

## **CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: MONDAY, NOVEMBER 15, 2021

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

**Councilor Kennedy moved to come out of Non-Public Session, seconded by Councilor Huda. Motion passed on a 9-0 roll call vote.**

**Councilor Kennedy moved to adjourn and seal the minutes, seconded by Councilor McEachern. Motion passed on a 9-0 roll call vote.**

### **III. CALL TO ORDER**

Mayor Becksted called the meeting to order at 7:25 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 in memory of Paul Whitcomb who recently passed away and was a founding father of Market Square Day.

### **VI. PLEDGE OF ALLEGINANCE**

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

### **PROCLAMATION**

1. 2021 Small Business Saturday

Mayor Becksted read the Proclamation declaring Saturday, November 27, 2021, Small Business Saturday and urged everyone to shop local.

### **VII. ACCEPTANCE OF MINUTES – OCTOBER 13, 2021**

**Councilor Kennedy moved to accept and approve the minutes of the October 13, 2021 City Council meeting. Seconded by Councilor Huda and voted.**

### **VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**

A. Recognition Portsmouth High School Girls 2021 Field Hockey State Champions

Recreation Supervisor Tom Kozikowski highlighted the winning season of the PHS Girls Field Hockey Team which culminated in the 2021 State Championship. He also thanked the Police

Department for making time and staff available to escort the team around town on the same night and time as the Halloween Parade.

*Mayor Becksted clarified that he is fully vaccinated and does not wear a mask during the meetings as it restricts his breathing.*

Mayor Becksted handed out individual plaques to the team members present in the audience. The Mayor, City Council and residents of the City of Portsmouth congratulate the PHS Girls Field Hockey Team on their championship season.

**Councilor Kennedy moved to suspend the rules to move up on the Item XVII.A Presentation, seconded by Councilor Huda and voted.**

A. Presentation Re: Noise Assessment Findings Along I-95 and Spaulding Turnpike Corridors by Jonathan Evans from NH DOT

City Manager Conard introduced the members of the New Hampshire Dept. of Transportation, William Cass, Assistant DOT Commissioner, Jonathan Evans, Air and Noise Program Manager, and John Corcoran, Administrator of the Bureau of Turnpikes, who will be presenting the findings of the Noise Assessment for the City of Portsmouth. She continued stating that this is a big moment for the City of Portsmouth as this is the culmination of many years of effort by State Representatives, former and current City Councilors and staff.

She stated that back in 2016 former Mayor Blalock, State Representative Laura Pantelakos and staff met with the Commissioner and encouraged her to adopt the Type II Noise Abatement Program which allow for Noise abatement projects independent of Highway Projects. She stated prior to that, the State only had Type I noise abatement projects which tied them to Highway Projects. Following the State adopting the Type II policy and to be eligible to qualify for the program, the City adopted the appropriate zoning requirements on new homes developed in proximity to the State's highways. As a result of these actions, in 2019 the State began a Type II noise assessment study of the I-95 corridor. This study was super-ceded by an identified Type I assessment associated with the I-95 part-time shoulder use project.

William Cass, Assistant Commissioner, stated he has been involved with the sound barrier issue in the City of Portsmouth for quite a few years. He stated that the Type II program was supported but never funded and further explained that because this project, which is looking at using the shoulders of I-95 between the traffic circle and Exit 2 in Maine over the high-level bridge during peak travel times, it is a Type I project and warrants noise mitigation analysis. He stated that they have been around the State recently with updated 10-year plan, but this presentation is project specific and not a part of that program. He concluded stating that there are some areas that meet the criteria, but there are other areas that do not and will not have sound barriers constructed.

Jonathan Evans, Air and Noise Program Manager at the NH DOT, gave a presentation on the results of the DOT's noise assessment for the City of Portsmouth. (Full presentation available on the website).

Upon completion of the presentation discussion ensued regarding the criteria of what is feasible and not feasible to qualify for sound barriers.

