

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, AUGUST 6, 2018

PORTSMOUTH, NH
TIME: 7:00PM

I. CALL TO ORDER

Mayor Blalock called the meeting to order at 7:10 p.m.

II. ROLL CALL

PRESENT: Mayor Blalock, Assistant Mayor Lazenby, Councilors Roberts, Pearson, Dwyer, Denton, Perkins, Raynolds and Becksted

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

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

V. ACCEPTANCE OF MINUTES – JULY 9, 2018

Councilor Perkins moved to accept and approve the minutes of the July 9, 2018 City Council meeting with minor amendment correcting the date of the meeting on page 3 of the minutes to July 9, 2018. Seconded by Assistant Mayor Lazenby and voted.

VI. PUBLIC COMMENT SESSION

Wes Tator said a year ago the City Council passed a Resolution in support of Carbon Fee and Dividend. He explained the meaning behind the Resolution. He said the country is following us and are up to 100 cities that have passed the Resolution and climbing. He said 1,900 homes are at risk by 2045 on the seacoast and putting dams up and restoring land will only partially solve it. We need to recognize the urgency of this and raise our voices and take action. He spoke to a book "Rising" which is a series of glimpses of what it is like to be living in some of our most targeted places in Maine, Massachusetts and Rhode Island.

Kathy Bergeron said National Night Out will be held tomorrow August 7th from 5:00 p.m. to 8:00 p.m. She said that this has been held for the last twenty years and there are 17 neighborhoods participating this year. She said for more information go to the Citywide Neighborhood Facebook page.

VII. PUBLIC HEARINGS & VOTES ON ORDINANCES AND/OR RESOLUTIONS

- A. First reading of Ordinance amending Chapter 7, Article IV, Section 7.402 regarding the Foundry Place Garage Designation

Councilor Denton moved to pass first reading and schedule second reading and a public hearing at the August 20, 2018 City Council meeting, as presented. Seconded by Councilor Pearson.

Councilor Denton said he would like to see a space in front of the Foundry Place Garage for a food truck to be located.

Motion passed.

Councilor Becksted recused himself from all discussion and votes regarding the following Ordinances regarding 105 Bartlett Street Rezoning.

- B. PUBLIC HEARING - 105 BARTLETT STREET – PART 1.A. (CONTINUED FROM THE JULY 9, 2018 CITY COUNCIL MEETING)
- AMENDMENTS TO ARTICLE 4, SECTION 10.440 TABLE OF USES;
 - AMENDMENT TO THE CHARACTER-BASED ZONING BUILDING PLACEMENT SECTION 10.5A42;
 - AMENDMENTS TO THE CHARACTER-BASED ZONING INCENTIVE OVERLAY DISTRICT SECTION 10.5A46
 - AMENDMENTS TO THE CHARACTER-BASED ZONING REGULATION PLAN MAPS (MAPS 10.5A21A) TO CHANGE TAX MAP 157 LOTS 1 AND 2 FROM OFFICE RESEARCH (OR) TO CHARACTER DISTRICT 4 WEST END (CD4-W_ AND A PORTIION OF TAX MAP 164 LOT 4 FROM OR AND TRANSPORTATION CORRIDOR (TC) TO CD4-W
 - AMENDMENTS TO THE CHARACTER-BASED ZONING REGLATION PLAN MAPS (MAPS 10.5A21B) TO EXTEND THE WEST END OVERLDAY DISTRICT AND ADD NEW BUILDING HEIGHT STANDARDS FOR TAX MAP 157 LOTS 1 AND 2 AND A PORTION OF TAX MAP 164 LOT 4;
 - AMENDMENT TO ARTICLE 15 DEFINITIONS SECTION 10.1530
- **PRESENTATION**

Planning Director Walker said this will rezone a portion of 105 Bartlett Street. She spoke to part of the parcel being owned by Clipper Traders, LLC, Ricci Lumber & Hardware and Pan Am Railroad. She stated the zoning petitioner has entered into an agreement with the railroad to subdivide the property which would require re-zoning and they want to redevelop the property. Planning Director Walker said currently the front portion of the property abutting Bartlett Street is zoned CD-4W with the remaining zoned OR out to Maplewood Avenue and there is a corridor along the railroad. She stated the boundary of the property extends out to Langdon Street. She spoke to some issues the City Council wanted input from City staff which she is providing a summary of the input and said it captures the themes raised from the last Council meeting. She reported existing land use regulations do adequately address issues. She said zoning currently drafted requires a minimum of open space and natural resources with the a requirement of open space being 25% of the site and if the developer wants to take advantage of incentives to allow for further density, 20% would be dedicated community space with deeded public access. She said the zoning amendment is consistent with master plan goals with access to water areas, reinforces environmental protections in wetlands, flooding and soils. She said this preserves open space and natural resources along with balancing economic and public benefits with neighborhood impacts. She said it also considers the neighborhood access to North Mill Pond path.

