commissions and Authorities, Section 1.414 Audit Committee:

Attached is a proposed ordinance drafted on the recommendation of Councilor Huda for the purpose of fulfilling the City Council’s obligation to oversee external auditing per the City Charter.

C. Third and Final Reading of Ordinance Amending Chapter 7, Article VII, Section 7.702 – Truck Traffic Prohibited:

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 Committee 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. For many years, Bartlett Street has been the designated truck route through the area, primarily for deliveries to Ricci Lumber. Prohibiting truck traffic on Bartlett Street could cause trucks to use a portion of Dennett Street from Woodbury Avenue to Bartlett Street that currently permits truck traffic. In order to encourage trucks to use the revised truck route proposed by this amendment and to lessen the impact on that section of Dennett Street, it is recommended that the ordinance be amended to include a prohibition of truck traffic on Dennett Street between Woodbury Avenue and Bartlett Street. The other minor amendment to create the new truck route includes removing the truck restriction on the portion of Cate Street between Bartlett Street and the new Hodgdon Way.

On May 17, 2021, the City Council held the first reading of an ordinance that would prohibit truck traffic on Bartlett Street as soon as practicable, followed by a public hearing and second reading at the June 7, 2021 City Council meeting. 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. A map of this area is also **attached**.

I recommend that the City Council move to adopt the third and final reading of the proposed amendments as presented.

XV. City Manager's Items which Require Action:

1. Renewal of Boarding House Permits:

Pursuant to [Chapter 9, Article VIII, Section 9.804 – Permit Renewal](#), the City has concluded its inspections of **278 Cabot Street** and **350-352 Hanover Street**. The inspections require review by the City's Inspection, Health, and Fire Departments.

I recommend that the City Council move to renew the Boarding House permits for 278 Cabot Street and 350-352 Hanover Street as presented.

2. Request to Schedule Work Session Regarding Community Power:

At the June 7th City Council meeting, the City Council voted to schedule a work session regarding exploring further the Community Power concept in the City of Portsmouth.

I recommend that the City Council move to schedule a work session on Monday, August 9, 2021 at 7:00 p.m. regarding this topic.

XVIII. City Manager's Informational Items:

1. Report Back on Assistant Mayor's Request from 6/7/2021 Regarding Extension to 60 Days for Parking Payment Citation Increases:

The Parking Division has **contacted a sampling of nineteen other municipalities** regarding management of unpaid parking citations.

Portsmouth currently levies a citation fine of \$35 for unpaid/ expired parking in metered areas, and escalates that fine to \$55 if the citation remains unpaid for a period of 30 calendar days. Incentivizing payment of fines through this methodology is standard best practice, and is utilized by the majority of cities throughout the United States.

Notably, the City of Portsmouth does not have a second or third escalation, nor do we take the more aggressive steps of accessing MVR records or hiring third-party collection agencies to encourage timely payment, as many towns do.

Notable data points from the survey:

- None of the respondents indicated a first escalation at 60 days;
- 21% of the sampling escalates at 30 days, as does Portsmouth;
- 79% of the sampling is more aggressive, escalating earlier than 30 days;
- 74% of the sampling escalates a second time, with two cities utilizing a third escalation;
- Three of the respondents indicated they send unpaid citations to third-party collections between 60 and 100 days;
- Three of the respondents indicated they send unpaid data to the State MVR and hold the constituents ability to renew vehicle registrations until all citations are satisfied.

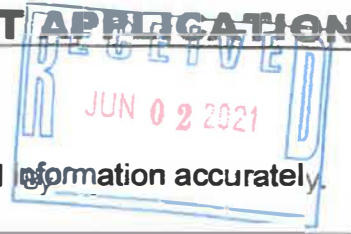
The Parking Division provides this data to assist in determining whether the City of Portsmouth's longstanding fine escalation process is adequate, or if it should be altered to be less (or more) aggressive in an effort to encourage the desired behavior of timely payment of parking fines.

2. **Report Back on Assistant Mayor's Request from 6/7/2021 Regarding PFAS in Playing Fields:**

At its June 7th City Council meeting, the City Council requested a report back on the PFAS testing and PFAS free certification of the new artificial turf field. Attached are two letters from the City's engineering consultants that confirm the turf at the new athletic field has been tested and the results indicate PFAS was not detected. A copy of the test results are posted at the City's website at the following link: <https://www.cityofportsmouth.com/publicworks/new-athletic-fields-project>.

CITY OF PORTSMOUTH, NEW HAMPSHIRE
OFFICE OF THE CITY CLERK

BOARDING HOUSE PERMIT APPLICATION



INSTRUCTIONS: Please print or type clearly and complete all information accurately. Incomplete applications will not be accepted.

APPLICANT INFORMATION

Applicant Name: Paul White Telephone: 207 439 4894

Address: PO Box 1325 City/State/Zip: Portsmouth N.H.

Boarding House Location: 278 Cabot St.

Number of Rooms 12

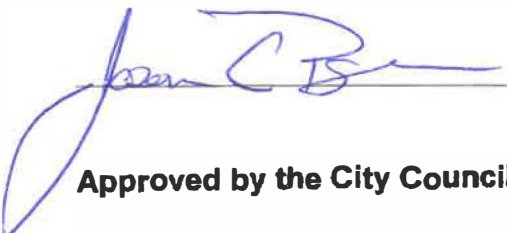
CERTIFICATION

I, the undersigned, have completed this application accurately, in accordance with Chapter 9, Article VIII of the Boarding House Ordinance:

Signature:  Date: 6/6/21

Administrative Use Only

Approved by the Zoning Officer:

 Date 6-4-21

Approved by the City Council: _____



CITY OF PORTSMOUTH, NEW HAMPSHIRE
OFFICE OF THE CITY CLERK

BOARDING HOUSE PERMIT APPLICATION



INSTRUCTIONS: Please print or type clearly and complete all information accurately. Incomplete applications will not be accepted.

APPLICANT INFORMATION

JUNE-2-10AM

Applicant Name: G Edward Gowen Telephone: 603-867-9200

Address: 33 Great Bay Rd City/State/Zip: Greenland NH 03840

Boarding House Location: 350-352 Hanover St. Portsmouth, NH 03801

Number of Rooms 13

CERTIFICATION

I, the undersigned, have completed this application accurately, in accordance with Chapter 9, Article VIII of the Boarding House Ordinance:

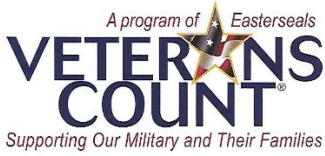
Signature : Edward Gowen Date: 4/30/21

Administrative Use Only

Approved by the Zoning Officer:

Jaren [Signature] Date 6-4-21

Approved by the City Council: _____



Richard A. Mason, Logistic Chair
2021 ON THE TARMAC
3 Suzanne Drive, Portsmouth, New Hampshire 03801
Rmason55@comcast.net cell: 603-396-8604

June 7, 2021

Ms. Karen Conard, City Manager
City of Portsmouth
1 Junkins Avenue
Portsmouth, New Hampshire 03801

Dear Ms. Conard:

Veterans Count is seeking the appropriate approvals for our "Join us On the Tarmac" event to celebrate America and pay tribute to our American heroes and honor the 20th anniversary of 9/11. We are hosting this event in concert with the Air Show at the Pease Air National Guard Base on the following 2 days. Veterans Count is an affiliate of Easter Seals-NH. This will be our 8th Salute-Our-Soldiers event, the first 5 have been located at the Service Credit Union Headquarters. We offer the following information:

DATE/TIME: September 10, 2021 at 2:00 – 4:00 pm for school children (there will be military history and planes on display) and 5:00 pm – 10:00 pm for the main event.

LOCATION: Outside the hangar located at 120 Aviation Avenue at the Portsmouth International Airport at Pease.

ATTENDEES: We are hoping to have more than 500 in attendance.

FOOD: All food will be catered, and the caterer will be responsible for all food and health permits required.

ALCOHOL: There will be Alcohol on the premises and the caterer will be responsible for following all the requisite rules and regulations for serving alcohol. Easter Seals will be securing the appropriate permits.

POLICE: We will contract as needed with Portsmouth Police for a dedicated detail during the event, just as we have in all our past large events. Due to the nature of the event we are working with the authorities at the airport for their needs and will have the appropriate security for the airport secured area.

FIRE: We have scheduled a fire inspection of the area in the very near future and will have the requirements we need to follow and will adhere to their requirements.

PARKING: We have two parking lots reserved for the event, both are located at the intersection of Aviation Avenue & Hampton Street.

COI: We will have the certificates of insurance as needed, to include the City of Portsmouth and the PDA.

PDA: We are working with the Pease Development Authority as well and are sending them a similar communication as this for their needs and approvals.

FAA: Due to being on the edge of the restricted area we are working with the FAA as well to meet their needs and requirements for such an event. We are seeking their approval to

have high intensity lights to display during the evening in honor of the twin towers of New York City.

Once again much of this information is a repeat of our events of this and previous years and we look forward to meeting with the City Officials and making this as seamless as possible.

I am available at the above contact information for further questions or if you wish me to attend a logistics meeting with the City Officials.

Thanks!

A handwritten signature in blue ink that reads "Richard Mason". The signature is written in a cursive, flowing style.

Richard Mason

CC: Denise Poulos



June 10, 2021

City of Portsmouth
Mayor's Office
1 Junkins Avenue
Portsmouth, NH 03801

Dear Honorable Mayor Becksted and City Council Members;

The Portsmouth chapter of the AFSP Out of the Darkness Walk has hosted a fundraising and education walk since 2006 in Portsmouth. This event has grown to more than 600 walkers annually. In fact, in 2019 we had 700 walkers and raised \$102,000 to support local and state suicide prevention education as well as national research programs. We would like to continue the tradition and success of this program and are asking for permission to again host an in-person Out of the Darkness Community Walk in the City of Portsmouth. Given the COVID-19 pandemic, we understand the uncertainty surrounding large gatherings. We respectfully ask that you conditionally approve of this event. As we begin to ease restrictions and recover from the pandemic and move toward community recovery, mental health resources will be even more important.

The proposed date and time is as follows;

Date: October 2, 2021 (Saturday)

Registration Begins: 8:30am

Walk Duration: 10am – Noon

We would like to request use of Pierce Island as the event location and walk starting point. If unavailable our second choice is Little Harbor School, which we have pre-approval to use if necessary.

