

CITY COUNCIL MEETING

Public Dialogue Session – One Table – March 2, 2020

All members of the City Council were present for the session.

Robin Hussledge said she and her neighborhood have heard nothing regarding the Neighborhood Parking Program. She spoke to the loss of parking spots throughout the neighborhood. She requested a status update on the parking program.

Councilor Whelan said that the Parking, Traffic and Safety Committee will be discussing the Neighborhood Parking Program at an upcoming meeting.

Mayor Becksted said he would like to look at the program and make some changes.

Councilor Whelan said he feels similar to Mayor Becksted and will provide more information soon.

City Manager Conard said that Mayor Becksted and Public Works Director Rice will meet on this matter.

Assistant Mayor Splaine said the next meeting of the neighborhood will be in late March.

Robin spoke on the Pan Am Railroad noise and idling of the trains. She addressed the hazards associated with the idling of trains and the noise pollution it causes. She asked that a representative on the City Council work on this matter.

Assistant Mayor Splaine said the idling is a major issue and the neighborhood group will work on the issue.

Harold Whitehouse spoke regarding artificial turf and the need to think of those playing on the field. He said it is not safe and does not care what other communities do. He said he wants to see a natural turf used.

Tony Coviello said he supports artificial turf fields and said it is about access and kids don't have access to fields and we need new fields. He spoke to the large demand for fields and said that natural turf will not allow for the use as an artificial turf would. He spoke to the limited playing time on natural turf. He advised the City Council that there is misinformation regarding artificial turf and that they need to rely on the experts when seeking information.

Councilor Tabor said in March and April it is important to get the play time in. He said he would like to hear from staff on this matter and if there is a way to get natural grass installed in time

Public Works Director Rice said Weston and Sampson representatives are here to speak to artificial turf versus natural grass.

Councilor Kennedy asked to address how you clean the artificial turf. Mr. Noonan, of Weston and Sampson spoke regarding working on both types of fields. He reported that the grass fields would not be accessible until later in the year and those that have hours of use are in poor shape. He stated that detergent is not used to clean the fields, rather sweeping of the fields is done.

Councilor Huda asked about heat stress on the artificial turf. Mr. Noonan said you do not play on the fields when it is extremely hot and you would not play on a natural field under those conditions as well.

Byron Matto spoke regarding the McIntyre and the Non-Public Session meetings held. He said we need to know as a public what we are asking and does it include suggested impact fees.

Councilor Kennedy said she would like to bring them forward from the Planning Board.

Councilor Whelan said because we are under intent of lawsuit that the Council is working hard and meeting with Redgate/Kane. He spoke to three legal letters coming forward on the McIntyre.

Ian Troost spoke to why use of artificial turf and turf fields provide more use and opportunities for kids. He said the maintenance of a grass field is difficult and takes a great deal of time and commitment. He spoke to the cost benefits of an artificial turf field.

Dave MacDonald said there is some contradiction of documents on the website relative to the McIntyre. He asked if we have the ground lease agreement in any form available to be reviewed.

Deputy City Manager Colbert Puff said there is a draft form of the lease as part of the application dated December 3rd.

The City Council asked for the draft lease dated December 7th be made available on the website.

Lief Harbor, Rye, works with a children's hospital and tests for cancer as part of his job. He said the cancer patterns are not coming from playing on fields. He said the Dutch have studies for types of fields and the kids are not breathing in harsh substances that cause cancer. He stated it is too hasty to say that you need to test all kids using artificial turf fields versus grass.

Recreation and Athletic Director Wilson said one grass field will not provide the playing fields and time we need. He would always take the artificial turf field over grass fields. He spoke to the artificial field being used at the High School and there are rules regarding the temperatures you are allowed to play on the field. He spoke to a recent roof top at a Boston Children's Hospital using crumb rubber for their new constructed playground area for children.

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, MARCH 2, 2020

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

II. CALL TO ORDER

Mayor Becksted called the meeting to order at 7:05 p.m.