Councilor McEachern ask if there is a calculation difference for a school and houses. Mr. Evans stated the process applies equity to all schools and public spaces throughout the State and based on a calculation of the number of receptors.

Councilor Trace asked why New Franklin School is not reasonably feasible. Mr. Evans stated it doesn't meet the criteria for reasonableness.

Councilor Trace stated it is extraordinary that the State can say what will gain the most benefit but our children aren't worth making it feasible. She stated that the children's minds are being abuse as they can't learn with the sound. She stated she is frustrated with the State and why there won't be a barrier there. She is also concerned that putting a barrier across from the road will bounce the sound back to the School.

Mr. Evans stated that 2 combined noise sources don't actually double the noise. He stated that the criteria is also within the Federal Noise Policy and this has to be applied equitably across the State in order to receive funding.

Councilor Trace stated this is a sad day for the City of Portsmouth.

Mayor Becksted stated he finds it odd that no sound measurements were taken as part of this study.

Mr. Evans stated sound measurements and traffic counts are taken and put into the model to calibrate the conditions in the future.

Mayor Becksted stated in 2011 there were stockade wooden fences erected by the State that at the very least need to be maintained but are falling apart.

Mr. Cass stated that those were privacy fences and not noise reducing and agrees those need to be maintained and although wouldn't be noise reducing, they could be something more substantial.

Councilor Kennedy asked where she can locate the formula that they are using as well as the historic data points as she feels that things have changed substantially at the New Franklin School and is concerned with how old the formula and data is that was used.

Councilor McEachern stated there are some positives in that some sound barriers are coming. He continued to question the criteria being used in relation to the New Franklin School and

feels it is disappointing that the formula weighs the school the same as 4 homes. He stated that if the school was replaced with condo's then there would be a barrier. He stated he wonders if because of COVID-19 they could revisit the criteria so that the children can utilize outdoor classrooms.

Mr. Cass stated he is well aware of the concerns regarding New Franklin School and understands the concerns. He stated it is about equitability.

## **IX. PUBLIC COMMENT SESSION**

Mayor Becksted opened Public Comment Session:

Roy Helse – thanked the City Council for holding the recent work session with Portsmouth Housing Authority and discussing the future of affordable housing. He stated the city needs to stop giving land to developers to build large projects such as is on the former Frank Jones Center property.

Erik Anderson – thanked the Councilors who participated in the State DOT public hearings held regarding the barriers. He stated he feels the presentation that was just given was confusing as to why it is deemed a yes or a no. He stated that the walls that wouldn't be allowed were at 25', but the walls on the Spaulding are only 15' so why can't these go lower as well. He hopes there will be more good news to come.

Arthur Clough – discussed the auditing process and the need to change consultants. He stated he is glad there will now be an Audit Committee but feels that it should be independent and be able to recommend changes.

Robert Lister – thanked the Council for their involvement with the sound barrier issue and is glad that there are some "yesses" from the State, but he is here to advocate for the New Franklin Elementary School to which 1/3 of the city's grade school age children attend. He stated these barriers are a quality of life and safety issue and if these aren't installed, then he has 3 words, shame, shame, shame!

Justin Richards – addressed the New Franklin School not meeting the criteria stating he understands the need for criteria but it has changed since 2011 when this was established and it is no longer working. He stated this needs to be reviewed by a 3<sup>rd</sup> party as the assumptions built into this process need to be looked at. He read one of 19 letters recently written by children at the school to Governor Sununu which explains how the noise affects his ability to participate in school activities.

Peter Somssich – stated that there have been infrastructure projects that have been deferred even though they have qualified for many years and feels it is now time to keep the promises made. He stated that regarding New Franklin School the very least that should be done is to address and reinforce the deteriorated stockade fencing that was erected by the State and could made more sound resilient in the meantime. He stated that audiologists should be hired

to monitor long-term effect on the children's hearing. Finally, he stated when the barriers do get erected, he would like it named after Laura Pantelakos.