Planning Director Walker said the area within 100 – 250 feet of the North Mill Pond tide line does have additional regulations and will help guide the development, wetlands and natural resources. She stated any development within 100 feet of the shoreline would require a permit from NH DES and a wetland conditional use permit. She spoke to the 250 protected shore land and additional permits that are required in the area. She said the Planning Board is looking at revising the flood plan and requirements, and they will be doing that on a citywide basis. She informed the Council that there is a sewer line that runs through the property and would require a 20 foot no build easement. She spoke to the active rail corridor that would connect to Maplewood Avenue.

Planning Director Walker said the staff recommendation would be to pull the CD4-L1 District all the way to Dover Street extending 80 feet to the edge of the railroad property and run parallel to the sewer easement. She said they would also change CD4-L2 to CD4-L1 to limit the type of uses to residential uses with slightly commercial. She said a number of height areas for the buildings currently exist, the site is zoned CD-4W and height is 3 stories for maximum of 45 feet and you could go up to 4 stories or 55 feet. She stated the neighborhoods felt it was not compatible with existing heights. Planning Director Walker said the staff is recommending extending the height area all the way along Langdon Street to Salem Street on water side 20 feet with a density incentive maximum of 30 feet on the railroad side extending all the way to Dover Street 20 feet maximum height with 30 feet density. She stated the other side would remain unchanged.

Planning Director Walker said the staff considered overall mass and scale of buildings in CD-4W and a limited footprint would only be able to be 20,000 square feet within 250 feet of the North Mill Pond. She spoke to another change which was to add public view corridors extending Dover Street, Cabot Street, Cornwall Street and Langdon Street. She said they are adding Cornwall Street and will not extend all the way to the water and will not impact the current property located on Cornwall Street.

She addressed reducing minimum ground story height to 9 feet. She said they would allow ground story parking if a liner building is provided where the building fronts on a public or private street. She said they removed residential parking incentive and clarified requirements for North Mill Pond multi-use path. In addition, they also added to open views and require a 30 ft. minimum separation of buildings if footprint is greater than 2,500 square feet in CD4-L1. She stated that staff is recommending all the proposed changes and which address some concerns raised by the public.

Below is a summary of Revision to July 9th Draft:

- a) Part 1B – Amend the Character Districts and Civic Districts Map (10.5A21A) to change the proposed Character District designation from CD4-L1 to CD4-L1
- b) Parts 1A and 1B – Amend the Character Districts and Civic Districts Map (10.5A21A) to change the portion of the property located between Cabot and Salem Streets and bound by the railroad tracks and the North Mill Pond shoreline and the portion of the property located between Dover and Salem Streets and bound by the railroad tracks and a line parallel to the 10' northwest of the City sewer line from CD4-W to CD4-L1
- c) Part 1B [NOTE: Only done in conjunction with item B above] – Amend Building Height Standards Map (10.5A21B) to reduce the maximum building height for buildings located between Salem and Cabot Streets in the revised CD4-L1 District to 1-Story / 20 feet
- d) Part 1B [NOTE: Only done in conjunction with items A & B above] – Amend the Table in Section 10.5A46.10 Incentives to Development standards by modifying proposed footnotes 1 and 2 (allowing for a maximum building footprint of 3,500 and a maximum building block length

- of 100') to apply to both the CD4-L1 and CD4-L2 districts
- e) Part 1B – Amend Section 10.5A42 to add a view corridor requirement at Cornwall Street
 - f) Part 1B – Amend the Table in Section 10.5A46.10 Incentives to Development Standards by modifying proposed footnote 1 to require 30' minimum separation between individual buildings in CD4-L1/L2 if the building footprint is greater than 2,500 square feet
 - g) Part 1A – Amend Incentives to Development Standards to limit the maximum building footprint to 20,000 SF within 200 feet of the North Mill Pond for properties in the CD4-W District
 - h) Parts 1A and 2 – Amend the Incentives to Development Standards by modifying the proposed ground story parking provision with required liner building to apply to both public and private streets. Remove requirement for the liner building to be designed as a shopfront for commercial space. This amendment was previously included in Part 2, recommend moving to Part 1A.

Scope of Planning Board Review

Zoning Amendment

- Consistency with Master Plan
- Consistency with General Purpose and Intent of Zoning Ordinance

Subdivision Approval

- Properly dispersed development
- Protection of natural drainage systems and flood areas
- Location and design of streets, open spaces
- Compliance with engineering standards
- Traffic circulation and parking
- Provisions for public safety

Site Plan Review Approval

- Safe and orderly site development
- Sustainable design, ecological integrity
- Protection of natural resource systems, water quality
- Stormwater management
- Protect abutters from hazards, unsightliness, nuisances
- Adequacy of infrastructure
- Traffic and circulation
- Historic and cultural character

• CITY COUNCIL QUESTIONS

Councilor Denton asked what the square feet from east and west of Dover Street. Planning Director Walker said 2,500 maximum building foot print and square foot with density bonus foot print of 3,500.

Councilor Perkins asked about allowing parking between buildings. Planning Director Walker said we require a large gap between the buildings.

Councilor Reynolds asked in order to take the density bonus the developer would need to provide significant community space which would provide for the North Mill Pond path. Planning Director Walker said community space is deeded public access. She said creation of the path is in the Master Plan and the path would be a gateway along the North Mill Pond.