III. ROLL CALL

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

IV. INVOCATION

Mayor Becksted asked for a moment of silent prayer.

V. PLEDGE OF ALLEGIANCE

Mayor Becksted led in the Pledge of Allegiance.

PRESENTATION

1. Draft Great Bay Total Nitrogen General Permit

Deputy City Attorney Woodland and City Engineer Desmarais provided a brief overview and road map of what will be covered during the presentation. Deputy City Attorney Woodland said in order to maintain and improve water quality permit regulations you look at what is discharged from the facilities. She stated the permit limits what the discharge from the pipe is and are operating under the limits on discharge of nitrogen with an impact on stormwater. She said it has non-point sources combination which is an advantage. She spoke to limits and the MS4 permit that regulates discharge of stormwater.

City Engineer Desmarais spoke to the estuary as a whole and the wide load target. He said the total annual nitrogen load target is 100 kilograms/hectare-year. He address structure and reported the following:

- Annual Water Quality Testing Paid by Communities
 - City Responsible for ~30% of Costs
 - No Ability to Adjust Scope and no End
- Robust Program
 - Head of Tide (River Inputs)
 - Continuous Data Sondes Estuary Wide
 - Benthic Organisms and Sediment Surveys
 - Eelgrass Mapping
 - Program Management and Reporting
- Costs estimated >\$1M Annually
 - Portsmouth \$300k to \$500k annually

Deputy City Attorney Woodland said a decision on whether to do a peer review with each of the 12 communities to date have requested a review.

Councilor Kennedy asked City Engineer Desmarais where we are in terms of target. City Engineer Desmarais said we are not meeting the numbers right now and the real challenge is to get to the point where the treatment plant could meet the levels. Councilor Kennedy asked where the CSO's are. City Engineer Desmarais said they are separate from this.

Councilor Trace said reading the permit the CSO's still need to be reported in a designated time frame. She said nitrogen load versus the stormwater abatement program. She read that we had an option to use it if you were not meeting the nitrogen load and that could help with credit towards nitrogen.

City Engineer Desmarais said in terms of permits sets limits that you cannot exceed the stormwater can be offset by treatment.

Councilor McEachern asked about monitoring costs for the 30% in terms of the nitrogen we are expelling into the bay.

Councilor Lazenby said the gap on 100% is that scale. City Engineer Desmarais said the study of the treatment plan is at 70%. He further stated the study is a measured exercise. Councilor Lazenby asked if there would be tracking on this matter. City Engineer Desmarais said yes.

Councilor McEachern asked why Maine is not included in this. City Engineer Desmarais said Maine is a delegating state and the Environmental Protection Agency has a different process.

Councilor Trace asked if we would see a reduction in nitrogen with the upgrades of the plant at Pease. City Engineer Desmarais said we need to look at what level we design to.

VI. ACCEPTANCE OF MINUTES – JANUARY 21, 2020

Assistant Mayor Splaine moved to accept and approve the minutes of the January 21, 2020 City Council meeting. Seconded by Councilor Kennedy and voted.

VII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORT

There is no recognitions and volunteer committee reports this evening.

VIII. PUBLIC COMMENT SESSION

John Ragonese spoke on the bidding and contracting for artificial turf. He said he would like to see the City Council approve the bid process for artificial turf. He spoke to the artificial fields in Spain which there are many that are all over 20 years old. Mr. Ragonese urged the City Council to install the fields with the use of artificial turf.

Craig Welch, Portsmouth Housing Authority spoke to affordable housing provided in the City and the need for more. He reported that there are over 700 families on the waiting list. He spoke to the housing project on Court Street and how that would serve many families in the City.

Tara Kennedy said the City Council puts boards and commissions in place to provide information an asked that the Council trust the recommendations regarding the use of artificial turf.

Tony Coviello said driving by the stump dump is a lack of doing a job to fund the field and now the new version came forward, you have heard from consultants, departments and the City Manager and City groups that all want artificial turf. He asked the Council to get the work done.