Mark Brighton – thanked Mayor Becksted for making appointments to the land use boards which is the same thing that previous Mayor Blalock had done.

Stefany Shaheen – spoke to the Police Commission and Chief Newport's request to appoint the 2 recently elected Commissioners to finish the remainder of the current term to fill the resignations of Joe Onosko and Tom Hart.

Bill Downey – spoke regarding the recent Election and publicly acknowledged and thanked City Clerk Barnaby and her staff for their work stating that it is no accident that it is run well. Secondly, he thanked the city and DPW staff for the recent Household Hazardous Waste Day.

Seeing no one else wishing to speak, Mayor Becksted closed the Public Comment.

***Mayor Becksted called a recess and 9:10 p.m. and reconvened the meeting at 9:15 p.m.***

## **XI. PUBLIC HEARING AND VOTE ON ORDINANCE AND/OR RESOLUTIONS**

### Public Hearings and Adoption of Resolution:

- A. Resolution Pursuant to RSA 72:28-c The City of Portsmouth Hereby Adopts a Tax Credit for Combat Service in the Amount of \$500.00 to Be Subtracted Each Year from the Property Tax on the Qualifying Residential Real Estate, as Defined in RSA 72:29 II, of Any Qualifying Service Member During that Taxable Period

**Councilor Kennedy moved to adopt Tax Credit for Combat Service resolution as presented, seconded by Councilor Huda.**

**Mayor Becksted read the legal notice and opened the public hearing:**

Josh Denton, Commander, VFW Post 168 – thanked the Portsmouth Firefighters for the Veteran's Day Breakfast as well as Mayor Becksted and those Councilors able to attend the Veteran's Day Service. He requested the Council support the Tax Credit for Combat Service and reviewed the current tax credits available stating that this will fill a void for those who didn't qualify for those other credits. He stated that this has been reviewed by the legal department and Assessor and it will realistically not have a high cost to the City but will be appreciated by those who qualify.

Melanie Spears – supports the tax credit resolution as a previous service member and explained that some people don't qualify for the regular credits and this is crucial to those individuals.

**Seeing no one else wishing to speak, Mayor Becksted closed the public hearing.**

**Motion passed.**

## **XII. MAYOR BECKSTED**

1. Appointments to be Considered:

- Abigail Gindele appointment to the Conservation Commission as an Alternate
- Jacob Lehoux appointment to the Economic Development Commission
- James Hewitt appointment to the Planning Board
- Greg Mahanna appointment to the Planning Board
- Effie Malley appointment to the Sustainable Practices Blue Ribbon Committee
- Thomas Rossi appointment to the Zoning Board of Adjustment

The aforementioned appointments were considered and will be voted at the December 6, 2021 City Council meeting.

2. Appointments to be Voted:

- Hawk Furman appointment to the Audit Committee (2 year term)
- Christopher White appointment to the Audit Committee (3 year term)

**Councilor Kennedy moved to appoint Hawk Furman (2 year term) and Christopher White (3 year term) to the Audit Committee, seconded by Councilor Huda.**

Assistant Mayor Splaine stated he will not be voting in favor of the appointments as he feels these appointments should be made by the incoming Council.

**Motion passed on a 7-2 roll call vote. Assistant Mayor Splaine and Councilor Lazenby voted opposed.**

3. Purple Heart Community

Mayor Becksted explained that there is no cost involved except for signage which the Elks Lodge will pay if this is adopted. He stated he will reach out to Purple Heart recipients to acknowledge at the next meeting with a Proclamation.

**Councilor Kennedy moved that the City of Portsmouth become a Purple Heart Community and that a Proclamation be prepared for the December 6, 2021 City Council meeting. Seconded by Councilor Trace and voted.**

4. Holiday Lights Contest

Mayor Becksted announced there will be a Holiday Light Contest again this year through the Citywide Neighborhood Blue Ribbon Committee. He stated that there will be 3 category winners of \$500.00 gift cards from Ricci Lumber, Lowe's and Home Depot and thanked them for their donations. Details of the contest will be available on the city website.