Councilor Perkins said she would like outdoor dining and would it require a change to the table.

Councilor Pearson asked about the 3-D model and viewing the changes. Planning Director Walker said that she could work on that for third reading.

Councilor Dwyer said access to the greenway is a concern. She said the ordinance suggest legal and physical access to the public way. She said access from the neighborhood is desirable and zoning makes every effort if possible to allow for the access. She asked if drive thru's are allowed.

Councilor Roberts spoke regarding the restrictions for a liner building. Planning Director said the drive way would be limited and most of the site would be a street.

- **PUBLIC HEARING SPEAKERS**

Councilor Denton moved to reopen the public hearing. Seconded by Assistant Mayor Lazenby and voted.

Mike Fidell, railroad, said they have not exercised a fence clause in 32 years.

Todd Baker supports the zoning change and said zoning should be flexible and Portsmouth needs more housing in the community. He stated that higher density should be required closer to the downtown.

Elizabeth Bratter said she would like the City Council to accept the revisions presented by the Planning Department. She said that flooding to the area will increase over time and how the water travels. She stated outdoor dining is an issue and noise from that will travel over the water into the neighborhoods. Ms. Bratter requested that a sound level study be done when the train goes through the area.

Melissa Doer said she is thankful for the work by the Planning Department on the revisions. She said the changes that have been made help with current neighborhoods and future neighborhoods. She spoke to the green way and its benefit and asked how the community will access the green way. She said she supports the development.

Liza Hewitt said she is concerned with the rezoning request. She said she brought waste clinker and asked how the City could justify people living on a coal waste area. She feels it would endanger people's lives.

Betty Schmidt thanked the City Council and is happy with changes but is concerned with building height. She would like to know the total height in feet with incentives. She stated there is no affordable housing with this project. She said there is no increased access to the North Mill Pond from McDonough Street. Ms. Schmidt said the City should put the project on hold to find out about flood plain areas. She also said the City may want to consider a bigger green space.

Susan Frohn said the area is not appealing and supports the development. She said it is a realistic good proposal and people want to come and enjoy the North Mill Pond.

Sean Dick said the West End has been neglected and needs this development. He said he supports the green way and said it is a perfect space.

Tom Dennis spoke in support of the zoning proposal and said the green way will be much needed. He said it would create a much needed buzz to the area. He said the Planning Board had a site walk and two public hearings and would like the City Council to support the project.

Wes Tator said he supports the project and looks forward to walking the green way. He said the staff and Planning Board has met the challenges with this project and this is a great development.

Bill Valway said the project is exciting and he supports the development.

Joe Caldarola addressed the process followed and said it is ideal and would like the City Council to approve the process.

Mr. Terry thanked the City Council and Planning Board for addressing all the matters with this proposal. He is looking forward to having access to the water front. He said in order to get the project right we need to get the zoning right.

Doug Pinciario said there has been a phase I site review for environmental matters and the results were supportive of the project. He reported that the coal clinker is not considered a contaminant by the DES. He stated the property will be sold and developed whether it is by Clipper Traders, LLC or not. Mr. Pinciario said they have listened to the residents and Planning Board and have made concessions for the development.

Tim Phoenix said the development team appreciates the care of the City Council, Planning Board, Director Walker and staff on the process. He said the Master Plan speaks to Portsmouth Listens and priorities and housing was number 1. He said the team would like to get to third reading this evening.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Raynolds move to close the public hearing. Seconded by Assistant Mayor Lazenby and voted.

Councilor Perkins moved to incorporate the Planning Department staff's suggested revisions into Part 1A. Seconded by Councilor Raynolds.

Councilor Roberts said he is concerned with the height for the middle section. Planning Director Walker said with the density incentive it could go up to 55 feet. Councilor Roberts said he would support the rezoning because of the comments made in support.

Motion passed.

Councilor Raynolds moved to pass second reading of the proposed amendments Part 1A, as amended and schedule third and final reading for August 20, 2018 City Council meeting. Seconded by Councilor Perkins.

Councilor Perkins moved to amend the ordinance by making two changes to the use table to allow in CD-4W outdoor drinking and dining to a permitted use. Seconded by Councilor Raynolds.

Councilor Dwyer said she feels this is a bad idea. She said the reflective sound across the water would have an impact to the neighborhood. She said we need to think about what is happening to another neighborhood. She stated she supports a conditional use permit by following through the process.

Councilor Denton said he feels a conditional use permit is fair.

Councilor Perkins said she has made the motion and feels there is a shortage of outdoor spaces to enjoy. She stated she would be open to a recommendation from staff.

Councilor Roberts said he supports the conditional use permit process.

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

Mayor Blalock said he supports the process and feels it would be a good development. He also spoke in favor of the zoning changes.

Assistant Mayor Lazenby returned the gavel to Mayor Blalock.

Assistant Mayor Lazenby said the public has been engaged in the process and the process improved from the beginning. He said staff has made information available to read. He stated he would like to pass third and final reading this evening.

Mayor Blalock said a suspension of the rules would need to happen for third reading.

Councilor Roberts said it was not the best way for the developer to have a project and then change the zoning. He said there are other areas that will come up and he would like staff to think about that.