Kathy Lynch spoke in favor of the artificial turf field. She has some experience with grass fields over the years with the Portsmouth Little League and the difficulties in using them in adverse weather. She said the play season is significantly impacted by late in the season. Ms. Lynch said every three years you need to remake the fields. She said you must let the fields rest for 6 to 8 weeks and late summer and fall.

Zelita Morgan spoke regarding former City Manager Bohenko's contract and asked if there will be a report on the work and scope of work that is being given to him. She feels he should be enjoying his retirement and it is time to move on. She would like to see the City Council look into the number of consultants and who they are, what they're making and the projects they're working on. Ms. Morgan also spoke in favor of grass fields and suggested having high school students maintain the fields.

Ted Jankowski said he hopes that the Council has reviewed the information provided by him and spoke to the session held last year on artificial turf versus natural fields. He spoke to playability time on natural fields versus artificial turf. He reported that waste from artificial fields are recyclable in Denmark.

Tracy Stewart spoke in support of natural fields and said engineer grass can be on-line in the same time as artificial turf. She reviewed the information from the consultants and gave her opinion regarding the use of crumb rubber.

Valerie Rochon, Chamber of Commerce, spoke regarding supporting local businesses and events that are enjoyed by the community. She has a 7 person full time staff that works with marketing and tourism. She spoke to the grant the City has supplied in support of tourism.

Byron Matto spoke to impact fees and suggested that they are not a remedy. He also spoke regarding affordable homes in the City and the current number of vacant homes. He stated that a change in zoning would be impactful and suggested the Council consider that for the future.

IX. PUBLIC DIALOGUE SUMMARY

Councilor Kennedy gave a brief summary of the topics discussed during the Public Dialogue Session which were McIntyre and Turf Fields.

Councilor Kennedy requested that the December 7, 2019 version of the Ground Lease be placed on the website for the public to review.

Councilor McEachern moved to suspend the rules to take up Item XIV. A.3. – Direction Re: New Athletic Fields. Seconded by Councilor Tabor and voted.

XIV. A.3. Direction Re: New Athletic Fields

City Manager Conard spoke to bidding the project by the end of this month. She spoke to the study which shows fields are safe for use. She reported that bids would look at alternate natural materials for fields. She stated staff will bring back the choice of infill and bring forward the matter of wastewater treatment facility. She advised the Council to date \$507,000.00 has been spent on the project.

Councilor Lazenby moved to direct the City Manager to proceed with bidding the current design for synthetic turf fields, with bid alternates related to the type of infill. Seconded by Councilor McEachern.

Councilor Tabor said he would like to fill the gap we have for playing fields. He said we are in need of additional fields and we should move forward.

Councilor Kennedy said is there a study to look at grass fields by the City. She said some parents are concerned with artificial turf and that needs to be considered. She said currently the numbers are 50% in favor and 50% opposed to the project.

Recreation and Athletic Director Wilson said a needs study recommended the City install 3 to 4 artificial turf fields because that would equal 8 to 12 grass fields. He spoke to the artificial field at the high school and said that was the best decision the City made to install that field. The field is used 16 hours a day year round. He provide statistics on the number of artificial fields in the State and said every ivory league school uses artificial turf and currently UNH is installing a new artificial turf field. He urged the City Council to move this matter forward and support the installation of artificial turf.

Councilor Trace said there are people that are afraid to come forward because of the passion you have for artificial turf fields. She said we need to see and hear from families on both sides of this issue and they cannot feel intimidated.

Councilor McEachern asked about the process if we don't bid by the end of March we don't get the fields. She said does bidding compel us to move forward with the project. He said you don't want to put it out and then pull the project back. He said you can do bid alternates and award the contracts. He asked what other infill will be put in the bid. Public Works Director Rice said walnut shell and chrumbrubber.

Councilor Lazenby said he appreciates the input and the last session and the input has been going on for years. He said many people have put a great deal of time and effort into this matter. He said natural turf has environmental impact in maintaining and argue that is not as good for our environment. He stated there are people that said we need to trust in our boards. He said it is time to move forward with this project.