### **XIII. CITY COUNCIL MEMBERS**

#### **A. ASSISTANT MAYOR SPLAINE**

1. "Downtown Parking/Portsmouth Outdoors"

Assistant Mayor Splaine stated a resident has requested that the 15 minute pickup spaces be kept in place.

**Assistant Mayor Splaine moved to send the request to the Parking and Traffic Safety Committee for a report back after January 1, 2022, seconded by Councilor Lazenby.**

City Manager Conard explained that when COVID started, take-out pick-up became the life blood of the restaurants but now we are at a different stage of the pandemic and the restaurant community has expressed strong support to remove the 15 minute spaces as they are not being utilized as intended. She stated that Parking and Traffic Safety does currently regulate these spaces.

Assistant Mayor Splaine stated that other businesses have requested them as well for package pickup.

**Motion passed.**

2. Portsmouth Police Commission Vacancy – That the candidate who received the most votes for the Police Commission election on November 2, 2021 be appointed until the end of 2021

**Assistant Mayor Splaine moved that the 2 candidates who received the most votes for the Police Commission election on November 2, 2021 be appointed until the end of 2021 (filling the vacancies of recently resigned Commissioners Joseph Onosko and Thomas Hart), seconded by Councilor Trace.**

Mayor Becksted stated that we have had this happen 5 times in recent history and requested that the process begin to change this requirement in the Charter. He feels that it will be good for the new Commissioners to begin sooner than later.

**Motion passed.**

#### **B. COUNCILOR WHELAN**

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the October 7, 2021 meeting

**Councilor Whelan moved to accept and approve the action sheet and minutes of the October 7, 2021 Parking and Traffic Safety Committee. Seconded by Councilor McEachern and vote 7-2. Councilors Kennedy and Huda voted opposed.**

2. McIntyre Update

Councilor Whelan stated the subcommittee met today at 3:00 p.m. with the National Parks Service and Russell Prescott of the Principle Group. He stated it was a productive meeting and a there was a consensus of Proposals 8 and 9 which includes building over the post office. He stated the National Parks Service was receptive to this and gave the ok to further develop the proposals and submit more detailed drawings. He stated that there have been items in the press that they were opposed to building over the post office but that is not true. He stated that there will be a meeting on November 18, 2021 with Michael Kane. He stated that the community plan with the shed concept is the one that National Park Services will probably approve with building over the post office.

**C. COUNCILOR KENNEDY**

1. Cemetery Committee

**Councilor Kennedy moved to pass first reading and have second reading and a public hearing on December 6, 2021, for the creation of an ordinance to have a cemetery committee in Portsmouth, NH, seconded by Councilor Huda.**

Councilor Kennedy stated that the Cemetery Committee has a lot of momentum and feels that Blue Ribbon Committees can sometimes get lost. She stated a lot of people want to participate and contribute.

**Motion passed.**

**D. COUNCILOR HUDA**

1. The Final Unaudited FY21 Budget Surplus/Deficit Amounts by Budget Unit for Year Ended 6/30/21
  - Police
  - Fire
  - Municipal
  - School

Councilor Huda stated that this information was not available for inclusion with the packet but has since been provided.

2. Professional Service Audit Contract of 7/22/21 with Melanson

**Councilor Huda moved for a report back from the City Manager to the residents and the Council: Fieldwork Audit Work Dates listed as October 25<sup>th</sup> to October 28<sup>th</sup>, 2021, please advise of the status of the work and the results at this time, seconded by Councilor Kennedy and voted.**

3. Monthly Financial Summary Report Month Ending September 30, 2021 – 25% of Fiscal Year

| <u>Fiscal Year</u> | <u>September</u>       |
|--------------------|------------------------|
| <b>FY22</b>        | <b>\$10,926,992.00</b> |
| <b>FY21</b>        | <b>\$ 7,865,009.00</b> |
| <b>FY20</b>        | <b>\$ 7,603,595.00</b> |
| <b>FY19</b>        | <b>\$ 7,325,391.00</b> |

Councilor Huda moved for a report back from the City Manager to the residents and the Council: please define and describe the areas that make up the highest increase in September spending in 4 years of \$3,061,983.00 from September FY21. (See data below taken from the September 2021 Monthly Report), seconded by Councilor Kennedy and voted.