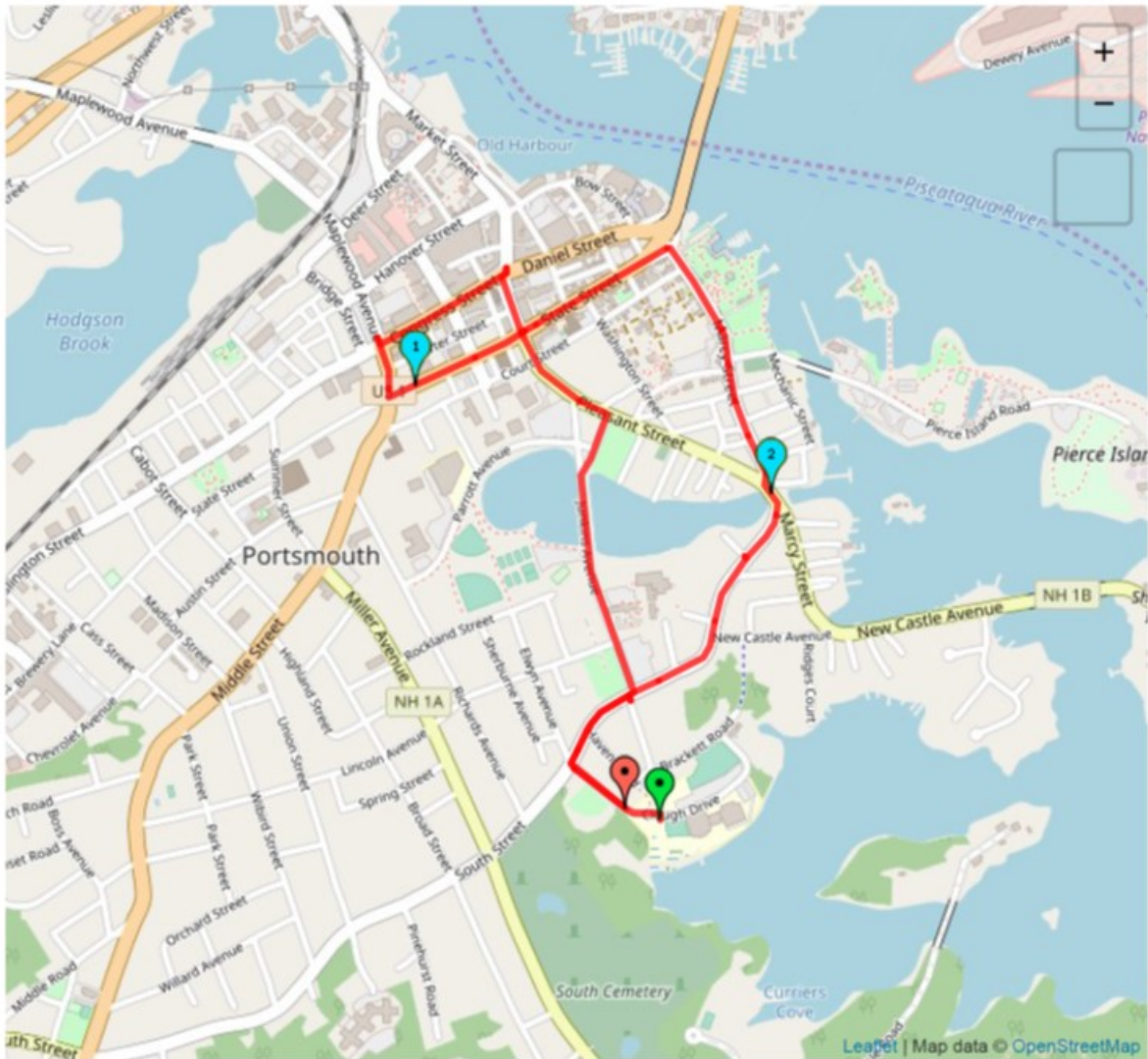
We would like to thank you for your consideration and look forward to your decision.

Respectfully,

Ken La Valley, Chair
OOTD Walk Committee
603-556-0823
66 Hunter Lane
Barrington, NH 03825

Proposed Walk Route If Little Harbor School (2.58 Miles)

Route: 738915 Distance: 2.58 miles



* Starting location as well as a slight modification to route would be necessary if Piercé Island is available.



Veterans of Foreign Wars

Emerson Hovey Post 168
Portsmouth, New Hampshire 03801

June 14, 2021

Mayor Rick Becksted
City of Portsmouth
Portsmouth, NH 03801

Subject: End of Afghanistan War Parade Request

Mayor Becksted and City Councilors,

The Afghanistan War, the longest war in American history, will come to an end by September 11, 2021. Veterans of Foreign Wars (VFW) Post 168 requests permission to organize an End of the Afghanistan War Parade on Saturday, September 25, 2021.

In 2012, the City of Portsmouth hosted one of the only End of the Iraq War Parades in the North East. That incredibly successful parade formed near the Parrot Avenue Parking Lot, proceeded down Pleasant Street, made a left at Market Square onto Congress Street, made a left on Fleet Street, made a left onto State Street, and then made a right back onto Pleasant Street. We envision the same parade route, an informal review stand in Market Square for elected officials, and a barbeque in City Hall's parking lot afterwards. The barbeque would be similar to the traditional barbeque held after the annual Memorial Day Parade that was canceled this year due to the coronavirus pandemic.

The End of the Afghanistan War Parade will welcome all veterans to march and will be a non-partisan event. VFW Post 168 specifically requests that the City Council pass a motion referring this letter to the City Manager with Authority to Act. Please contact me at (603) 553-1810 with any questions.

Sincerely,



Josh Denton
Commander
V.F.W. Post 168

CC: City Manager Karen Conard

CITY COUNCIL E-MAILS

June 7, 2021 (after 4:30 p.m.) – June 17, 2021 (before 9:00 a.m.)

June 21, 2021 Council Meeting

Below is the result of your feedback form. It was submitted by Sarah Kelly (Sarah.h.kelly@gmail.com) on Monday, June 7, 2021 at 18:16:09

address: 69 Stark St

comments: Dear City Councilors,

My name is Sarah Kelly and I am a Portsmouth resident, born and raised. I am writing to propose doing a Cultural Geography project of Portsmouth's neighborhoods and waterways, starting with the Creek and Christian Shore neighborhoods along the North Mill Pond and ideally expanding the project to other neighborhoods.

The aim of this project is to a) work with elders in our community including the Senior Center; b) help articulate the neighborhood identities and values of Portsmouth, and c) capture the historical physical geography of Portsmouth. I hope that this project be engaging for the public and ultimately support ongoing discussions regarding development and conservation in Portsmouth.

I hold a Ph.D. in Geography and have conducted community-based research for over 11 years. To do this project, I propose to conduct participatory mapmaking activities with elders in our community (i.e. look at a map with seniors and record the histories they share in conversation), conduct interviews with knowledgeable members of our community (i.e. local historians, politicians, etc), and consult printed resources such as "Building Portsmouth" by Richard Candee.

I thank you for considering this proposal and would be happy to discuss the specifics with the council at a later date.

Kind regards,

Dr. Sarah Kelly

Creek Neighborhood

Portsmouth

includeInRecords: on

Below is the result of your feedback form. It was submitted by Rachel Kurshan (rk00@comcast.net) on Monday, June 7, 2021 at 18:45:58

address: 33 Humphrey's Court

comments: I hope that you will decide this evening to continue the mask ordinance for indoor settings. The ordinance is scheduled to expire June 30th, just three weeks away. Why spend the time debating whether to repeal it now, when it will expire so soon anyway? Public health recommendations, including in Portsmouth, are to continue mask wearing indoors for the rest of the month. Fewer than 50% of NH residents are fully vaccinated. Two good reasons to continue the indoor mandate for the rest of the month. Having worn masks indoors for approximately 8 months, not difficult is it to continue the practice for a few more weeks. It is now known that mask wearing protects the wearer as well as the other person. The vaccine, though wonderfully effective, still allows fully vaccinated people to get the virus. And even minor cases can result in long haul symptoms. I don't feel safe going to the grocery store with unmasked and possibly unvaccinated individuals. It is a small price to pay to continue the mandate of mask wearing indoors for a few more weeks, so that we can gradually adjust to going maskless.

includeInRecords: on

Below is the result of your feedback form. It was submitted by Joanne Ravgiala (jorav@icloud.com) on Tuesday, June 8, 2021 at 15:26:26

address: 1275 Maplewood Ave. #23

comments: Thanks for your service to our community. I chose to live in Portsmouth 30 + years ago because of its commitment to education, the arts, and the nature environment. As we are all currently experiencing the damaging results of our climate pollution- higher temperatures, storm surges, drought conditions and Covid- I am urging you all to consider how your decisions will help or hinder climate pollution.

I was dismayed that the planning board approved the 105 Bartlett St. Project plan to lessen the wetland buffer zone. While there is no way to stop development of private land, the city's planning & zoning regulations can protect wetlands and conservation spaces.

In regard to the McIntyre Project, I would like it to have as much green space as possible.

includeInRecords: on

Below is the result of your feedback form. It was submitted by Donna Westbrook (dmwestbrook@comcast.net) on Tuesday, June 8, 2021 at 19:47:56

address: 76D Manor Drive, Portsmouth NH

comments: Good Evening all city council members,

Portsmouth missed an opportunity to be on the right side of history, Monday evening when the city council voted not to change Columbus Day to Indigenous People's Day.

'Some' stated it was because Portsmouth has Italian Catholics. And something to do with the North End?

In 1891 a horrible massacre happened to 11 Italian American Immigrants in New Orleans. That is horrific. At the same time, from 1400's to 1900 12 million indigenous people were killed in what is now the United States (Google). Christopher Columbus was one of the first to be responsible for wiping out mass numbers of Indigenous people. Why would anyone want to celebrate him? Oh yes, whitewashed American history again.. Will you have to wait until a mass grave of Indigenous people are found under some street in Portsmouth before you do the right thing?

Fact: White settlers survived famine in the first years of coming here, because Native Americans helped them. Many think our great democratic government was modeled after "The Great Law of Peace which is the oral constitution of the Iroquois"

Confederacy.https://en.wikipedia.org/wiki/Great_Law_of_Peace#Influence_on_the_United_States_Constitution

I myself did research on this very subject of how Native Americans played a role in influencing our constitution, as well as the research on the Wabanaki (People of the Dawn) and how Maine DHHS took away so many Native American Children, and put them in boarding schools or foster care at many many times higher a rate than of white children.

Of course we all know now that this is systemic hate that has occurred against Indigenous people by way of colonialism and Christianity all around the world. That does not give this matter less urgency but more. How long do we deny history?

I also know of the discrimination of Italian immigrants and even generations that came after. When my mother's family moved out of the North End of Portsmouth and tried to move into a house in another neighborhood they were met with a petition to keep them "dirty Italians out!" My mother told me about this in my later adult years. I cried. I also received remarks by neighbors and others insinuating we all looked alike..

Universal Declaration of Human Rights says..

All human beings are born free and equal in dignity and rights...that includes Italian Americans and Native Americans.

Changing Columbus Day to Indigenous People's Day does not degrade those of Italian heritage, but Columbus Day definitely degrades Native Americans.

You should revisit this issue.

Donna Westbrook

includeInRecords: on

Below is the result of your feedback form. It was submitted by Dan Rigterink (dan.rigterink@gmail.com) on Wednesday, June 9, 2021 at 12:22:41

address: 615 Lincoln ave

comments: The recently installed bollards on Middle Rd are causing a dangerous situation for cyclists. Installed as a remedy to slow auto traffic, they are forcing cyclists into the traffic lanes. The maybe 2 mph decrease in average auto speed does not justify placing cyclists in harms way with these pinch points.
includeInRecords: on

Below is the result of your feedback form. It was submitted by Kate Mallen (katemallen44@gmail.com) on Thursday, June 10, 2021 at 10:34:07

address: 140 woodlawn circle

comments: I am unable to attend tonite's meeting regarding restricted neighborhood parking. But I want to say that every property tax payer in Portsmouth has the right to park on any street maintained w property taxes. People who bought homes in the Creek Islington neighborhood bought them knowing the homes had no driveways and over the years there have several attempts to restrict parking on those streets. This is a perfect example of people who move here from somewhere else because our City is so Beautiful & Wonderful and then they want to change our culture to accommodate their demands. Mayor Beckstead, Jim Splaine, Esther Kennedy, you have always been champions for the neighborhoods but the City has NO RIGHT to prevent all property tax payers from parking on ANY street maintained by our property taxes.
includeInRecords: on

Below is the result of your feedback form. It was submitted by Frank Ferraro (fferraro2010@gmail.com) on Thursday, June 10, 2021 at 14:03:39

address: 55 Post Rd, North Hampton

comments: To the Portsmouth City Council,

I am writing about the debate over eliminating or even sharing Columbus Day. It is unfortunate that people have become completely indoctrinated in the blatantly false narrative of revisionists that want to re-write history.

Most of what is being taught today about Columbus stems from the slanted history by Howard Zinn that has been thoroughly debunked by numerous scholars. Unfortunately, the old adage, that if you tell a lie often enough people begin to believe it, applies here,

What cannot be denied are the actual facts, from valid, reputable and primary sources; facts that categorically dispute the lies about Columbus and his intrepid voyages that united the continents. Columbus was not a genocidal conqueror and was, in fact, a defender of indigenous people, and to lay blame on Columbus for atrocities that occurred after his lifetime is unconscionable.

We should absolutely celebrate Indigenous People, but let's do so without dividing and pitting one group against another. August 9th is already Indigenous Peoples'™ Day, the day after Thanksgiving is Native American Heritage Day, and the entire month of November is Native American Heritage Month. Let's celebrate on the days and month already dedicated to Indigenous People and not dilute the American Holiday of Columbus Day.