Councilor Kennedy asked Public Works Director Rice has there been a report done on the turf versus natural fields. Public Works Director Rice said an evaluation that was done on fields and their work supported the decision to move forward. Councilor Kennedy asked about walnut shells and other information to provide to residents. She asked if we could put in the RFP on disposal that the person that puts the field in would need to remove it at the end of its life cycle. Public Works Director Rice said many things change in the life cycle of the field.

Deputy City Attorney Woodland said she reviewed the bid documents and said you do not want to separate the field and wastewater treatment facility in terms of disposal. She said they are different vendors and the disposal would be a different price. She said things change a great deal over time.

Assistant Mayor Splaine said he wanted to revisit the artificial turf versus natural fields. He said we have learned a lot in the last 50 years.

Tracy Stewart spoke to the need for grass professional on natural turf and maintenance.

Councilor McEachern said he would like to see bid alternates more around the life cycles and understand the crumb rubber. He said he is glad that we have brought the PFAS issue into the conversation.

Mayor Becksted passed the gavel to Assistant Mayor Splaine.

Mayor Becksted thanked everyone coming out on this issue. He said we have spent \$500,000.00 on the discussion of this matter. He said we have not added a field in the last 37 years. He stated we do not have the room or capacity to add grass fields. Mayor Becksted asked the City Council to approve this and give the City what it has been begging for.

Assistant Mayor Splaine return the gavel to Mayor Becksted.

Assistant Mayor Splaine said he wants to see more playing fields and we can't compare apples with oranges and the natural grass fields done correctly will be used more than hundred times per year.

Councilor Kennedy said she feels there are many concerns and what we are putting in a request for proposals.

Councilor Kennedy moved to bring the original motion back at the March 16, 2020 City Council meeting and have information on this matter placed on the website in a usable format. Seconded by Assistant Mayor Splaine.

Councilor Kennedy said she would like the matter of disposable put into the request for proposals. She said we are still meeting the deadline.

Public Works Director Rice said we would come back on selection of final material.

Councilor Kennedy said once we put the bid out we are saying we are ready to move forward. She asked if alternate infills will be put in the bid.

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

Councilor Trace requested exact specifications on the number of fields the City would like to have and there locations with a report back from staff on the feasibility on the Route 33 location being a natural grass field along with the cost associated.

Public Works Director said it was not part of this approach but is part of the Capital Improvement Plan in 2026.

Councilor Lazenby spoke in favor of moving ahead with the project.

Councilor Whelan said the money is in the budget.

On a roll call 5-4, voted to pass the original motion to direct the City Manager to proceed with bidding the current design for synthetic turf fields, with bid alternates related to the type of infill. Councilors McEachern, Lazenby, Tabor, Trace and Mayor Becksted voted in favor. Assistant Mayor Splaine, Councilor Whelan, Kennedy and Huda voted opposed.

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

Public Hearing and Adoption of Elderly Exemption

A. RESOLUTION AND ADOPTION OF ELDERLY EXEMPTION

- **PRESENTATION** (*Presentation was held at the February 18, 2020 City Council meeting*)
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Assistant Mayor Splaine left the dais for the discussion and vote on this matter.

City Manager Conard said the presentation was given at the February 18, 2020 Council meeting.

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

Councilor Tabor moved to adopt the Elderly Exemption, as presented. Seconded by Councilor Whelan and voted. Assistant Mayor Splaine recused from the vote.

B. RESOLUTION AND ADOPTION OF DISABLED EXEMPTION

- **PRESENTATION** (*Presentation was held at the February 18, 2020 City Council meeting*)
- **CITY COUNCIL QUESTIONS**
- **PUBLIC HEARING SPEAKERS**
- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

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

Councilor McEachern moved to adopt the Disabled Exemption, as presented. Seconded by Councilor Kennedy and voted. Assistant Mayor Splaine recused from the vote.