On a roll call 2-6, motion to amend the ordinance by making two changes to the use table to allow in CD-4W outdoor drinking and dining to a permitted use failed to pass. Councilor Perkins and Raynolds voted in favor. Assistant Mayor Lazenby, Councilors Roberts, Pearson, Dwyer, Denton and Mayor Blalock voted opposed.

Assistant Mayor Lazenby moved to suspend the rules to take up third and final reading this evening. Seconded by Councilor Perkins.

Assistant Mayor Lazenby said it feels right to him to move forward with the ordinance and take up third and final reading this evening.

On a roll call 1-7, motion to suspend the rules to take up third and final reading this evening failed to pass. Assistant Mayor Lazenby voted in favor. Councilors Roberts, Pearson, Dwyer, Denton, Perkins, Raynolds and Mayor Blalock voted opposed.

Motion to pass second reading of the proposed amendments Part 1A, as amended and schedule third and final reading for August 20, 2018 City Council meeting passed.

C. PUBLIC HEARING – 105 BARTLETT STREET – PART 1.B. – *(Continued from the July 9, 2018 City Council meeting)*

PART 1.B. – ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE – PETITION FOR RE-ZONING OF 105 BARTLETT STREET (PROPOSED CHARACTER DISTRICT 4-L2)

- AMENDMENTS TO THE CHARACTER-BASED ZONING INCENTIVE OVERLAY DISTRICT SECTION 10.5A46;
- AMENDMENTS TO THE CHARACTER-BASED ZONING REGULATION PLAN MAPS (MAPS 10.5A21A) TO CHANGE A PORTION OF TAX MAP 164 LOT 4 OR AND TRANSPORTATION CORRIDOR (TC) TO CD4-L2; AND

- AMENDMENTS TO THE CHARACTER-BASED ZONING REGULATION PLAN MAPS (MAPS 10.5A21B) TO EXTEND THE WEST END OVERLAY DISTRICT AND ADD NEW BUILDING HEIGHT STANDARDS FOR A PORTION OF TAX MAP 164 LOT 4

- **PRESENTATION**

Presentation was made under Part 1.A. for all three ordinances.

- **CITY COUNCIL QUESTIONS**

There were no questions by the City Council.

- **PUBLIC HEARING SPEAKERS**

Mayor Blalock opened the public hearing and called for speakers.

Elizabeth Bratter said 4-L2 is not what you are voting on.

Planning Director Walker explained that it is reflected correctly on the Council agenda.

Assistant Mayor Lazenby moved to close the public hearing. Seconded by Councilor Perkins and voted.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Perkins moved to incorporate the Planning Department staff's suggested revisions into Part 1.B. Seconded by Assistant Mayor Lazenby and voted.

Councilor Perkins moved to pass second reading of the proposed amendments Part 1.B., as amended and schedule third and final reading for August 20, 2018 City Council meeting. Seconded by Councilor Dwyer and voted.

D. PUBLIC HEARING – 105 BARTLETT STREET – PART II – (*Continued from the July 9, 2018 City Council meeting*)

PART II. – ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE – PETITION FOR RE-ZONING OF 105 BARTLETT STREET (HOUSEKEEPING)

- AMENDMENTS TO CHARACTER-BASED ZONING DEVELOPMENT STANDARDS SECTION 10.5A41;
- AMENDMENTS TO CHARACTER-BASED ZONING BUILDING FORM AND FACADES SECTION 10.5A43;

- AMENDMENTS TO CHARACTER-BASED ZONING COMMUNITY SPACES SECTION 10.5A45
- **PRESENTATION**

Presentation was made under Part 1.A. for all three ordinances.

- **CITY COUNCIL QUESTIONS**

Councilor Roberts asked about the 9 foot first story. Planning Director Walker said it provides flexibility and does not provide an active front street. She said this would be only in the overlay district and is more appropriate with first floor parking.

- **PUBLIC HEARING SPEAKERS**

Mayor Blalock opened the public hearing and called for speakers. With no speakers Mayor Blalock asked for a motion to close the public hearing.

Councilor Denton moved to close the public hearing on Part 2 of re-zoning of 105 Bartlett Street. Seconded by Assistant Mayor Lazenby and voted.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Assistant Mayor Lazenby moved to incorporate the Planning Department staff's suggested revisions into the Part 2. Seconded by Councilor Dwyer and voted.

Councilor Reynolds moved to pass second reading of the proposed amendments Part 2, as amended and schedule third and final reading for August 20, 2018 City Council meeting. Seconded by Councilor Dwyer and voted.

Councilor Dwyer said that this has been a challenge for Site Review. She said she would like a mechanism that some of the concerns of the City Council get relayed to the Planning Board. She said we need to track those.

Planning Director Walker said she would provide the concerns to Site Review with a list back to the City Council as informational.

Mayor Blalock called a brief recess at 9:00 p.m. Mayor Blalock called the meeting back to order at 9:07 p.m.

E. PUBLIC HEARING – PARKING OMNIBUS

ORDINANCE AMENDING CHAPTER 7 – PARKING OMNIBUS

Mayor Blalock read the legal notice.