City Manager Conard clarified that this information was provided to the Council this evening and will be added as an informational item at the December 6, 2021 Council meeting.

**XIV. APPROVAL OF GRANTS/DONATIONS**

Councilor Kennedy moved to approve Grants/Donations Items A-H. Seconded by Councilor McEachern and voted.

- A. Violence Against Women Act (VAWA) Grant for the Police Department – \$25,025.00  
*(Sample motion – move to approve and accept the grant for the Portsmouth Police Department in the amount of \$25,025.00 as presented)*
- B. ICAC Apple Equipment Donation Sub-Grant for the Police Department – \$9,737.00  
*(Sample motion – move to approve and accept the equipment donation sub-grant award for the Police Department in the amount of \$9,737.00 as presented)*
- C. Bulletproof Vest Grant - \$7,160.86 *(Sample motion – move to approve and accept the grant award for the Police Department in the amount of \$7,160.86 as presented)*
- D. Donation to the Portsmouth Police Department from Paul Lapanne - \$5.00 *(Sample motion – move to approve and accept the donation for the Police Department in the amount of \$5.00 as presented)*
- E. Acceptance of Donations to the Skateboard Park:
  - Amy Mae Court - \$396.00
  - Andrew Bagley - \$121.00
  - Nicholas Eaton - \$150.00
  - Amy Buntel - \$250.00
  - Anna Nuttall - \$300.00
  - Mark Gianniny, Jr. - \$160.00
  - Kevin Anderson - \$410.00

- Kristopher Loranger - \$200.00  
***(Sample motion – move to approve and accept the donations as presented)***

F. Acceptance of Donations to the Portsmouth NH 400

- Kevin Perkins - \$100.00
- Kathleen Somssich - \$1,000.00  
***(Sample motion – move to approve and accept the donations as presented)***

G. Acceptance of Donation to the Portsmouth Public Library from Serhii Havrylenko - \$10.00 ***(Sample motion – move to approve and accept the donation in the amount of \$10.00 as presented)***

H. Acceptance of Grant from Great Bay Resource Protection Partnership - \$2,425.00 ***(Sample motion – move to approve and accept the grant from Great Bay Resource Protection Partnership in the amount of \$2,425.00 as presented)***

**XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION**

**A. CITY MANAGER CONARD**

1. Borthwick Easements

**Councilor Lazenby moved to authorize the City Manager to finalize and accept the easements due to the City of Portsmouth from Borthwick Forest LLC. Seconded by Councilor Tabor and voted.**

2. 64 Vaughan Mall LLC License and Easement Requests

**Councilor Lazenby moved to authorize the City Manager to negotiate and execute the Development Agreement with 64 Vaughan Mall, LLC regarding the installation of sidewalks, improvements and reconfiguration of parking spaces in the Worth Lot, installation of sidewalks along Hanover Street and improvements to the Vaughan Mall, as presented, seconded by Councilor Tabor.**

**Assistant Mayor Splaine moved to suspend the rules to allow Steve Wilson to answer questions from the Council. Seconded by Councilor Tabor and voted.**

Mayor Becksted stated that the purpose/intent of this project has changed in regards to the use of the building and will that impact on what is being voted on today.

Mr. Wilson stated he is negotiating with a single user and there are no changes to the façade or site plan, just a change to the internal use. He stated that they will be improving the sidewalks, etc. which will benefit all.

Councilor Trace stated the sidewalk will be good for the building and asked about the change to the top floor use.