Columbus, was, and is, an iconic symbol to generations of Italian Americans, and Columbus Day was an apology and atonement for the rampant discrimination and denigration endured by Italian immigrants to our country. The number of lynchings of Italian Americans was second only to those of African Americans, and the single largest mass lynching in American history was that of 11 Italian Americans in 1891. The idea to remove or even share the day is an insult to generations of Italian Americans.

includeInRecords: on

Below is the result of your feedback form. It was submitted by BILL ST. LAURENT (billstl60@aol.com) on Saturday, June 12, 2021 at 10:50:45

address: 253 COLONIAL DR

comments: There are 365 days in the year and Columbus day has for years been celebrated on October 10 or 11th, so why do you have to remove Columbus Day for Indigenous Day when Indigenous day could be on another day. We move holidays around all the time to get them on Mondays for the long weekend so just pick another Monday of our numerous Mondays and make that Indigenous Day, what is so special about the Columbus date that you have to put Indigenous Day on the same date. Also as mentioned in the newspaper letters to the editor, the whole month of November is dedicated to American Heritage Day, pick a day in November to give recognition to Indigenous Day,
includeInRecords: on

Below is the result of your feedback form. It was submitted by Fawn Gaudet (fawngaudet@yahoo.com) on Saturday, June 12, 2021 at 11:48:44

address: PO Box Campton NH 03223

comments:
June 12, 2021

Indigenous People's Day
Portsmouth City Council Members,

Dear Honorable

My name is Fawn Gaudet and I live in New Hampshire. I am requesting Columbus Day be changed to "Indigenous People's Day". I have strong pride in my ancestry and I am a descendant of the Blackfeet Nation. Growing up in NH as a child, I was keenly aware of the injustices committed against Native Americans, this being our Nation first. Before Columbus era, there were millions of indigenous people in North America, Central America and South America. The Wabanaki, known as People of the Dawn, lived in New Hampshire long before colonists arrived. Indigenous people here thrived in harmony with Gedakina- which means "world" for the Wabanaki. Their culture was rich with tradition, honor, respect for their people, land and wildlife. For me, Columbus Day is not a day of joy. It is a day of mourning. During this period of terrorism, indigenous peoples were massacred, raped, enslaved, tortured and genocide occurred. Changing this holiday to "Indigenous People's Day" offers honor and r!

espect to our people. As Columbus Day, the day only marks a false representation of what happened in the past. We must never repeat this. By changing the name to Indigenous People's Day, you will offer truth. It is a chance for New Hampshire residents, indigenous and non-indigenous, to honor those who came before them and respect indigenous peoples who survive to carry on such rich native traditions for our future seven generations. Please change Columbus Day to Indigenous People's Day.

Oliwni- Thank you in Wabanaki,

Fawn Gaudet,

Rumney, NH

includeInRecords: on

Co-Leader of NH Coalition of Indigenous People's Day

603-960-2872

fawngaudet@yahoo.com

Below is the result of your feedback form. It was submitted by Philip Miller (pmiller671@gmail.com) on Tuesday, June 15, 2021 at 10:21:08

address: 74 Cass Street

comments: Dear Council:

I propose that the City initiate a program to make property taxes a little fairer, especially for our less "well to do" citizens. The City should offer a \$100,000 reduction in property values for all homeowners living in their home or condo for X # of years (say 5 for example). This may sound crazy but this actually skews the property tax rate in favor of those who have seen their modest homes greatly increase in value. Of course this will increase the tax rate, but those with a \$500,000 home will see a 20% reduction, a \$ 1 million dollar home will see a 10% reduction. The end result ideally would be a mild reduction in the tax rate of lower valued properties. I think this is done in many states and is a homestead reduction.

NH has many regressive taxes, but the property tax to homeowners is probably the worst, especially with the State sending more and more costs to the cities and towns.

Thanks for reading this!

Philip Miller

74 Cass St. (for over 30 years)

Every week I get a letter or email from someone who wants to buy my house, and just where am I supposed to go?

includeInRecords: on

Below is the result of your feedback form. It was submitted by Ann Podlipny (apodlipny57@comcast.net) on Tuesday, June 15, 2021 at 13:55:13

address: 98 Birch Rd

comments: To its credit the City of Portsmouth has taken significant steps forward only to backtrack after its Council recently voted to veto Indigenous Peoples' Day. Last year a student group from Portsmouth's high school became the vanguard in advocating for IPD only to have its success overturned by the Council's shortsighted decision.

What a shame for Portsmouth, a city that has worked tirelessly to uncover the truth about its BIPOC (Black, Indigenous, People of Color) heritage. Its Black Heritage Trail and Museum features walking tours, lectures on unknown and underrepresented former and freed slaves, art, dance and musical performances celebrating African culture, discussions on race, Juneteenth festivities and, most notably, the restoration of its African burying ground, all seeking to reckon with the city's history of oppression and intention to promote racial justice.

My town of Chester recently voted to honor IPD along with a growing number of New Hampshire towns and twelve states including Maine and Vermont. We were hopeful that Portsmouth would join in support and disappointed that such a forward thinking city would renounce its commitment to its Indigenous ancestors. IPD recognizes generations of Indigenous sacrifice and survival, of a people whose very existence is an act of courage and defiance. In remembering IPD Portsmouth would commemorate thousands of years of Indigenous habitation, rich culture and traditions, and their ongoing stewardship of our land and waterways. Indigenous people have never disappeared and never been conquered, least of all by Columbus.

I encourage the Portsmouth Council to heed the humanitarian mission of its wise high school youth, including mayor Rick Becksted and Councilors Petra Huda and Esther Kennedy and permanently adopt IPD in order to teach a broader perspective on the history of Portsmouth and to honor the first peoples of a land we, hopefully, can all call home.

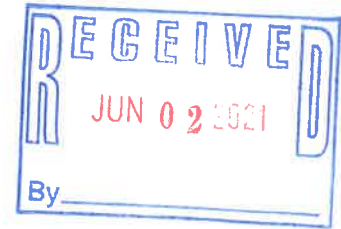
includeInRecords: on

City of Portsmouth
1 Junkins Avenue
Portsmouth NH 03801

Attn Kelli L Barnaby, City Clerk

Mayor Rick Becksted and City Council Members,

June 2nd 2021



On behalf of the Portsmouth Lodge of Elks we are asking for council approval to place a referendum question on the municipal election ballot scheduled for Tuesday November 2nd to allow Keno to be offered in Portsmouth.

The Portsmouth Lodge of Elks is a non-profit fraternal organization that has provided charitable support to our local community for over 135 years. Last year alone we provided college and trade school scholarships, supported 4 youth sport teams, provided 125 “welcome home kits” to veterans transitioning into permanent housing, and provided grants to local charities, totaling over 80,000. We currently have over 1,700 active members, at our Lodge. We feel that Keno would enhance our revenue flow at the Lodge and provide fun and entertainment to our members.

We thank you for your consideration.

Sincerely,

Michael J. Griffin

Exalted Ruler



KELLI BARNABY
CITY CLERK
1 JUNKINS AVE.
PORTSMOUTH, NH. 03801

My name is George Remick. And am writing you to ask you to put the item of "KENO" on your agenda for the next council meeting. I will be asking that the item of "KENO" be placed on the next municipal election ballot for the voters of Portsmouth to decide if they want to allow this game to be played in Portsmouth accordance to state regulations.

The item of "KENO", since last voted on, has now changed the distribution of revenue, per: HB-4-FN-A Local Chapter 346 Article 93, repeals the distribution of Kindergarden grants based on "KENO" revenue. Article 33 requires "KENO" revenue to be deposited in the "Education Trust Fund".

I will be attaching a copy showing the names of the groups, sports bars, and restaurants seeking to be able to have "KENO" available. There will be others coming on board.


As the former commander of the American Legion, Post 6, Portsmouth, NH, in 1981, we ran 'Bingo' for 3 nights a week at the old Pierce Hall on Ladd St. "KENO", to me, is the electronic version of 'Bingo'.

As a member of both, Elks Lodge, #97, and American Legion Post, # 6, I can attest that both could certainly use more revenue for the charitable functions they perform.

As we all know, this past year, no one has been hurt more than the restaurants, including the sports bars. "KENO" will be a big boost for all.

As we all know, that many citizens are going out to neighboring communities to have lunch or dinner at facilities that have "KENO" available.

Thank you for your consideration.


George Remick
georgeremick1247@comcast.net
603-817-5645

1247 South St

The Shanty Family Tavern

Clipper Tavern

Statey Bar & Grill

MoJo's BBQ Grill and Tavern

Hebert's Restaurant

Daniel Street Tavern

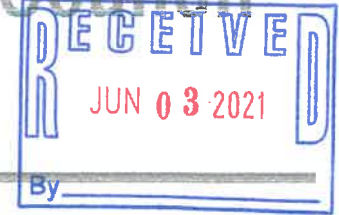
The Hammer Pub and Grille

Jitto's Super Steak

Elks Lodge # 97

American Legion Post #6

For Consideration of City Council Agenda



**Please find the enclosed proposal titled Neighborhood Watch, for the City
COUNCIL Agenda.**

**Matching Funds of upto \$5k, has been offered by several residents and
businesses if we can get it done.**

Derek Nadeau

in collaboration and support of several others

05/25/2021

Neighborhood watch

OVERVIEW

Several public area cameras can be installed for little cost, and provide tremendous benefit to both the community, businesses and the authorities policing it. Increasing public safety in our highly trafficked and heavy commerce areas, providing security for town and public employees, residents, property, businesses and their employees, and tourists alike.

GOALS

1. Provide enhanced Public Safety and continual commerce of high traffic city areas
2. Provide Law enforcement with video footage (no audio), for monitoring and follow up investigation purposes for a period of 2 weeks. (not traffic enforcement)

Legality and Precedents

ACLU Vs Manchester

https://www.aclu-nh.org/sites/default/files/field_documents/216-2019-cv-501_court_order.pdf?fbclid=IwAR145TO5i9xFzsR4H9KibWnDoXchgNAtrvAJAJfByCvOLuv0PZ8rF3nn2hU

Manchester, NH - Elm Street & Hanover Street

David Montenegro Vs Dover

<https://www.courts.state.nh.us/supreme/opinions/2011/2011115montenegro.pdf>

Manchester, NH currently has 2 cameras in place on Elm and Hanover Streets.

Keene, and Concord, NH have a Camera opt in policy located on their city website.

Additional and Enhancement Options:

Many cities and towns such as Keene and Concord have also adopted a private camera registration in which a webpage is used for residents and business owners to provide restricted access to local authorities and law enforcement. This allows authorities to know camera locations and in which direction and angles they are pointed, in the need of follow up investigation. In the OPT -In programs camera owners are asked for footage, in that event and footage never streamed directly to departments. This saves Law enforcement countless hours and costs going from door to door to establish if any video footage was captured in the area.