- **PRESENTATION**

Parking Manager Eby provided a brief presentation on the amendments to the Parking Omnibus Ordinance. He stated that the parking amendments were in a trial phase over the last year. He outlined each change for the City Council.

- **CITY COUNCIL QUESTIONS**

Councilor Becksted asked how many parking spaces are being eliminated with these proposed changes. Parking Manager Eby said less than 6 spaces.

Councilor Becksted said he wants to make sure that we charge to recover costs for electricity use for electric vehicles.

- **PUBLIC HEARING SPEAKERS**

Mayor Blalock opened the public hearing. With no speakers, Mayor Blalock declared the public hearing closed.

Councilor Roberts moved to pass second reading and schedule third and final reading at the August 20, 2018 City Council meeting. Seconded by Councilor Denton.

Councilor Denton moved to amend Item K Chapter 7, Article XVIII – Electric Vehicle Charging Stations and Election Vehicle Stations and Election Vehicle Parking Spaces Regulations Section 7.1802 and Section 7.1803, as presented. Seconded by Assistant Mayor Lazenby.

Councilor Denton said this amendment includes Foundry Place and the High Hanover Parking garages and requires signage that is highly visible.

Councilor Dwyer said most people using the stations will be traveling here.

Councilor Becksted said he is concerned with costs.

City Manager Bohenko said we can charge an administrative fee to cover the costs.

Planning Director Walker said the costs per station was somewhere between \$5,000.00 to \$6,000.00.

Motion to amend passed.

Main motion passed as amended.

Councilor Denton indicated that the Electric Vehicle Car Show will be held on Sunday, September 9, 2018 beginning at 12:00 p.m. He said a number of organizations will be participating and asked if the City could have a booth with staff to speak to things that we are doing as a City as it relates to renewable energy.

F. PUBLIC HEARING – BONDING RESOLUTION

RESOLUTION AUTHORIZING A BOND ISSUE AND/OR NOTES OF UP TO SIX HUNDRED THOUSAND DOLLARS (\$600,000.00) FOR THE ACQUISITION OF ONE FIRE APPARATUS

• **PRESENTATION**

Fire Chief Achilles informed the City Council that this apparatus is 20 years old and needs replacement.

• **CITY COUNCIL QUESTIONS**

Councilor Roberts asked if the apparatus was a custom design vehicle. City Manager Bohenko said fire apparatus are built to order. Councilor Reynolds asked is the custom design because of our downtown garage. Fire Chief Achilles reiterated what City Manager Bohenko said and stated that they are built to order.

PUBLIC HEARING SPEAKERS

Mayor Blalock opened the public hearing. With no speakers, Mayor Blalock declared the public hearing closed.

Councilor Pearson moved to adopt the Resolution, as presented. Seconded by Councilor Dwyer.

• **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

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

G. PUBLIC HEARING – BONDING RESOLUTION

RESOLUTION AUTHORIZING A BOND ISSUE AND/OR NOTES OF UP TO FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) FOR COSTS RELATED TO FISCAL YEAR 2019 SCHOOL FACILITIES IMPROVEMENTS

- **PRESENTATION**

School Business Administrator Bartlett said on a tri-annual basis upgrades and improvements are made to the High School. He spoke to the various improvements that will be taking place.

- **CITY COUNCIL QUESTIONS**

Councilor Reynolds said upgrades to the lighting would make it more energy efficient.

Councilor Becksted said the upgrades to the athletic complex are needed.

School Business Administrator Bartlett said all the improvements are necessary.

- **PUBLIC HEARING SPEAKERS**

Mayor Blalock opened the public hearing. With no speakers, Mayor Blalock declared the public hearing closed.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Becksted moved to adopt the Resolution, as presented. Seconded by Assistant Mayor Lazenby.

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

H. PUBLIC HEARING – BONDING RESOLUTION

RESOLUTION AUTHORIZING A BOND ISSUE AND/OR NOTES OF UP TO EIGHT MILLION NINE HUNDRED THOUSAND DOLLARS (\$8,900,000.00) FOR COSTS RELATED TO CITY STREET, SIDEWALK AND FACILITY IMPROVEMENTS

- **PRESENTATION**

Public Work Director Rice said that this bond covers 8 different projects:

*Fire Station One Renovation
Prescott Park Facilities Capital Improvements
Outdoor Pool Upgrade
City Hall Complex Electrical Upgrades
Citywide Bridge Improvements
Longmeadow Road Extension
Peeverly Hill Road Improvements
Market Street Gateway Improvements*

- **CITY COUNCIL QUESTIONS**

Councilor Becksted asked if the in-bound lane for Market Street would be one lane. Public Works Director Rice said that he worked with Granite State Minerals and they made sure that the lane would work for the trucks traveling into the business.

City Manager Bohenko said that we could refer this to Parking & Traffic Safety Committee for further review.

Councilor Becksted said he would like to remove the \$1,700,000.00 in funding for the Market Street Gateway Improvements.

Public Works Director Rice informed the City Council that the design for the project has been completed.

Councilor Becksted said he feels more time is needed before proceeding with this project.