XI. MAYOR BECKSTED

1. Appointments to be Considered:
 - Reappointment of Barbara McMillan to the Conservation Commission
 - Reappointment of William Townsend to the Peirce Island Committee
 - Reappointment of John Simon to the Peirce Island Committee

- Appointment of Kara Rodeneizer to the Portsmouth Housing Authority
- Reappointment of Robin Pickering to the Portsmouth Housing Authority – Resident Member
- Appointment of David Cosgrove to the Citywide Neighborhood Committee
- Appointment of Mark Syracuse to the Citywide Neighborhood Committee

The City Council considered the reappointments and appointments that will be voted on at the March 16, 2020 City Council meeting.

2. Reappointments to be Voted:
 - Reappointment of Lisa Louttit to the Peirce Island Committee
 - Reappointment of Richard Smith to the Peirce Island Committee
 - Reappointment of Francesca Fernald to the Peirce Island Committee
 - Reappointment of Harold Whitehouse to the Peirce Island Committee
 - Reappointment of John McVay to the Peirce Island Committee
 - Reappointment of Marc Stettner to the Peirce Island Committee
 - Reappointment of Steven Marison to the Peirce Island Committee
 - Reappointment of Stephen Philp to the Peirce Island Committee

Councilor Kennedy moved to approve all the reappointments to the Peirce Island Committee until December 31, 2021. Seconded by Councilor McEachern and voted.

XII. CITY COUNCIL MEMBERS

A. COUNCILOR McEACHERN

1. Creation of Subcommittee Re: Align Tourism Interest for the Betterment of Portsmouth

Councilor McEachern moved the creation of a Subcommittee comprised of 2 Council members and 4 members of the hospitality industry and 1 member from the Economic Development Commission selected by the Mayor with the addition of a City staff member and approved by the Council to discuss opportunities to align tourism interests for the betterment of Portsmouth with the meetings being posted and open to the public. Seconded by Councilor Kennedy.

Councilor McEachern said the hotel industry reached out on a room fee and a need to better align the City and hotels. He said it is a great step and we should continue the conversation. He said he feels that the Chamber of Commerce should be added to the Committee. He said this goes with the goal to reach out to other communities and continue the dialogue.

Assistant Mayor Splaine said that this is something that could work and a room fee would benefit them on a local basis.

Councilor Lazenby said he would recuse from the vote because he is an employee of the hotel industry.

Councilor Kennedy would like to see Economic Development Commission member be added to the Committee. She also indicated that there is no staff member from the City on the Committee and perhaps there should be.

City Manager Conard said she would to have Nancy Carmer from the staff serve on the Committee.

Councilor Trace said she offers full support with Councilor McEachern's idea.

Motion passed with Councilor Lazenby recusing from the vote.

B. COUNCILOR WHELAN

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the February 6, 2020 meeting

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

2. Request for First Reading Amendment to Designated Motorcycle Parking Area Ordinance

Councilor Whelan reported on the request by Parking, Traffic & Safety for a designated motorcycle parking area in the downtown area.

Councilor Whelan moved to bring back ordinance for first reading at the March 16, 2020 City Council meeting. Seconded by Councilor Trace and voted.

3. McIntyre Subcommittee Report

Councilor Whelan reported that two meetings of the McIntyre Subcommittee were held with Redgate/Kane and there was a 30 minute public comment session after which the Subcommittee entered into a Non-Public Session. He spoke to the goals which are open space, public benefit and reduction of mass density, protect views and bring the Post Office back.

Councilor Tabor said we are concerned with wanting to know as much as possibly but it is tricky where we are under threat of litigation. He reported that the Redgate/Kane wants them to be economical neutral.

City Attorney Sullivan said Redgate/Kane would be willing to discuss matters with the City Council as long as they do not lose economic benefit.

Assistant Mayor Splaine thanked Mayor Becksted for the work on this matter. He said he is committed to revisit McIntyre. He said this is the approach of the Subcommittee and City Council. He stated Redgate/Kane knows we need to make modifications to avoid a law suit. He said he would prefer to continue the dialogue and that a law suit not be initiated.

Mayor Becksted passed the gavel to Assistant Mayor Splaine.