See Keene's website here: <https://ci.keene.nh.us/police/news/camera-registration>

Service Providers & Installers

***Pelmac Industries* is the company Manchester used, they are out of Auburn NH. We could also use someone more local.**

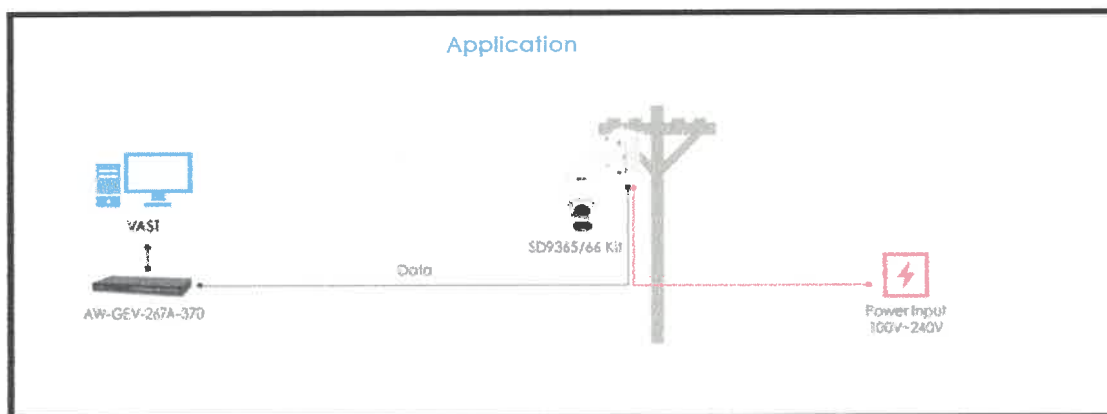
Hardware & Cost

https://www.vivotek.com/SD9365-EHL_Solution_Kit

Vivotek 9365/66 - Outdoor Surveillance camera

3 Cameras - \$14.8K

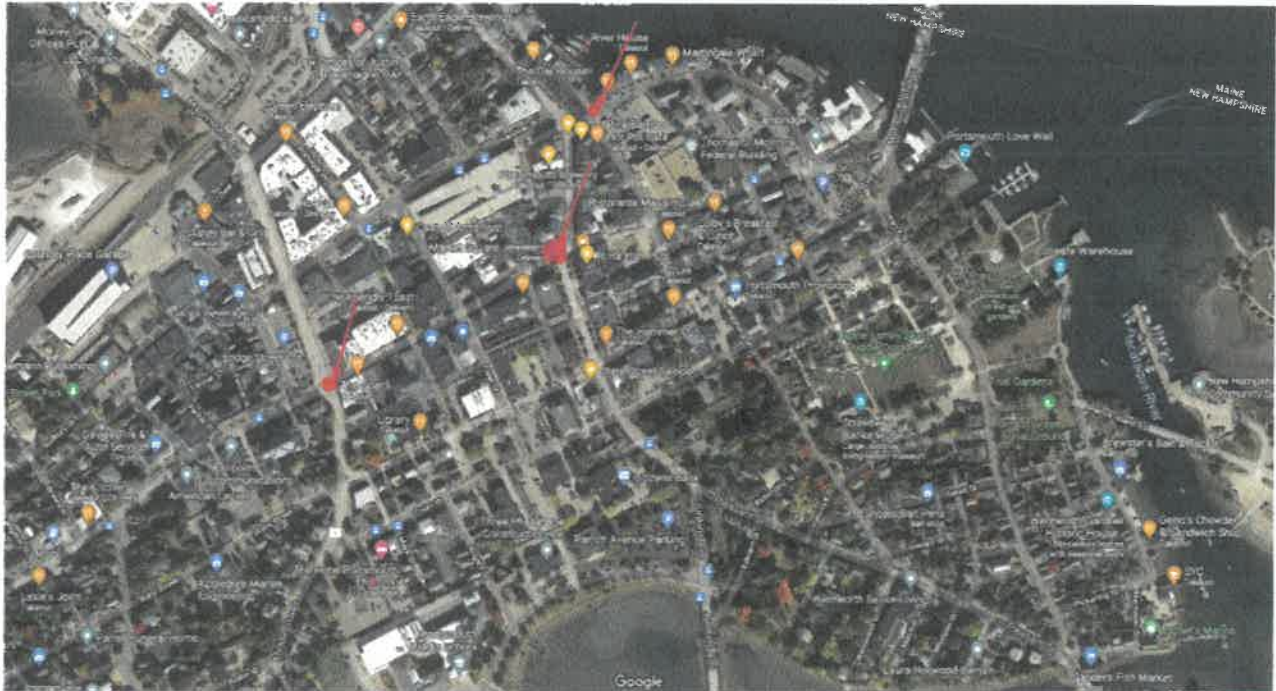
Manchester police originally planned to install three cameras, at a cost of \$14,424.



Locations

Camera Suggested Locations from Mark Newport Portsmouth Police Department Chief.

1. Congress St. @ Maplewood Ave.
2. Market Square covering the intersections of Market St., Daniel St. and Pleasant St.
3. Market St. and Bow St. possibly being able to also cover Hanover St at Market St.



HOEFLE, PHOENIX, GORMLEY & ROBERTS, PLLC

ATTORNEYS AT LAW

127 Parrott Avenue, P.O. Box 4480 | Portsmouth, NH, 03802-4480
Telephone: 603.436.0666 | Facsimile: 603.431.0879 | www.hpgrlaw.com

MEMORANDUM

To: Mayor Rick Becksted, Portsmouth City Council
From: R. Timothy Phoenix Esq.
Re: Bluestone Properties of Rye, LLC
5 Dedicated Parking Spaces
135 Congress St., Portsmouth

Dear Mayor Becksted and City Councilors:

I. OVERVIEW

On behalf of Bluestone Properties of Rye, LLC and its members, Michael and Peter Labrie (“Bluestone”), this memorandum supplements communications with City representatives beginning in September, 2018, and most recently, Bluestone’s submission and request for five (5) dedicated parking spaces in the Worth Lot, considered by the City Council (“Council”) at its May 18, and June 15, 2020 meetings. Following a referral to City Manager Conard (“Manager”) for a “report back” issued on June 8, 2020 (**Exhibit 2**), at its June 22, 2020 meeting, the Council, in response to Bluestone’s documentation of the historical use of the 5 parking spaces and request for dedication of the 5 spaces for a 20 year term, authorized the Manager:

to negotiate an agreement with Bluestone under which Bluestone would have the use of five (5) parking spaces in the Worth Lot behind 135 Congress St. As noted in the city council agenda packet of May 18, 2020, such an agreement “would need to deal with the numerous types of issues that might arise in 20 years, such as change in parking fees, changes in municipal use of the Worth Lot, assignability of the spaces, and sale or transfer of the Bluestone property. (**Exhibit 5**)

Since that time, Bluestone has negotiated in good faith with City representatives. While virtually all other issues have been agreed upon and are contained in the draft Parking Agreement, the rate and a twenty-year agreement has not been reached, leading to this request for Council approval.

DANIEL C. HOEFLE	R. PETER TAYLOR	GREGORY D. ROBBINS	DUNCAN A. EDGAR
R. TIMOTHY PHOENIX	JOHN AHLGREN	MONICA F. KIESER	OF COUNSEL:
LAWRENCE B. GORMLEY	KIMBERLY J.H. MEMMESHEIMER	SAMUEL HARKINSON	SAMUEL R. REID
STEPHEN H. ROBERTS	KEVIN M. BAUM	JACOB J.B. MARVELLEY	

II. REQUEST

Bluestone requests that the Council authorize the Manager to execute a twenty-year Parking Agreement in the form and at the payment rates set forth in **Exhibit 1** below.

III. EXHIBITS

1. Draft parking agreement submitted by Bluestone. \$3,750.00 per space/year, totaling \$18,750.00 per year for the first 5 years¹. Years 6-20 at the hourly rate charged by the City of Portsmouth for public parking spaces in the Worth Lot during the City's enforcement times as established by the City Council.
2. 6/9/20 Memorandum to City Council from City Manager Karen S. Conard and City Attorney Robert P. Sullivan.
3. 12/18/72 City Council Minutes.
4. 1/17/73 Lease-City of Portsmouth (Lessee), Worth Development Corp. (Lessor)
5. 6/22/20 excerpt, Portsmouth City Council minutes.
6. 1/11/21 xcerpt, City Council minutes- City Manager summary of "last best offer"-5 years, \$6,604.00/space, \$33,020.00/year.
7. Bluestone summary of parking rate and term proposals between Bluestone and Manager Conard/City Attorney Sullivan.
8. City provided "Worth Lot 23 Parking Space History, September 2006-Present".
9. Bluestone summary of Exhibit 8.
10. Renderings/photographs of the intended museum and jazz/blues club.

IV. HISTORICAL USE OF THE 5 PARKING SPACES

As provided in Bluestone's submission to the Council in advance of its June 15 and June 22, 2020 meetings, and as summarized in Manager Conard's June 9, 2020 memo to the Council, (**Exhibit 2**) the historical use of the relevant 5 parking spaces is undisputed. 135 Congress St. was once the local YMCA building. As of the early 1970s, the building and a larger lot were

¹ Offer significantly exceeds the rate for 23 privately leased spaces in the Worth Lot at 80% of the resident monthly rate at High Hanover Garage (presently \$160/month/or \$1920/year per space (See Exhibit 6)).

owned and operated by the Goodman family as Goodman’s clothing store. In the early 1970s, the city underwent urban renewal, which included eminent domain takings of numerous properties in downtown Portsmouth. A portion of the Goodman lot was taken along with others in the area, leading to the creation of the adjacent, now City owned “Worth Municipal Parking Lot” (“Worth Lot”). The remaining portion of the Goodman lot and building were not taken. Neither was the Worth Lot at the time. On December 18, 1972, the City Council considered entering into a long term lease with the Worth Lot owner, Worth Development Corporation. In approving a motion to enter into a lease of the Worth Lot, the then City Council included a provision that a:

non-cancelable provision be inserted [in the parking lot lease with Worth], subject to the approval of the Worth Development, that 5 parking spaces be provided for the Goodmans and that there be “no parking” in the rear of the Goodman’s store.
(Exhibit 3)

Thereafter, the City entered into a lease with Worth Development which acknowledged “the right of the Lessee (City of Portsmouth) to enter into a third-party agreement which may assign up to 5 parking spaces to other private users... located with approval of Lessor (Worth Development)”. **(Exhibit 4, pg. 3 ¶16)** Thereafter, 5 parking spaces in the Worth Lot directly behind the Goodman building were reserved for Goodman’s parking only, including signage. The spaces were exclusively utilized by Goodmans until Mr. Goodman’s death and sale of the property in or about 1996. Thereafter, at some point the signs were removed, and the city resumed the use of the spaces for public parking.²

Bluestone believes that the 5 spaces run with the land and should not have been taken by the city for public use. Recognizing that at the time of the urban renewal in the 1970s, Goodman’s land and building were left with no direct access, surrounded on 3 sides by property owned by Worth Development, the then City Council, in the spirit of providing an equitable result for all parties, awarded the 5 spaces to Goodman as noncancelable . It is in that spirit that Bluestone requests assignment of the final parking spaces to its exclusive use and, in the further spirit of cooperation is willing to pay a fair rate for a 20 year term.

² The Worth Lot was eventually deeded to the City.

V. **BLUESTONE PROJECT AT 135 CONGRESS ST.**

We understand that many, if not all City Councilors have toured the site, and presumably noted the extremely significant financial and construction undertaking to renovate 135 Congress Street while preserving its architectural and historical significance.

As you know, the primary uses of 135 Congress St. upon completion of construction will be an art museum and a jazz/blues club, each open to the public, featuring world-class artists and musicians. (See renderings Exhibit 10) These uses will bring to downtown Portsmouth local and nearby residents, tourists and those traveling for the specific purpose of attending the museum and/or jazz/blues club, where they will shop in Portsmouth stores, visit Portsmouth restaurants, stay at Portsmouth hotels and utilize the City's municipal parking. Bluestone estimates that the operation of the museum and jazz/blues club will bring as much as \$20,000,000.00 into the City on an annual basis. Furthermore, as noted by Manager Conard in her June 9, 2020 memorandum to the Council, "The Labrie family has a substantial history of public service to the city and of philanthropic contributions to the city and the seacoast area." A labor of love in honor of their parents, Michael and Peter Labrie are continuing the family tradition of philanthropic contribution via this "gift to the City" (Portsmouth Herald 3/7/19), its residents and businesses.

It is important to Bluestone that the Council understand the reason for the request for the 5 spaces and their intended use. Two of the spaces will be used on an essentially full-time basis to park two (2) electric shuttle vehicles, which will be used to shuttle visitors to and from municipal parking. The other spaces will be utilized for temporary parking/patron drop off, after which their vehicle will be valet parked off-site. The spaces are also needed for loading and unloading of artists and their artwork, musicians and their instruments and gear as well as general deliveries. Absent exclusive use of these spaces, and particularly when they are occupied by other vehicles, these intended services will be difficult and unwieldy, if not nearly impossible, increasing the potential for temporary conflict with other drivers' access to the Worth Lot during periods when shuttling, valet parking, loading and unloading is occurring in the travel aisles.