Councilor Roberts said we could take this up at the Parking & Traffic Safety meeting.

- **PUBLIC HEARING SPEAKERS**

Mayor Blalock opened the public hearing.

Paige Trace spoke in support of the Fire Department Station One improvements, outdoor pool improvements and improvements to Prescott Park. With no further speakers, Mayor Blalock closed the public hearing.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Assistant Mayor Lazenby moved to adopt the Resolution, as presented. Seconded by Councilor Roberts.

Councilor Becksted moved to remove the \$1,700,000.00 in funding for the Market Street Gateway Improvements. No second to the motion was received.

Councilor Becksted said he supports the upgrades but does not support the Market Street improvements.

On a roll call 8-1, voted to adopt the Resolution, as presented. Assistant Mayor Lazenby, Councilors Roberts, Pearson, Dwyer, Denton, Perkins, Raynolds and Mayor Blalock voted in favor. Councilor Becksted voted opposed.

I. PUBLIC HEARING – BONDING RESOLUTION

RESOLUTION AUTHORIZING A BOND ISSUE AND/OR NOTES OF THE CITY UNDER THE MUNICIPAL FINANCE ACT AND/OR PARTICIPATION IN THE STATE REVOLVING FUND (SRF) LOAN OF UP TO TWO MILLION SEVEN HUNDRED THOUSAND DOLLARS (\$2,700,000.00) RELATED TO WATER LINE REPLACEMENTS AND WATER SYSTEM PRESSURE AND STORAGE IMPROVEMENTS

• **PRESENTATION**

Engineer Desmarais said that the pipes need to be replaced and would be done during the planned capital projects. The funds cover the cost for the improvements and would provide for better water flow and pressure.

• **CITY COUNCIL QUESTIONS**

Councilor Raynolds asked how many miles of water replacement does the cost get us. Engineer Desmarais said the water system is a 1% replacements or 1.5 miles.

• **PUBLIC HEARING SPEAKERS**

Mayor Blalock opened the public hearing and called for speakers. With no speakers, Mayor Blalock closed the public hearing.

• **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Councilor Dwyer moved to adopt the Resolution, as presented. Seconded by Councilor Roberts.

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

J. PUBLIC HEARING – BONDING RESOLUTION

RESOLUTION AUTHORIZING A BOND ISSUE AND/OR NOTES OF THE CITY UNDER THE MUNICIPAL FINANCE ACT AND/OR PARTICIPATION IN THE STATE REVOLVING FUND (SRF) LOAN OF UP TO ONE MILLION SIX HUNDRED THOUSAND DOLLARS (\$1,600,000.00) FOR COSTS RELATED TO CONSENT DECREE MITIGATION, STREET RECONSTRUCTION, AND ANNUAL SEWER LINE REPLACEMENTS

- **PRESENTATION**

Engineer Desmarais provided a brief presentation on the following projects:

Consent Decree Mitigation
Union Street Reconstruction
Annual sewer Line Replacement

He outlined the various improvements that would take place.

- **CITY COUNCIL QUESTIONS**

Councilor Raynolds asked about the low pressure area at Sagamore Creek and if we are eliminating some homes that are septic system. Engineer Desmarais said that project is for FY20 and would take some homes off of septic.

- **PUBLIC HEARING SPEAKERS**

Mayor Blalock opened the public hearing and called for speakers.

Paige Trace said that the \$400,000.00 is for the planning of the project on Sagamore Creek and asked if we were going to require that the residents pay to hook up to the line and come off of their septic systems. She said that the residents should not have to pay for that as it is a requirement of the City and they should incur the costs.

City Manager Bohenko said anything that is done on recouping costs would come to the City Council. If we charge back we would bring the matter back to the Council.

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

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATION**

Councilor Perkins moved to adopt the Resolution, as presented. Seconded by Assistant Mayor Lazenby.

Councilor Becksted said water and sewer went up and it is part of the rate model.

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

VIII. APPROVAL OF GRANTS/DONATIONS

A. Acceptance of Police Department Grant and Donations:

- Acceptance of Grant from the NH Department of Safety regarding opioid-related drug use and trafficking - \$35,000.00
- Acceptance of Donation from Donahue, Tucker & Ciandella, PLLC in support of the Portsmouth Police Explorer Cadets - \$300.00
- Acceptance of Donation from the Wentworth-Coolidge Commission, Inc., in support of the Portsmouth Police Explorer Cadets - \$100.00

Councilor Perkins moved to approve and accept the grant and donations to the Portsmouth Police Department. Seconded by Assistant Mayor Lazenby and voted.

IX. CONSENT AGENDA

- A. Request for License to Install Projecting sign from Seth Bordonaro, owner of Vieux Port for property located at 85 Daniel Street (***Anticipated action – move to approve the aforementioned Projecting Sign License 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***
- B. Request for License to Install Projecting sign from Namrata Idnani, owner of Raleigh for property located at 67 State Street (***Anticipated action – move to approve the aforementioned Projecting Sign License 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***

- C. Request for License to Install Projecting sign from Cynthia Ross, owner of Gelato Fiasco for property located at 142 State Street, Unit 150 (***Anticipated action – move to approve the aforementioned Projecting Sign License 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***

- D. Request for License to Install Projecting sign from Eric Goodwin, owner of Lure for property located at 100 Market Street, Unit 102 (***Anticipated action – move to approve the aforementioned Projecting Sign License 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 Perkins moved to adopt the Consent Agenda. Seconded by Assistant Mayor Lazenby and voted.