Mayor Becksted said the City Council will provide all information when the City Council is able. He stated the public will be included in the process and this is still a collaboration and negotiation.

Assistant Mayor Splaine returned the gavel to Mayor Becksted.

Councilor Whelan said the Subcommittee wants to move this matter forward and work with partners on this.

Councilor Lazenby asked what the next steps are.

Councilor Whelan said schedule another meeting with Redgate/Kane and address economic neutrality.

Councilor McEachern said we want to create a time line a present that to the developer and make the public aware of the process. We want to create a process that the public could be involved with.

Councilor Trace said it has been a pleasure to work together on the Subcommittee. We remain committed to working together and with Redgate/Kane to come up with a project that provides benefits to residents of the City. She stated we need to address economic neutrality, avoid a law suit and get what we can for the City.

Councilor Tabor said the City Council is not looking to have litigation, and the best way to avoid litigation is to stay in dialogue and work on a better project.

At 9:50 p.m., Mayor Becksted called for a brief recess. At 10:00 p.m. Mayor Becksted declared the meeting back to order.

C. COUNCILOR LAZENBY

1. Motion to Rescind

Councilor Lazenby moved to Rescind the motion from the January 28, 2020 City Council meeting to “take action and not approve, we deny the current draft form of the Ground Lease dated December 7th, written for use between the City of Portsmouth and SoBow Square, LLC also known as Redgate/Kane. Seconded by Assistant Mayor Splaine.

Councilor Lazenby said he appreciates the work of the Subcommittee and after the 30 day deadline it is important to reduce risk for our taxpayers. He stated the result would not be to approve the ground lease and nothing would preclude the City Council to vote opposed to the ground lease at a later date. He would like to hear from the City Manager on this matter.

City Manager Conard said that it would be the goal of staff and City Council to avoid litigation at all cost.

Councilor Lazenby said he feels rescinding the vote would move us further away from litigation.

Assistant Mayor Splaine expressed his concerns regarding this matter.

City Attorney Sullivan said if Redgate/Kane sees things like we are working together to reach a model development and working in good faith the recession of the ground lease were to be rescinded that is a positive action and moves us further away from litigation. He said if the motion was to fail it would move us closer to a law suit.

Assistant Mayor Splaine moved to postpone the motion. Seconded by Councilor Kennedy.

Assistant Mayor Splaine said it allows to revisit this matter at another time. He stated the issue of economic neutrality he supports. He said he supports the motion to rescind but he does not know if the City Council would be willing to do that right now. Assistant Mayor Splaine said we are doing everything to be proactive and we really want to have the dialogue.

Councilor Lazenby said he appreciates where Assistant Mayor Splaine is coming from, we are not in the same place we were two weeks ago. He asked City Attorney Sullivan if a vote to rescind is being more positive. City Attorney Sullivan said a positive vote would be better. Councilor Lazenby asked the City Council to avoid a risk.

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

2. Coordinated Response to Substance Misuse – 2020 Action Plan

Councilor Lazenby provided a status update on the Coordinated Response to Substance Misuse – 2020 Action plan. He stated the funding for the work in the facility was provided by the Rotary and City of Portsmouth. He reported that 5 task forces will be meeting over the next year and some major things addressed regionally and country wide to identify what the needs are. Councilor Lazenby indicated the Steering Committee will continue to work and know that funding considers to be a challenge. He advised the City Council that Seacoast Mental Health is providing a grant in the amount of \$18,000.00.

Councilor McEachern said this is truly great work and that you received funding as an Advisory Board. Discussion followed regarding the membership and the issue of substance misuse.

D. COUNCILOR KENNEDY

1. Creation of a Policy/Procedure to state the following – Any Contract with a value of \$10,000.00 or more will come in front of the Portsmouth City Council for a vote

Councilor Kennedy said she has been bringing forward ideas to look at the budget and people are concerned with the affordability of living here. She wanted to look at other options and think of ways of saving funds and having the City Council more involved. She said she placed two items on the agenda and will be removing the impact fees. She would like to put it on right now with information written but her written information was not included into the packet. She indicated she would like boards to provide information and we will revisit it at the next meeting in March. She is asking to look at any contract with a value of \$10,000.00 or more to come in front of the City Council for a vote.