VI. **STATUS OF POST JUNE 20, 2020 DISCUSSION WITH CITY REPRESENTIVES**

Following Manger Conard's June 9, 2020 memorandum (Exhibit 2), the council voted 8-1 to authorize Manager Conrad and City Attorney Sullivan to negotiate an agreement for the

exclusive use of the 5 spaces. The motion, by Councilor Lazenby, provided *inter alia* that an agreement with Bluestone “would need to deal with the numerous types of issues that might arise in 20 years... .” (**Exhibit 5**)

Exhibit 7 summarizes the proposals of the City and Bluestone with respect to the term and rate(s) for the five (5) spaces. The City’s first proposal was for an exorbitant \$63,875/year, for twenty (20) years. Despite the clear intent for the negotiation of a 20 year term, while the City’s “last best offer” did reduce the rate, it reduced the term to 5 years. (**Exhibit 6**) Bluestone believes this may have been due to a misunderstanding by City representatives that Bluestone only needed the spaces for 5 years. In point of fact, Bluestone merely related that the rate for the 5 spaces was most important and should be lower in the first 5 years in order to help defray construction and startup expenses until the operation was fully up to speed. In any event, five years is not reasonable. Of relevance, Bluestone has just recently been provided with a summary of the rate paid by other private users of 23 spaces at the Worth Lot (equal to eighty percent (80%) of the resident monthly rate at the High Hanover Garage, presently \$160.00/space/month, \$1,920.00 per year.) **Exhibit 8**, summarized by Bluestone in **Exhibit 9**.

VII. BLUESTONE PROPOSAL.

Term: Bluestone proposes a 20 year term as authorized by the Council. Years 1-5 at \$3,750.00 per space (\$18,750/year), years 6-20 at the hourly rate charged for parking spaces in the Worth Lot during enforcement times (**Exhibits 1,7**). The initial rate is almost double the rate paid by other private user(s) of Worth Lot Spaces. (**Exhibits 8,9**)

Given; the stated initial request by Bluestone for a 20 year term, acknowledged by the Council; the non-cancelable rights to 5 spaces awarded to the Goodman family at no cost, which Bluestone believes run with the land; Bluestone’s offer to limit the term to 20 years at a fair rate; the reasonableness of providing an equitable result given the above-stated significant need for the spaces; the proposed rate compared to the rate paid by other private users of the Worth Lot; and the benefits to the City provided by patrons utilizing its stores, restaurants, hotels, and municipal parking, the spirit of goodwill dictates that the Council approve a 20 year term as set forth in the draft parking agreement (**Exhibit 1**).

Rate: Given the above factors, in particular the significant financial benefits to local businesses and the City (via the increased use of municipal parking); the need for lower a lower

rate during the first 5 years as construction and startup costs are recouped; and the fact that the proposal nearly doubles the rate paid by other private users of Worth Lot parking spaces, the proposed offer of \$3,750 per space/(\$18,750 per year) for years 1-5 is fair and reasonable. The rate for years 6-20 are also reasonable since it will equal the hourly rate charged by the city of Portsmouth for the Worth Lot during the City's enforcement times.

VIII. CONCLUSION

In conclusion, based upon the foregoing, Bluestone respectfully requests that the City Council vote to authorize City Manager to timely execute the attached parking agreement confirming the 20 year term and Bluestone proposal rates. **Exhibit 1**

Respectfully submitted,
Bluestone Properties of Rye, LLC

By 

R. Timothy Phoenix, Esq.

- cc: Client
- Portsmouth City Councilors, individually
- City Clerk
- City Manager Karen Conard
- City Attorney Robert Sullivan, Esq.
- Peter G. Weeks

PARKING AGREEMENT

The following Agreement is between the city of Portsmouth a municipal corporation with a principal place of business of 1 Junkins Ave. Portsmouth, New Hampshire 03801 (hereinafter the “City”) and Bluestone Properties of Rye, LLC (hereinafter “Bluestone”) a New Hampshire limited liability corporation with a mailing address of P.O. Box 300, Rye, New Hampshire, 03870 (collectively the Parties)

Part 1: Definitions

1. **1.Bluestone:** Bluestone Properties of Rye LLC is a New Hampshire limited liability corporation. Peter J. Labrie and Michael G. Labrie are the principals of Bluestone Properties of Rye LLC. Any successor entity with these same principals shall be deemed to be Bluestone for the purpose of this agreement.
2. **Bluestone Spaces:** Five (5) designated spaces in the Worth Lot as identified in Exhibit A. The Bluestone spaces as a portion of the Worth Lot.
3. **Bluestone Property:** property owned by Bluestone located at 135 Congress Street Portsmouth, County of Rockingham, and State of New Hampshire and described in The Deed recorded in the Rockingham County Registry of Deeds at Book 5761 Page 1289.
4. **Bluestone Signs:** Bluestone signs shall refer to the five (5) parking space signs to be Installed adjacent to the Bluestone spaces to indicate the Bluestone spaces are for the Exclusive use of Bluestone
5. **Site Plan:** Site Plan Shall refer to the site plan Bluestone submitted to the Portsmouth Planning Board regarding the Bluestone Property as approved by a vote of the Planning Board on January 18. 2018. The site Plan, as approved by the Planning Board, is Hereby incorporated by reference.
6. **Worth Lot:** A municipal parking lot owned by the City and located on Maplewood Avenue between Hanover and Congress Street, known as the Worth Lot and described in more detail in a deed recorded at the Rockingham County Registry of Deeds at Book 4701, Page 634.

Part II Term:

7. Agreement shall be effective as of the executed date _____
And continue for a period of Twenty (20) years until the expiration _____

Part III the Worth Lot

8. **Bluestone Spaces:** Bluestone shall have exclusive access to the Bluestone Spaces on A continuous twenty-four (24) hour a day seven (7) days per week basis. Subject to the terms and conditions contained herein.
9. **Limitation on Use:** Bluestone shall only have the right to use Bluestone spaces for the purpose of Parking vehicles, for deliveries, for valet services, associated with the Bluestone property.
10. **Signage:** Bluestone shall at its own expense, design and install the Bluestone signs. Prior to installation, Bluestone shall submit to the Director of Public Works a design Reflecting the contents, size, materials, placement, and proposed method of installation. Bluestone shall not install the signs without written approval from the Director of Public Works. Such consent shall not be unreasonable withheld.
11. **Maintenance of Spaces:** During the term of this agreement, Bluestone shall maintain The Bluestone spaces in a safe, neat, and orderly fashion and shall take such actions as are necessary to protect the public safety. Upon expiration of this agreement Bluestone shall ensure the spaces are in a condition at least as neat and orderly as to what they were in the start of the agreement.
 - 11.1 **Maintenance by the City:** The city and its agent shall, at the city's expense, Plow, pave or otherwise maintain the Bluestone spaces in a manner reasonably Similar to that of the surrounding Worth Lot. Upon reasonable notice, Bluestone shall remove or cause to be removed any vehicle or other personal property from the Bluestone spaces for the purpose of plowing, paving, or other maintenance undertaken by the city. Its agents or assigns.
 - 11.2 **No right to access other city property:** Bluestone shall not place any vehicle, Object, equipment, or any other personal property on any city property other than within the Bluestone Spaces and only as permitted by law. Excepting the right of any driver or vehicle to use paid parking at the Worth Lot
12. **City's right of entry:** The City shall have the right to enter the Bluestone spaces for the purpose of inspection to ensure the spaces are being used per the terms of the agreement.
13. **Enforcement:** Bluestone may tow vehicles from the Bluestone spaces in compliance With state and local law in order to enforce its right to use the Bluestone spaces

Part IV: Payment

14. **Rate:** As consideration for reserving five (5) spaces within the Worth Lot on a 24-hour 365 day per year basis, Bluestone shall compensate the city annually \$3,750.00 per space for a total annual payment of \$18,7500.00 for the first five years of the agreement to be paid quarterly in advance.
15. **Change in Rate:** For years 6 – 20 the Annual rate will change to equal the hourly rate charged by the City of Portsmouth for parking spaces in the Worth lot during the City's enforcement times as established by the City Council.
16. **Notice:** Any change in the annual fee in Paragraph 15 shall be provided by notice to Bluestone or its successors with a written notice period of at least 30 days in advance.
17. **Payment of fees:** The annual fees due from Bluestone under the agreement shall be made payable to the City of Portsmouth, Attn: Controller, 1 Junkins Ave, Portsmouth, NH 03801. The payment shall be made quarterly in advance. Failure by the city to send invoices or to request payment shall not constitute a waiver of the obligation of Bluestone to pay the annual fee.
18. **Late Payment:** Any late payment shall accrue interest at a rate equal to the lesser of 1.5% per month, or the maximum rate allowed by applicable law,

Part V Miscellaneous:

19. **Indemnification:** Bluestone hereby agrees to defend and hold harmless the City, its Employees and agents from any claims alleging any harm to person or property arising out of Bluestones use of the Worth Lot. Unless caused by the negligence or intentional action or inaction of the City, its employees, or agents
20. **Insurance:** At all times Bluestone shall maintain insurance for bodily injury and property damage in the amount of \$1,000,000.00 per occurrence and shall include the City as an additional insured. Upon the city's request, Bluestone shall provide proof of insurance to the city during the term of this agreement.
21. **Default Termination:** In the event that either party fails to reasonably maintain any obligation under this agreement, after being given written notice of such failure and a 60-day period to cure. The non- defaulting party shall have the right to terminate this agreement or pursue any and all remedies of law or equity. If the City Council decides not to operate the Worth Lot as a public parking lot this agreement shall be void and Bluestone shall be without recourse against the City.

22 Compliance with other laws: This agreement does not relieve Bluestone from compliance with other local, state, or Federal laws or regulations or conditions imposed. Failure to abide may at the City's discretion result in revocation.

23. No interest in Property Conveyed: This Agreement conveys only a revocable license to Bluestone and carries with it no permanent right to any Real Estate. The rights conveyed herein are personal to Bluestone and only transferable if the principals are the same as Bluestone.

24. Entire Agreement: This agreement and the attachments hereto, each of which is hereby incorporated herein, sets forth all of the agreements, promises, covenants, conditions, and undertakings between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings

25. Other agreements Between Bluestone and the City: Bluestone and the city hereby agree that any previous agreements, contracts, or licenses between Bluestone or its predecessors in interest and the City and concerning the Worth Lot, whether written or oral expressed or implied with the exception of the vote of the City Council in December 07 1972 are hereby terminated and superseded by the terms of this agreement.

26. Renewal: Upon the expiration, termination. Or revocation of this agreement, the Parties agree that neither party has any duty to negotiate or enter into a renewal of this agreement. The parties do agree that it is expected that the parties may discuss renewal of this agreement upon its expiration

27. Amendment: No waiver, amendment, or modification of any of the terms of this agreement shall be valid unless in writing and signed by each of the parties hereto, and any amendment must be approved by a vote of the Portsmouth City Council.

28. Governing Law: The construction and effect of the terms of this agreement shall be determined in accordance with the laws of the State of New Hampshire.

29. Severability: Except as expressly provided to the contrary herein, each section, part, term, or provision of this agreement shall be considered severable, and if, for any reason, any section, part, term or provision herein is determined to be invalid and contrary to or in conflict with any existing or future law or regulation by a court or a government agency having valid jurisdiction, such determination shall not impair the operation of, or have any effect on other sections parts, terms, or provisions of this agreement

30 Notices: All notices and other communications which are required or permitted by the agreement shall be considered received as of the date delivered in writing, copied to each party's respective legal counsel and delivered by personal service, sent by registered or certified first class US mail, postage pre-paid, properly addressed, return receipt requested, or by overnight receipt delivery service such as Federal Express as follows:

If intended to the City

Karen Sawyer Conard
City Manager
City of Portsmouth
1 Junkins Ave.
Portsmouth, NH 03801

If intended to Bluestone

Bluestone Properties of Rye LLC
P.O. Box 300
Rye, NH 03870

For the city of Portsmouth

Karen Sawyer Conard
Dated _____
Pursuant to vote of the City Council
On _____

For Bluestone Properties of Rye LLC

Signature: _____

Printed Names: _ _____

Dated _____

Position _____

CITY OF PORTSMOUTH**LEGAL DEPARTMENT****MEMORANDUM**

DATE: June 9, 2020

TO: CITY COUNCIL

FROM: KAREN S. CONARD, CITY MANAGER
ROBERT P. SULLIVAN, CITY ATTORNEY

RE: BLUESTONE PROPERTIES OF RYE, LLC, REQUEST FOR PARKING AT 135 CONGRESS STREET (WORTH LOT)

By letter addressed to the Mayor and Council dated May 13, 2020, Bluestone Properties of Rye, LLC, has requested that the City Council, "... authorize the City Manager to negotiate a 20-year lease" for five (5) parking spaces in the Worth parking lot. The parking spaces are requested on a 24/7/365 basis.