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATION & PETITIONS

- A. Email Correspondence

Councilor Perkins moved to accept and place on file. Seconded by Assistant Mayor Lazenby and voted.

- B. Letter from Tim Sylvester regarding spending funds and high real estate taxes

Councilor Perkins moved to accept and place on file. Seconded by Assistant Mayor Lazenby and voted.

- C. Letter from Antje Bourdages & Barbara Massar, Pro Portsmouth, Inc. requesting the City of Portsmouth provide \$3,000.00 in funding to be the official sponsor of the fireworks for First Night

City Manager Bohenko recommended to use \$3,000.00 from the Contingency Fund and support the fireworks for First Night.

Mayor Blalock passed the gavel to Assistant Mayor Lazenby.

Mayor Blalock moved to support funding \$3,000.00 from Contingency Fund for First Night Fireworks. Seconded by Councilor Perkins and voted.

Assistant Mayor Lazenby returned the gavel to Mayor Blalock.

- D. Letter from Stephen Pamboukes requesting the temporary, partial closure of a portion of Vaughan Street for the East Community Motorcycle Show between 11:00 a.m. to 10 p.m., on Saturday, September 22, 2018

City Manager Bohenko recommended referring this request to him with power.

Councilor Perkins moved to refer to the City Manager with power. Seconded by Councilor Denton and voted.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

Due to the hour being after 10:00 p.m. all items under the City Manager's name are Consent Agenda unless one is pulled off the agenda for action separately.

A. CITY MANAGER

1. Approval of AIDS Response Seacoast Lease (***Anticipated action – move to authorize the City Manager to enter into the proposed lease with AIDS Response Seacoast for property at 7 Junkins Avenue as presented and further, authorize the City Manager to execute the Lease***)
2. Request to Approve Fundraising Re: Clough Field Irrigation (***Anticipated action 0 move to grant permission to fundraise for the Clough Field irrigation***)
4. Request for First Reading of Boarding House Ordinance (***Anticipated action – move to authorize the City Manager to bring back for first reading a proposed amendment to the Boarding House Ordinance at the August 20, 2018 City Council meeting***)

Assistant Mayor Lazenby moved to adopt the City Manager's Consent Agenda Items, as presented. Seconded by Councilor Perkins and voted.

3. Naming of Library Lobby in Memory of Mary Ann List

Mayor Blalock passed the gavel to Assistant Mayor Blalock.

Mayor Blalock said he supports the naming of the Library Lobby in memory of Mary Ann List. He said she was an amazing lady that deserves this honor.

Mayor Blalock moved to name the Portsmouth Public Library Lobby in memory of Mary Ann List and be named "The Mary Ann List Lobby." Seconded by Councilor Dwyer and voted.

Assistant Mayor Lazenby returned the gavel to Mayor Blalock.

5. Workforce Housing Covenant

Planning Director Walker said that this would be 2 housing units for workforce housing.

Councilor Becksted said that this will be the first workforce housing in the City through a covenant and asked if this is a standard that would be held.

City Attorney Sullivan said that this was a little different and the two units and owner was not clear what he was offering and looked to in the future that covenants would be required.

Councilor Becksted said this maybe out for most future developments.

Planning Director Walker said that this is a starting point.

Councilor Dwyer said this would not always use a covenant in the future and we can't over generalize this.

Councilor Becksted said he attended the meetings of the Planning Board and spoke regarding the covenant.

Planning Director Walker said this is a covenant entered into between the City and developer. She said this is about one property in zoning.

Councilor Dwyer said that this is particular to zoning and it is not all the same.

Councilor Perkins moved to authorize the City Manager to enter into the Workforce Housing Covenant, as presented. Seconded by Assistant Mayor Lazenby and voted.

6. Request for First Reading Re; Exemption for Solar Energy Systems

City Manager Bohenko said whatever the easement is would be the exemption the person would receive.

Councilor Denton moved to bring back for first reading a proposed Resolution regarding an Exemption for Solar Energy Systems at the August 20, 2018 City Council meeting. Seconded by Councilor Roberts.

Councilor Denton thanked City Manager Bohenko for checking on this exemption with the City Assessor. He said he had brought forward for an amendment and address the wind solar and wood powered. He asked if he worked with City Attorney Sullivan he would like to have it back for the next meeting.

City Manager Bohenko said let's look at what you are asking. He said we would have these go through separately.

Motion passed.

City Manager's Informational Items

1. *Events Listing*
2. *Campus Drive Recreation Fields*
3. *News Release Re: FY19 Public Facility and Accessibility Improvements Grant Program*
4. *Memorandum from City Attorney Robert Sullivan Re: Planning Board Residency Issues Raised by Mark Brighton*
5. *Memorandum from Deputy City Manager Nancy Colbert Puff Re: McIntyre Update*

Councilor Roberts asked about the funding for the Campus Drive recreation fields. He said the amount was 10% for engineering and asked why it was not presented.