Councilor Kennedy moved to first reading at the March 16, 2020 City Council meeting to amend the current ordinance requiring any contract with a value of \$10,000.00 or more will come in front of the Portsmouth City Council for a vote. Seconded by Councilor Huda.

Councilor Kennedy said there are million going towards contracted services and we are worried. She spoke to the Executive Council looking at contracts over \$10,000.00.

Councilor Lazenby asked City Attorney Sullivan or City Manager Conard how you view the motion by Charter or Ordinance.

City Manager Conard said a report back would be done and she looks forward to sharing concerns on this matter. She said it creates issues some related to the Charter and some Ordinance related. She said there is a function divide between the City Council and City Manager, between the Finance Director and City Manager to suggest the motion take effect would be an issue. She indicated we understand that the Governor and Executive Councilor act under different regulations and rules from the State of New Hampshire.

Councilor McEachern said he would like to see the effects of changes in light of the work we have done.

Councilor Huda said maybe we could just approve the authorization amount by data. She said we are looking at cost expenditures for Human Resources, Planning, IT, Spinnaker Point that were for furniture and fixtures. She asked how this happened if the money was not appropriated.

Finance Director Belanger said during the budget process a resolution is adopted for the budget which is a line item budget. She indicated no department head can over expend their budget however, line items maybe over spent but the bottom line is not going over budget.

Councilor McEachern said he would like to learn about the procurement process as broadly as possible.

Assistant Mayor Splaine said Councilor Kennedy's moved to have a first reading.

Councilor Kennedy said she supports the non-interference clause and the protection to make sure that no one has 10 bosses and we need to go through the City Manager to speak with a staff member. She said she does not see any issues with voting for first reading to have a discussion and learn from other communities.

Councilor Tabor said the Executive Council and Governor is an Executive Branch and in our City the City Council is not the executive function, we are more like a legislature and dealing with the number of contracts would not be its role. He stated he would not support the approach as we are a deliberative body.

Mayor Becksted passed the gavel to Assistant Mayor Splaine.

Mayor Becksted said as we get closer to the budget and contracts to him mean consulting. He said the cost of consultants would be for the City Council to decide and he would like oversight on the larger contracts.

City Manager Conard said she hears the concerns and she would like to provide Requests for Qualifications and Requests for Proposals and bids we have in mind. She said there is a level of transparency and trust to show her as City Manager. If there is a question of a consultant we would answer those.

Councilor Trace said she understands where Councilor Kennedy and City Manager Conard are coming from the report on consultants and attorney outside fees and had nothing to do with the current City Manager it had everything to do with how the City was run last year. She stated when you look at the long list and money spent.

Councilor Kennedy said she would like to see more options and transparencies. She said the residents need to see a break in taxes and the elderly need us to raise the elderly exemption so they can stay in their homes. She would like to review the RFP's we need to find a way to not cut programs. She would like to look at every position.

Councilor Kennedy withdrew the motion and Councilor Huda agreed.

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

E. COUNCILOR HUDA

1. Discuss the Annual Budget Process for the Benefit of the Residents – Purpose, Timing, Results, and Relationship to Property Taxes

Councilor Huda discussed the budget and spoke to the City Council setting the guidelines and reviewed the process. She asked what it means if a surplus goes back into the general fund and who decides where to apply the surplus.

City Manager Conard said we could provide information and a report back at a later time.

Finance Director Belanger explained what happens with a surplus and spoke to fund balance, assigned and unassigned. She advised if you look at \$15 million essentially since 2017 through end year 2019 fund balance has been reduced by \$1.5 million. She said we have used \$16 million to offset the taxes. She indicated that you less the money and long term financial planning and if you use the fund balances by which you would then need to replenish it.