On May 18, 2020, the City Council responded to that letter by a unanimous roll call vote, "to refer to the City Manager for a report back at the June 15, 2020 City Council meeting." This memorandum is that report back. It was prepared by both the City Manager and the City Attorney, at her direction.

UNDISPUTED FACTS

The request of Bluestone is based primarily on a historical analysis. The most relevant facts relied upon by Bluestone, with which we agree, are as follows:

1. The Worth Lot was created at some time prior to 1972 by eminent domain proceedings instituted by the Portsmouth Housing Authority. A portion of the Worth Lot consisted of parking spaces acquired from Melvin H. Goodman, owner of what was then Goodman's Clothing Store at 135 Congress Street. At approximately that time, the Worth Lot came into the ownership of the Worth Development Corporation.
2. On December 18, 1972, the Portsmouth City Council considered entering a lease with the Worth Development Corporation for the acquisition of the Worth parking lot to be used as a municipal parking lot. At that time, City Councilor John Wholey moved that the lease from Worth Development Corporation to the City, "... be approved subject to the following amendment: 'that the (sic) non-cancelable provision be inserted subject to the approval of the Worth Corporation, that five parking spaces be provided for the Goodman's and that there be "No Parking" in the rear of the present Goodman's Store.'

3. On January 17, 1973, the City of Portsmouth entered a lease with the Worth Development Corporation by which the Worth Lot became a municipal parking lot. The lease makes no mention of Melvin Goodman but it does contain the provision that “the Lessor [Worth Development Corporation] acknowledges the right of the Lessee [City of Portsmouth] to enter into a third-party agreement which may assign up to five parking spaces to other private users, however, all non-metered spaces shall be located with the approval of the Lessor [Worth Development Corporation].”
4. The City has no record of any third-party agreement with Mr. Goodman nor any record assigning any parking spaces to Mr. Goodman, notwithstanding the Council vote of December 18, 1972
5. Nonetheless, as security for a mortgage loan in 2003, Melvin Goodman pledged to the Piscataqua Savings Bank, “the right to occupy five (5) spaces in the City of Portsmouth parking lot located adjacent to the property (Goodman’s Store), in the rear as authorized by vote of the Portsmouth City Council.”
6. Goodman’s Clothing Store made significant use of five (5) parking spaces in the Worth Lot located directly to the rear of the store for a number of years between 1972 and the more recent acquisition of the property by Bluestone.
7. In 1996, Melvin Goodman passed away. After at least one intervening owner, the property came into the hands of Bluestone.
8. On July 11, 2006, the City acquired the Worth Parking Lot by deed from Worth Development Corporation and the lease of the parking lot was terminated. Pursuant to an agreement between the City and Worth Development Corporation dated August 29, 2006, Worth Development Corporation is allowed the use of 23 parking spaces in the Worth Lot selected by the City for which Worth pays an amount equal to the City’s monthly daytime parking rate normally charged in connection with High Hanover, the Parking Facility. These spaces are for daytime use only.

ADDITIONAL CONSIDERATIONS

Although not relevant to whether Bluestone has a legal right to any parking spaces in the Worth Lot, we feel that it is worth noting that the principals of Bluestone are members of the Labrie family. The Labrie family has a substantial history of public service to the City and of philanthropic contributions to the City and the seacoast area.

DISPUTED CONCLUSIONS OF LAW

We believe that the foregoing facts do not make out a valid legally enforceable claim by Bluestone to five (5) parking spaces in the Worth Lot. It is believed that Bluestone disputes this conclusion. There is correspondence between Bluestone and the prior City administration dating back at least to September 11, 2018 to that effect.

Significant to our analysis is that:

1. Bluestone is not Melvin Goodman. Neither is there any document known to the City suggesting that even if Melvin Goodman had an enforceable right to five (5) parking spaces in the Worth Lot in 1973 that he assigned or conveyed it in any manner through the intervening ownerships to Bluestone.
2. The Worth Development Corporation lease referenced in the City Council vote of 1972 was terminated in 2006.
3. There exists no deed, contract or agreement from 1972 to the present day which provides either Melvin Goodman, Bluestone or any intervening owner with the right to the five (5) parking spaces in the Worth Lot to the rear of the former Goodman's Store.

APPARENT OPTIONS FOR THE CITY COUNCIL

Based on the foregoing, it appears that the apparent options available to the City Council to deal with the request of Bluestone are as follows:

- A. City Council could authorize the City Manager to negotiate an agreement with Bluestone under which Bluestone would have the use of the five (5) parking spaces in the Worth Lot behind 135 Congress Street. As noted in the City Council Agenda packet of May 18, 2020, such an agreement "would need to deal with the numerous types of issues that might arise in 20 years, such as change in parking fees, changes in municipal use of the Worth Lot, assignability of the spaces, and sale or transfer of the Bluestone Property." Nonetheless, such an agreement could be negotiated.
- B. The City could agree with Bluestone to present the question of whether Bluestone has a legal right to five (5) parking spaces in the Worth Lot to the Superior Court for a judicial determination. This would be accomplished by the filing by one party or the other of a pleading in the form of a declaratory judgement simply asking the Court to determine the answer to that legal question. The case would not involve costs, fees, or damages, merely a straightforward question of law.
- C. City Council may deny the request.

C. COUNCILOR LAZENBY

1. Proposed Resolution – Declare Portsmouth a Racial Justice Municipality

XIV. APPROVAL OF GRANTS/DONATIONS

(There are no Grants/Donations for approval this evening)

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager's Items Which Require Action:

- 
1. Report Back on Bluestone Properties of Rye, LLC Request for 135 Congress Street Parking Lease
 2. Request of Jeremy Conte to Unmerge Lots at 1240 Islington Street
 3. Request to Sublease Players' Ring
 4. Report Back on Parking & Traffic Safety Committee recommendation to City Council to Approve Stay and Pay Parking Rates
 5. 46-64 Maplewood Avenue Temporary Construction License
 6. Request to Schedule First Reading Re: Omnibus Ordinance Change
 7. Friends of Prescott Park "Odyssey" Sculpture

XVI. CONSENT AGENDA

- A. Letter from Samantha Boland, National Multiple Sclerosis Society, requesting permission to hold the 2020 Bike MS: New Hampshire Seacoast Escape cycling event on Saturday, August 22, 2020 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Letter from JerriAnne Boggis, Black Heritage Trail of New Hampshire, requesting permission to the Akwaaba Ensemble drumming, dancing and singing perform traditional spirituals on Friday, June 19, 2020 at 1:00 p.m. at the African Burying Ground Memorial ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- C. Water Services Access Easement for 3110 Lafayette Road ***(Anticipated action – moved to grant authority for the City Manager to accept the Easement Deed in a form similar to that attached)***
- D. Letter from Tina Sawtelle, The Music Hall, requesting permission for the closure of Chestnut Street on Saturday, July 11, 2020 for an outdoor dining and concert event in the evening ***(Anticipated action – move to refer to the City Manager with Authority to Act)***

REGULAR SEMI-MONTHLY MEETING - PUBLIC HEARING

VIOLETTE MEETING ROOM
DATE: DECEMBER 18, 1972

PORTSMOUTH, N.H.
TIME: 7:00 P.M.

I. CALL TO ORDER

The Portsmouth City Council met in its regular semi-monthly meeting on December 18, 1972 with his honor Mayor Arthur F. Brady, Jr, presiding.

II. ROLL CALL

PRESENT: Mayor Brady, Councilman Wholey, Thomson, McMaster, Chaisson, Fransoso, Graves and Keefe.

ABSENT; Councilman Levy

III. INVOCATION

The Chair called for a moment of silent prayer

IV. PLEDGE OF ALLEGIANCE

Councilman Graves led in the Pledge of Allegiance

V. ACCEPTANCE OF MINUTES OF OCTOBER 20 and NOVEMBER 30.

Upon motion by Councilman Keefe it was voted to accept the minutes as received.

PUBLIC HEARING

Lease of Worth Plaza Parking Lot to the City.

Before opening the Public Hearing the Chair read a communication from the Chamber of Commerce favoring the parking lot reverting back to the City.

The Mayor said he received a telephone call from Mary Mahoney, a storeowner in the area, saying she was in favor of the City taking it over.

The Chair called for all those who wished to speak in favor or opposed to the Ordinance.

Attorneys Thomas E. Flynn and Douglas Gray representing Goodman's Clothing Store favored a non-revocable clause in the lease.

Flynn said that Goodman was being denied access to land he owns, depriving him of five parking spaces.

Attorney Paul McEachern said he was not in favor or against the Lease but it was Worth's position that the Council either approve or disapprove it.

Norman Freedman, representing Winebaum Realty said he was in favor of the City retaining the lot, but felt that his tenants should be included in matters that others are, such as parking privileges.

Arthur Bean expressed doubt in reserving the proposed 25 spaces for the Worth tenants which would provide parking for merchants and their employees.

Ralph Margeson of Margeson's Furniture Store said the Parking Lot should be controlled and maintained by the City.

Dick Bettcher of the Little Book Store said he was in favor of the City taking over the parking lot.

George Hovonesian, owner of Hovey's Camera Store said the lot belongs to Portsmouth people and the businesses deserve it.

After several calls from the Chair no one else appeared to speak and the Chair declared the public hearing closed.

Councilman Wholey moved that the Lease be approved subject to the following amendment: "that the non-cancellable provision be inserted subject to the approval of the Worth Corporation, that five parking spaces be provided for the Goodman's and that there be "No Parking" in the rear of the present Goodman's store."

The motion received a second and the Chair called for a roll call vote.

Voting in the affirmative- Mayor Brady, Councilman Wholey, Chaisson McMaster Fransosc, Graves and Keefe.

Voting in the negative-Councilman Thomson.

VI. PRESENTATION AND CONSIDERATION OF WRITTEN COMMUNICATIONS

A. Letter from Attorney Thomas E. Flynn requesting permission for the Arlen Realty and Development Company to enter the sewer on Gosling Road.

Mr. Canney in his report to the Council asked that the Council direct him to notify Attorney Flynn that Portsmouth will not enter into any contract for sewerage treatment with any private concern.

Flynn, speaking for the developer, said they would give the City a \$100,000. capital contribution plus a fee of \$10,000. for use of the sewer. Flynn said if the City accepted the proposition it would increase the base for federal funding for sewer work.

Mr. CanNEY and most Councilmen disagreed with Flynn.

It was finally voted on a motion by Councilman Graves to accept the City Manager's recommendation and deny the request.

Councilman McMaster and Keefe were recorded in opposition.

B. Letter from RCCAP that they will no longer assist in the Commodity Food Program, specifically--certification, distribution and other aspects of the program.

Mr. Canney addressing the Council said that the Community Action Program does offer assistance to poor people and he personally wouldn't like to see them move from the City.

Mr. Canney recommended that the lease with GAP be signed and the Co-Op Food Plan remain at the school for only those certified as recipients of commodity foods.

Councilman Wholey said he would support the Co-Op Plan as long as it was for the poor and elderly.

Wholey moved and it was voted to adopt the City Manager's recommendation .

C. Letter from James Splaine urging the Council to permit the Community Action Program to maintain residence at the Haven School and continue its food co-op program.

Upon motion by Councilman Keefe it was voted to accept the letter and place it on file.

D. Letter from Arthur Bean protesting smoke pollution from Public Service Company plant on Bow Street.

Upon motion by Councilman Keefe it was voted to accept the letter and place it on file.