Mr. Wilson stated that are abandoning the balconies but may be requesting a rooftop deck and bar and will have to go to the Historic District Commission, but that is a part of their proposal.

Councilor Kennedy asked where they will all park.

Mr. Wilson stated they have 21-22 spaces on Hanover and will be leasing spaces at the Hanover parking garage.

**Motion voted.**

**Councilor Lazenby moved to authorize the City Manager to accept and execute the Community Space easement in a form substantially in conformance to the attached. Seconded by Councilor Tabor and voted.**

3. Temporary Construction License Extension for 205 Market Street

**Councilor Lazenby moved that the City Manager be authorized to waive the license fee, and execute and accept the temporary construction license extension with a 30 day term to encumber the sidewalk with pass through staging at 205 Market Street as requested, seconded by Councilor Lazenby.**

Councilor Kennedy stated she is concerned that the area be maintained to ensure clearing of snow and ice.

City Manager Conard stated that this would be in the agreement.

**Motion voted.**

4. Access Easement for Water Services at 1338 Woodbury Avenue

**Councilor Kennedy moved to authorize the City Manager to accept an access easement for water services over land at 1338 Woodbury Avenue from Woodbury Avenue Cooperative Inc. (Tax Map 237, Lot 70). Seconded by Councilor McEachern and voted.**

## **XVI. CONSENT AGENDA**

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

- A. Letter from Linda Carter, Big Brothers Big Sisters of New Hampshire, requesting permission to hold the 13<sup>th</sup> Annual Stiletto Sprint on Saturday, September 24, 2022 from 1:00 p.m. – 4:00 p.m. **(Anticipated action – move to refer to the City Manager with Authority to Act)**
- B. Letter from Freddy Petrone, I Got Bridged Team, requesting permission to hold the 2<sup>nd</sup> Annual Bridge-a-thon on Sunday, September 11, 2022 **(Anticipated action – move to refer to the City Manager with Authority to Act)**

- C. Letter from Jeff Kamensky, The Music Hall, requesting permission to close Chestnut Street on November 18<sup>th</sup> at 5:00 p.m., November 19<sup>th</sup> at 4:00 p.m., and November 20<sup>th</sup> at 2:00 p.m. for the Warren Miller Ski Films (***Sample motion – move to refer to the City Manager with Authority to Act***)

**XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. Presentation Re: Noise Assessment Findings Along I-95 and Spaulding Turnpike Corridors by Jonathan Evans from NH DOT (*Previously addressed*)

- B. Email Correspondence

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

- C. Request of Restoration of Involuntary Merged Lots – 77 Meredith Way

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

- D. Petition to Limit Truck Traffic on Peverly Hill Road

**Councilor Kennedy moved to refer to the Parking and Traffic Safety Committee for a report back, seconded by Councilor McEachern.**

Councilor Trace stated that this was brought forward at the last meeting and was referred to a report back by the Public Works Director.

Public Works Director Rice stated they were asked to investigate but a report back hasn't been completed yet. He stated he was going to bring it to the Parking and Traffic Safety Committee first but there will not be a December meeting so it won't be until January 2022.

***Motion voted.***

- E. Memorandum from Police Commission regarding Police Commissioners' Vacancies (*No action needed*)

**XVIII. CITY MANAGER'S INFORMATIONAL ITEMS**

***(There are no items under this section of the agenda)***

**XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING**

Councilor Kennedy stated she has recently been made aware of some issues with people with disabilities and parking in the downtown area and is concerned that there have been policy changes that they aren't aware of.

**Councilor Kennedy moved to receive a report back at the December 6, 2021 Council meeting regarding recent parking patrol issues for persons with disabilities and any related policy changes. Seconded by Councilor Huda and voted.**

Mayor Becksted stated he will be bringing holiday parking forward at the next Council meeting.

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

**At 10:00 p.m., Councilor Kennedy moved to adjourn. Seconded by Councilor Huda and voted.**

Respectfully submitted by:

Valerie A. French  
Deputy City Clerk