Assistant City Manager Moore said the City Council asked for additional research on policy options and going to the Recreation Board with a report back to the City Council. He reported the costs are up to five million.

City Manager Bohenko said because the length of time we have been waiting we would share it as a recreation item. He spoke to the items that will be part of the project such as concession stand and bathroom facilities.

Councilor Becksted said that he asked City Attorney Sullivan if he still stands by his original decision and an analysis on his decision regarding Planning Board appointments. City Attorney Sullivan said he made attempts to reach out to Deputy Secretary of State Dave Scanlan but he was unavailable. Councilor Becksted said in the RSA or in the ordinance book does it say anything about residents on the Planning Board. City Attorney Sullivan said his memorandum outlines his opinion and he stands by it.

Councilor Dwyer said 12 years ago when she served on the Planning Board she served with Donald Coker who questioned her role and voting power on the Planning Board. She said Shaheen, Phinney and Basses Attorneys were very clear with the City and our structure that she acted as an ex officio and members could serve and there would be no questions. She said it is the ex officio point of appointment and the RSA that are ambiguous.

Councilor Perkins said that she trusts the City Attorney's opinion of the law.

Councilor Becksted said if we continue on our current role does that open us up to litigation and a possible law suit. He said as City Councilor's we all took an oath to uphold the laws of the City of Portsmouth and the State of New Hampshire.

Mayor Blalock asked who would be the authority to make a ruling on this matter. City Attorney Sullivan said a judge. He said we are waiting for a response from the Attorney General's office.

Assistant Mayor Lazenby cited RSA 673:2 and outlined our membership. He asked City Attorney Sullivan how are we able to presently operate with what RSA 673:2 cites regarding membership. City Attorney Sullivan said the statute reads "may" not "shall."

Councilor Roberts said he would be interested in hearing what the Attorney General has to say regarding this matter. He suggested that staff maybe over represented on the Board by having two staff members.

Councilor Becksted asked if the Attorney General rules against us are we open to a law suit. City Attorney Sullivan said there is always a possibility of litigation.

B. MAYOR BLALOCK

1. FY20 Budget

Mayor Blalock said he would like to change how the budget is done and create a Committee of the Whole. He suggested holding two work sessions to discuss the FY20 budget, one on October 29th and the second on November 28th at 6:30 p.m. City Manager Bohenko said we would provide the City Council with preliminary numbers and the Police and Fire Department would come on one night to discuss their needs and wants for FY20. He said this would start the process earlier and have all City Council on the Committee.

Councilor Perkins moved to establish Monday, October 29, 2018 and Wednesday, November 20, 2018 at 6:30 p.m. as work sessions to commence the budget discussions for FY20. Seconded by Assistant Mayor Lazenby and voted.

Assistant Mayor Lazenby moved to suspend the rules in order to continue the meeting beyond 10:30 p.m. Seconded by Councilor Denton and voted.

2. Resignation of Ronald Cypher from the Parking & Traffic Safety Committee

Councilor Roberts moved to accept with regret the resignation of Ronald Cypher from the Parking & Traffic Safety Committee and to send Mr. Cypher a letter of thanks for his service to the City. Seconded by Councilor Dwyer and voted.

3. Appointments to be Considered:

- Ralph DiBernardo appointment as a Regular member to the Parking & Traffic Safety Committee
- Stephen T. Pesci appointment as Alternate member to the Parking & Traffic Safety Committee
- Mary Lou McElwain reappointing to the Parking & Traffic Safety Committee
- Harold Whitehouse reappointment to the Parking & Traffic Safety Committee
- J. Stephen McCarthy reappointment to the Building Code Board of Appeals

The City Council considered the appointments listed above which will be voted on at the August 20, 2018 City Council meeting.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

A. Legislative Subcommittee Report

- Summary of Legislative Subcommittee's recommendations to the City Council regarding NHMA's Final Policy recommendations for Legislative Police Conference

Assistant Mayor Lazenby moved to accept all the NHMA Legislative Policy Recommendations as written, except General Administration and Governance Action Policy Recommendation #4.

Councilor Dwyer said we had City staff speak with us on some of these items.

Motion passed.

Councilor Dwyer said that in some communities building plans have been withheld under the right to know. She said people want to have building plans exempt and not out in the public. She said her building plans are out and it is different with construction drawings and safety factors are a concern like safes or alarm systems.

Councilor Becksted said he does not see something that should not be available to the public.

Motion passed.

Assistant Mayor Lazenby asked about information on the McIntyre project and whether we have a deadline for a design. Deputy City Manager Colbert Puff said we hope to have a design this week.

Councilor Becksted asked if the flex space at the Foundry Garage is being offered to the Post Office. Deputy City Manager Colbert Puff said that the Post Office has engaged a realtor.

XIII. ADJOURNMENT

At 10:45 p.m., Councilor Pearson moved to adjourn. Seconded by Assistant Mayor Lazenby 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, CMC, CNHMC
City Clerk