E. Letter from Seacrest Tenants Union protesting the Housing Moratorium.

Upon motion by Councilman Keefe it was voted to accept the letter and place it on file.

F. Letter from Martha Hamilton, Community Relations Director of RGCAP offering informational booklet on food co-ops to Council.

Upon motion by Councilman Keefe it was voted to accept the letter and place it on file.

G. Letter from Mrs. Kimball Knowlton complaining of Housing conditions at Seacrest Village and pleading for better housing for service personnel.

Upon motion by Councilman Keefe it was voted to accept the letter and place it on file.

VII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. Resolution approving of new water rates. (see permanent records for complete Resolution and new rates)

Mr. Canney speaking for the approval said the Water Department has a \$200,000. deficit last year.

He said money was also vital for searching for new sources of supply.

Councilman Fransoso spoke against the increase, he said 10% was enough.

Councilman Wholey moved and it was voted that the rates be increased according to the recommendations of the City Manager.

Councilman Fransoso voted in opposition.

B. City Marshal's approval of taxi licenses.

Upon motion by Councilman McMaster it was voted to accept the City Marshal's recommendation and grant 65 taxi renewal licenses for 1973.

VIII. MISCELLANEOUS

A. Councilman Thomson asked Mr. Canney why the snow plow skipped the driveway at the JFK Center.

Councilman Keefe suggested that city crews plow out behind the Creek AC so area residents could park their cars off the street.

Councilman McMaster offered an Ordinance dealing with the Board of Adjustment.

Upon motion by Councilman Wholey it was referred to the Planning Board.

Upon motion by Councilman Wholey the meeting adjourned at 10 P.M.

P. E. O'DONNELL
CITY CLERK

File #
14-45

LEASE

THIS INDENTURE made this 17th day of January 1973, by and between the City of Portsmouth, a municipal corporation organized and existing under the laws of the State of New Hampshire and having its usual place of business at 126 Daniel Street, Portsmouth, County of Rockingham, State of New Hampshire, hereinafter called Lessee and the Worth Development Corporation, a corporation duly organized by law and having a place of business in Portsmouth, New Hampshire, hereinafter called the Lessor.

WITNESSETH:

That in consideration of One (\$1.00) DOLLAR, hereby duly acknowledged to have been received by the Lessor, the Lessor does hereby lease to the Lessee those premises in said City as shown on the accompanying plan which is part of this document.

TO HAVE AND TO HOLD the same to said Lessee for the term ending on July 11, 2006 after which time said property shall be transferred in fee simple at no cost to the Lessee by the Lessor,

It being further agreed that:

- 1) The Lessee shall operate this lot in a manner consistent with its policies affecting all public parking facilities;
- 2) The Lot shall be metered, signed and striped by the Lessee and shall be designated as the "WORTH PLAZA MUNICIPAL PARKING LOT".

WORTH DEVELOPMENT CORPORATION LEASE

Page 2

- 3) The Lessee accepts the lease with the knowledge that the Public Service Company transformers and one trash compactor will be located on this Lot;
- 4) The Lessor reserves twenty-three (23) parking spaces for private, unmetered use;
- 5) The Lease is subject to an existing mortgage;
- 6) The Lease is subject to any condition of settlement of legal actions presently pending against the Lessor;
- 7) The Lessee will provide snowplowing for this Lot in the same manner it does other parking lots operated by the City, and if snow plowing does not occur within 48 hours after the termination of the snow storm, the Lessor may have said Lot plowed and the cost of said plowing will be paid by the City of Portsmouth. This does not pertain to the removal of snow from said parking lot;
- 8) The Lessee agrees that it shall provide snow sidewalk plowing for the sidewalk adjacent to the parking Lot as part of the overall downtown sidewalk plowing program;
- 9) The Lessee agrees to hold the WORTH DEVELOPMENT CORPORATION harmless from any liability which may result in any suit against WORTH DEVELOPMENT CORPORATION arising out of activity of the City of Portsmouth in its capacity as operator of the parking lot;
- 10) The Lessee agrees to designate those unmetered areas which are reserved to the Lessor so as to distinguish them from general public parking use; said spaces to be marked as follows:

"These spaces reserved, not for public use,
subject to towing";
- 11) The Lessee agrees to assume the utility charges for lighting the parking lot;

WORTH DEVELOPMENT CORPORATION LEASE

Page 3

- 12) The Lessee agrees to assume the obligation for any real estate tax assessed upon the land leased to the City;
- 13) The Lessee agrees that the parking lot will be open at least from 7:00 a.m., to 11:00 p.m., except in extraordinary circumstances;
- 14) The Lessee agrees that in the event the Lessor desires to build upon this Lot, the Lessor shall have air-rights over the Lot for this purpose. However, such rights shall not permit any construction which is detrimental to the operation of the parking facility;
- 15) The Lessee agrees to continue to use this Lot for parking purposes after the termination of this lease;
- 16) The Lessor acknowledges the right of the Lessee to enter into a third party agreement which may assign up to five parking spaces to other private users, however, all non-metered spaces shall be located with approval of the Lessor;

It is further understood by both parties, and agreed to, that this lease shall become effective only upon the completion of all physical improvements as proposed by the Worth Development Corporation and their acceptance by the City of Portsmouth. If such improvements are not completed and approved by May 1, 1973, this lease is void and the Worth Development Corporation is liable for all expenses incurred by the City for operation and maintenance of said Lot to that date.

It is agreed by the Lessor and the Lessee that all covenants, agreements, undertakings and other obligations herein contained, shall be binding upon legal representation, successors and assigns of the Lessor and Lessee and shall be non-cancellable during the term of this lease.

WORTH DEVELOPMENT CORPORATION LEASE

Page 4

In Witness Whereof the parties hereto have hereunto set their hands and seals the day and year first above written.

In the Presence of:

CITY OF PORTSMOUTH, NEW HAMPSHIRE

[Handwritten Signature]

BY: *[Handwritten Signature]*
Calvin A. Canney, City Manager
Lessee

[Handwritten Signature]

WORTH DEVELOPMENT CORPORATION

BY: *[Handwritten Signature]*
LESSOR

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Report Back on Bluestone Properties of Rye, LLC Request for 135 Congress Street Parking Lease

Councilor Lazenby said there was a motion on the table at the last meeting, which he made and Councilor Tabor seconded.

Councilor Lazenby moved to authorize the City Manager to negotiate an agreement with Bluestone under which Bluestone would have the use of five (5) parking spaces in the Worth Lot behind 135 Congress Street. As noted in the City Council Agenda packet of May 18, 2020, such an agreement "would need to deal with the numerous types of issues that might arise in 20 years, such as change in parking fees, changes in municipal use of the Worth Lot, assignability of the spaces, and sale or transfer of the Bluestone Property." Seconded by Councilor Tabor.

Councilor McEachern said City Manager Conard would negotiate an agreement to allow Bluestone to park in the further lot. He said the City Manager would work with Bluestone and create an arrangement and we would send this to be arbitrated by a judge and we would be denied and Bluestone would look for legal relief.

Mayor Becksted said he is in favor of Option B and he would rather have a judge look at the information. He further stated each spot is worth \$6,000.00 and he does not want to set a precedent.

Councilor McEachern said he appreciates the perspective but putting this forward to a judge is an argument that this is good for the City and saying the project scope is limited. He said that this is something we should honor and allow the City Manager to negotiate directly with Bluestone.

Councilor Trace said the entire parking lot was put together by eminent domain and the City Council needs to be careful that we do not set a precedent. City Attorney Sullivan said if the City makes an agreement with Bluestone it does not create something legally binding.

Councilor Huda said if the City Attorney doesn't feel that this would set a legal precedent but a fairness precedent, would the entire businesses be entitled to come back. City Attorney Sullivan said Bluestone made a legal argument that the City owed them five parking spaces, they're two separate agreements.

Councilor Tabor said fairness is part of this and the five spaces were attached to the building for five years, which creates a claim. He said Bluestone is willing to pay for the spaces with an art venue on the first floor and an area for musicians on the other floor.

Assistant Mayor Splaine said there needs to be an access zone and if there was a park you could make both work with an access zone.

Councilor Kennedy said she is against taking things by eminent domain. She said she finds that we don't document well and things get fuzzy. She said she likes the idea of a court deciding on this issue. She said the lack of information on our part should not be held against the people.

Councilor McEachern said this is a matter for the City Council and not the court. He said the City Council needs to empower the City Manager to discuss these spaces with Bluestone.

Councilor Kennedy asked if this would come back to the City Council.

City Attorney Sullivan said Bluestone is aware if City Manager Conard negotiates an agreement it would come back to the City Council.

Discussion followed regarding negotiations and coming to an agreement.

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

2. Request to Schedule First Reading Re: Omnibus Ordinance Change

Councilor Whelan moved to postpone any action on the omnibus ordinance change until July 13, 2020 City Council meeting and refer the amendments for Chapter 7 for Stay and Pay to July 9, 2020, Parking and Traffic Safety Committee meeting for further review and revision. Seconded by Councilor Trace.

Councilor Whelan said he received many calls on the Pay and Stay Program and it was not discussed at Parking and Traffic Safety which is why we are referring it to the July meeting.

Councilor Kennedy said she does not feel this went through protocol. She said one of the streets does not have parking, never had parking, and is a residential street. She is upset this came forward and feels like something was happening and people had no knowledge. She hopes Parking and Traffic Safety understands what this could mean to residents of the South End.

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

XVI. CONSENT AGENDA

(Tabled from the June 15, 2020 City Council meeting)

- A. Letter from Samantha Boland, National Multiple Sclerosis Society, requesting permission to hold the 2020 Bike MS: New Hampshire Seacoast Escape cycling event on Saturday, August 22, 2020

All of the foregoing has been reviewed by the Planning and Legal Departments and is recommended for approval.

I recommend that the City Council move that the City Manager be authorized to execute and accept the temporary construction license regarding 145 Maplewood Avenue as submitted.

XVII. Presentations and Consideration of Written Communications and Petitions:

A. FY20 Annual Audit Presentation by Melanson CPA:

At this evening's meeting, Alina Korsak of Melanson CPA, will report on the Annual Audit and Financial Statements for the Year Ending June 30, 2020. The City's Comprehensive Annual Financial Report (CAFR) and the Popular Annual Financial Report (PAFR) are available on the City's website.

XVIII. City Manager's Informational Items:

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

On June 2, 2020 the City Council voted 8-1 to authorize the City Manager to negotiate an agreement with Bluestone Properties of Rye, LLC, the owners of 135 Congress Street, to permit Bluestone to utilize five parking spaces in the Worth Lot. The City Council voted that such an agreement would need to address a "change in parking fees, changes in municipal use of the Worth Lot, assignability of the spaces, and sale or transfer of the Bluestone Property."

Over the past six months the City Manager, in consultation with the Legal Department, the Public Works Director and the Parking Director, have been negotiating the terms of a parking agreement with Bluestone Properties of Rye, LLC.

Although Bluestone and City staff have agreed to nearly all the terms of the agreement, two critical terms remain outstanding: the price and the length of the agreement.

The attached agreement represents City staff's last, best offer, which Bluestone has yet to accept. Bluestone's last offer included a request to appear before the City Council, which precipitated this memorandum.

Bluestone has requested a discounted rate, whereas City staff's last, best offer represents merely compensating the City for the loss in parking revenue which will result from removing five valuable and high traffic parking spaces from the parking inventory. City staff no longer requests an industry-standard reservation premium as compensation for reserving the five spaces, or for Bluestone's use of the spaces during the time the City does not enforce paid parking. As proposed consideration for these discounts, City staff have proposed a term of five years, while Bluestone continues to request a 20 year term. Due to this impasse, this agreement now returns to the City Council.

FEES 5 PARKING SPACES - 135 CONGRESS STREET

	<u>DATE</u>	<u>AMOUNT</u>	<u>LENGTH</u>
CITY'S OFFER	9-17-20	\$63,875.00	20 YEARS
CITY'S OFFER	12/11/20	\$33,020.00	5 YEARS
BLUESTONE OFFER	9-1-20	\$12,375.00	20 YEARS
BLUE STONE PROPOSAL	12/01/20		
		1-1-21 – 12-31-25 \$3,750.00 PER SPACE ANNUALLY \$18,750.00	20 YEARS
		1-1-26 – 12-31-30 \$4,125.00 PER SPACE ANNUALLY \$20,625.00	
		1-1-31 -12-31-35 \$4,538.00 PER SPACE ANNUALLY \$22,690.00	
		1-1-36 – 12-31-40 \$4,992.00 PER SPACE ANNUALLY \$24,960.00	
BLUESTONE CURRENT OFFER	06/15/21		20 YEARS
		YEARS 1-5 \$3,750.00 PER SPACE ANNUALLY \$18,750.00	
		YEARS 6-20 ANNUALLY PER SPACE	
		THE RATE WILL BE EQUAL TO THE HOURLY RATE CHARGED BY THE CITY OF PORTSMOUTH FOR PARKING SPACES IN THE WORTH LOT DURING ENFORCEMENT TIMES AS ESTABLISHED BY THE CITY COUNCIL	

5 SPACES 24 HOURS PER DAY FOR TWENTY YEARS

I BELIEVE ALL OTHER PROPOSED TERMS WERE ACCEPTABLE AND AGREED UPON

WOULD LIKE TO SEE FINAL DRAFT OF AGREEMENT TO MAKE SURE ALL THE ITEMS PREVIOUSLY AGREED TO
ARE IN FINAL DOCUMENT

WOULD LIKE TO GO TO CITY COUNCIL AT THE MEETING OF 6-21-21

Worth Lot
 23 Parking Space History
 Period: September 2006 to Present

Year	Fiscal Year	Based on	Per Space/Per Month	Period	Payment Amount
1	2007	Monthly Pass Daily Rate	\$80.00	September 1, 2006 - February 28, 2007	11,040.00
		Monthly Pass Daily Rate	\$80.00	March 1, 2007 - August 31, 2007	11,040.00
2	2008	Monthly Pass Daily Rate	\$80.00	September 1, 2007 - February 28, 2008	11,040.00
		Monthly Pass Daily Rate	\$80.00	March 1, 2008 - August 31, 2008	11,040.00
3	2009	Monthly Pass Daily Rate	\$80.00	September 1, 2008 - February 28, 2009	11,040.00
		Monthly Pass Daily Rate	\$80.00	March 1, 2009 - August 31, 2009	11,040.00
4	2010	Monthly Pass Daily Rate	\$80.00	September 1, 2009 - February 28, 2010	11,040.00
		Monthly Pass Daily Rate	\$80.00	March 1, 2010 - August 31, 2010	11,040.00
5	2011	Monthly Pass Daily Rate	\$80.00	September 1, 2010 - February 28, 2011	11,040.00
		Monthly Pass Daily Rate	\$80.00	March 1, 2011 - August 31, 2011	11,040.00
6	2012	Monthly Pass Daily Rate	\$80.00	September 1, 2011 - February 28, 2012	11,040.00
		Monthly Pass Daily Rate	\$80.00	March 1, 2012 - August 31, 2012	11,040.00
7	2013	Monthly Pass Daily Rate	\$80.00	September 1, 2012 - February 28, 2013	11,040.00
		Monthly Pass Daily Rate	\$80.00	March 1, 2013 - August 31, 2013	11,040.00
8	2014	Monthly Pass Daily Rate	\$80.00	September 1, 2013 - February 28, 2014	11,040.00
		Monthly Pass Daily Rate	\$80.00	March 1, 2014 - August 31, 2014	11,040.00
9	2015	Monthly Pass Daily Rate	\$110 plus back pay on increase from FY 14	September 1, 2014 - February 28, 2015	15,870.00
		Monthly Pass Daily Rate	\$110	March 1, 2015 - August 31, 2015	15,180.00
10	2016	Monthly Pass Daily Rate	\$110	September 1, 2015 - February 28, 2016	15,180.00
		Monthly Pass Daily Rate	\$110	March 1, 2016 - August 31, 2016	15,180.00
11	2017	Monthly Pass Daily Rate	\$110	September 1, 2016 - February 28, 2017	15,180.00
		Monthly Pass Daily Rate	\$110	March 1, 2017 - August 31, 2017	15,180.00
12	2018	80% of Resident monthly rate at High Hanover Garage	\$120	September 1, 2017 - February 28, 2018	16,560.00
		80% of Resident monthly rate at High Hanover Garage	\$120	March 1, 2018 - August 31, 2018	16,560.00
13	2019	80% of Resident monthly rate at High Hanover Garage	\$140	September 1, 2018 - February 28, 2019	19,320.00
		80% of Resident monthly rate at High Hanover Garage	\$140	March 1, 2019 - August 31, 2019	19,320.00
14	2020	80% of Resident monthly rate at High Hanover Garage	\$160	September 1, 2019 - February 28, 2020	22,080.00
		80% of Resident monthly rate at High Hanover Garage	\$160	No Charge 5 weeks (Pandemic credit)	(4,246.15)
		80% of Resident monthly rate at High Hanover Garage	\$160	March 1, 2020 - August 31, 2020	22,080.00
15	2021	80% of Resident monthly rate at High Hanover Garage	\$160	September 1, 2020 - February 28, 2021	22,080.00
		80% of Resident monthly rate at High Hanover Garage	\$160	March 1, 2021 - August 31, 2021	22,080.00
Total					424,243.85

MONEY RECEIVED BY THE CITY OF
PORTSMOUTH FOR 23 SPACES IN THE WORTH LOT
BY AGREEMENT WITH THE CITY AND WORTH DEVELOPMENT
AS APPROVED BY THE CITY COUNCIL IN 2006

<u>YEAR</u>	<u>AMOUNT RECEIVED</u>	<u>ANNUAL PER SPACE</u>
2006-2007	\$22,080	\$960.00
2007-2008	\$22,080	\$960.00
2008-2009	\$22,080	\$960.00
2009-2010	\$22,080	\$960.00
2010-2011	\$22,080	\$960.00
2011-2012	\$22,080	\$960.00
2012-2013	\$22,080	\$960.00
2013-2014	\$22,080	\$960.00
2014-2015	\$31,050	\$1,350.00
2015-2016	\$30,360	\$1,320.00
2016-2017	\$30,360	\$1,320.00
2017-2018	\$33,120	\$1,440.00
2018-2019	\$38,640	\$1,680.00
2019-2020	\$39,915	\$1,736.00
2020-2021	\$44,160	\$1,920.00
TOTAL	\$424,245	

















Peer City Parking Citation Fine Management

	Manager	City	Initial Fine	Elevation 1	Elevated Rate	Elevation 2	Elevated Rate	Elevation 3	Elevated Rate	Collections/MVR
	Benjamin Fletcher	Portsmouth, NH	\$35	30 days	\$55	none	N/A			N/A
1	Denise Boutillier	Manchester, NH	\$15	30 days	\$30	60 days	\$36			90 days
2	Med Kopczinski	Keene, NH	\$15	30 days	\$30	60 days	\$75			
3	Amy Gray	UNH	\$20	14 days	\$30	none	N/A			
4	Jennifer Johnson	Durham, NH	\$25	14 days	\$35	45 days	\$50			
5	Bill Simons	Dover, NH	\$20	10 days	\$30	24 days	\$50			60 days
6	Jill Stansfield	Nashua, NH	\$15	7 days	\$25	none	N/A			
7	Dave Florence	Concord, NH	\$15	10 days	\$30	20 days	\$60			
8	Terry Ryan (Anne Scanlon)	Lowell, MA	\$25	21 days	\$30	42 days	\$55			
9	Jeff Ballard	Hanover, NH	\$15	14 days	\$25	28 Days	\$35			
10	978.465.4413 Richard Jones	Newburyport, MA	\$15	21 days	\$25	30 days	\$50	60 days		MVR
11	Dani Lindman	Kittery, ME	\$35	30 days	\$70	none	N/A			
12	Missy Avery (PD admin)	York, ME	\$35	10 days	\$50	none	N/A			
13	603.271.3556 (DeeDee)	Hampton (Beach), NH	\$25	21 days	\$50	42 days	\$75	63 days	\$100	100 days
14	978.619.5621	Salem, MA	\$25	21 days	\$35	42 days	\$75			MVR
15	978.281.9707 (Treasurer)	Glouster, MA	\$15	30 days	\$20	30 days	N/A			
16	207.967.2454 (PD)	Kennebunkport, ME	\$25	2 days	\$30	none	N/A			
17	978.546.6547x4	Rockport, MA	\$30	21 days	\$40	42 days	\$60	63 days	\$80	MVR
19	Carol Columbe	Brattleboro, NH	\$10	14 days	\$20	30 days	\$30			
20	Brian Slovinski	UPP (Private Lots)	\$33	3 days	\$63	25 days	\$123			

total sample 19
 percent escalating at 30 21%
 percent escalating earlier 79%
 percent with 2x escalation 74%

interesting additional two cities in the sampling have a third penalty escalation
 three cities in the sampling go to collections at 60-90 days
 three cities in the sampling put a hold on MVR to collect at vehicle registration



CMA ENGINEERS, INC.
CIVIL | ENVIRONMENTAL | STRUCTURAL

35 Bow Street
Portsmouth, New Hampshire
03801-3819

P: 603 | 431 | 6196
www.cmaengineers.com

June 7, 2021

Peter Rice, P.E., Director
Portsmouth Public Works
680 Peeverly Hill Road
Portsmouth, NH 03801

**Re: Portsmouth Recreation Fields – PFAS testing
CMA # 1119**

Dear Peter:

Attached is a memorandum from Marie Rudiman of Weston and Sampson describing the testing results of a sample of artificial turf from the new installation at the recreational fields for per- and polyfluoroalkyl substances (PFAS).

The Portsmouth turf sample did not have any PFAS detected. As such, the results are very favorable.

The test was of a solid sample of the turf, which is subject to leaching liquid designed to extract PFAS if it is present and available, which is in turn measured for presence of PFAS. This is the standard method for assessing whether PFAS compounds are present in solids.

There are laboratory quality control procedures that use surrogates that reported detectable PFAS. These are not samples of Portsmouth turf. They are substances with known PFAS to confirm that the laboratory equipment is functioning satisfactorily and should detect PFAS. Again, the results are not from Portsmouth turf.

Summarizing again, the results from Portsmouth turf indicate that no PFAS were detected.

Should you have any questions, please do not hesitate to call.

Very truly yours,
CMA ENGINEERS, INC.

A handwritten signature in black ink that reads "Bill Straub".

William A. Straub, P.E., P.G.
Vice President

Enc.

June 7, 2021

Mr. Phillip Corbett
CMA Engineers
35 Bow St.
Portsmouth, NH 03801

Cc: Mr. Peter Rice
Director of Public Works
680 Peaverly Hill Rd
Portsmouth, NH 03801

Re: PFAS Documentation, Synthetic Turf
Portsmouth, NH installation

Dear Mr. Corbett:

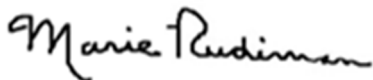
Weston & Sampson Engineers, Inc. (Weston & Sampson) has prepared this letter to document that the synthetic turf contractor, FieldTurf, has fulfilled our requirements to document that the synthetic turf installed for the City of Portsmouth, New Hampshire, Recreation Field Complex does not contain poly and perfluorinated alkyl substances (PFAS). To document that there is no PFAS in the synthetic turf that we recommend for installation, Weston & Sampson requires that the vendor provide a statement indicating they do not use any PFAS compounds within or in the manufacture of their carpets/turf as well as provide the appropriate laboratory testing of the components of the synthetic turf system. The contractor FieldTurf has provided this information and met all our requirements.

In addition, a sample of the synthetic turf to be installed was collected and submitted to an accredited laboratory for PFAS testing. All PFAS compounds were Not Detected (ND) above method detection limits. This testing confirms that there is no PFAS in the synthetic turf.

If you have any questions or comments regarding this letter or need any additional information, please do not hesitate to contact our office at 617-412-4480.

Sincerely,

WESTON & SAMPSON ENGINEERS, INC.



Marie Rudiman
Senior Risk Assessor/Toxicologist