Councilor Kennedy asked why we have fund balances. Finance Director Belanger said that the government accounting you have to hold assets and liabilities and financial statements you would not have zero fund balances and this is current resources and \$15 million would not cover all liabilities in debt services if something was to happen.

Councilor Trace said each year some general fund is sent out into other specialized funds. Finance Director Belanger said general fund is where your property tax is when you have a surplus everything is under the general fund. She further stated it is in every budget work session and fund balance is voted to offset the tax rate.

Councilor McEachern said department heads provide estimates and if they are efficient it goes to fund balance. He asked if there was any way to highlight on a tax bill to show the savings.

2. Final Review and Discussion of Proposed F221 Budget Guidelines

Councilor Kennedy moved to adopt Councilor Huda's FY21 Annual Budget Guidance. Seconded by Councilor Trace.

FY21 Annual Budget Guidance

- ***To build a culture of cost management among all employees while maintaining the integrity and quality of life in Portsmouth.***
- ***To create a fy21 budget that is flat to the fy19 actual spending.***
- ***Implement zero-based budgeting. (modified model)***
- ***Where all line item expenses not associated with salaries & benefits shall start at zero and be justified by the department.***
- ***The following is the definition of zero-based budgeting:***
- ***A repeatable process that organizations use to:***
 - ***Review every dollar in the annual budget.***
 - ***Manage financial performance on monthly basis.***
 - ***Implement a culture of cost management among all employees.***
- ***To support a new financial transparency and assist the council in making informed decisions on the budget. The following format changes are requested:***
- ***All departmental expenses associated with each cost center should include all personnel & other costs associated with that cost center. The goal being too quickly identify the "total cost to run each cost center". The following is an example of this point:***
 - ***For police, add the cost center "police dept. Benefits" into the detective, general patrol, administration, etc. Not to be shown as a separate cost center.***
 - ***For the school department show each school separately & the total expense to run that school.***
 - ***To include the salaries & benefits of all employees associated with that school and the expenses related to the other instructional budgets. (I.e. art, music, tech careers, athletics, etc.)***
 - ***The administrative costs that support all schools known as "central office" should be identified separately.***
- ***As we move through the budget presentations, we request the implementation of a consistent format of prior year budget dollars you requested, the actual dollars you spent for that year, then your fy21 budget dollar request***
- ***A few cost saving opportunities are:***
- ***Implementing central purchasing that includes all city departments.***
- ***Setting a dollar limit on office supplies, miscellaneous supplies & general supplies per department.***
- ***Central purchasing of all furniture & fixtures and cell phones.***
- ***Implementing a coordinated citywide vehicle sharing program among departments, where possible.***

- ***A coordinated effort to cost share needed software security upgrades and ADA compliance requirements among various departments.***

Assistant Mayor Splaine said the guidelines are excellent and in 1971 Richard C. Levy served on the City Council with Councilor Paul McEachern and Richard was known as the levy curve to turn the budget back a bit. He said if he suggested then we would have seen more oversight and careful evaluation of the budget.

Councilor Lazenby said he has concerns on some of the items and the change for our staff and government.

Councilor Kennedy said Assistant Mayor Splaine is not the only one with history. She said Peter Weeks provided an article in 1996 regarding City Council adopted a zero base budget. She said we need to look at this problem again and make a difference on how much that we have to pay to live in the City.

City Manager Conard said we are meeting the intent with many bullets. She is concerned with bullet #2 we would need to cut services and could not achieve to meet the objective and have to make significant cuts and the City Council would need to provide guidance.

Councilor McEachern said we could look at what was submitted and bring forward two to three versions and speak to reductions in the budget to meet the objective would be significant cuts and needed guidance because we need a policy directive from the City Council.

Assistant Mayor Splaine said what if we cut the budget by 5%, what that would mean and what would be cut. He said the City Council could make decisions for entire concepts and encourage department heads to be as efficient as possible. He stated there are always ways to make cuts and the guidance is to challenge our administrators to be as efficient as possible.

Councilor McEachern said if it would be better to provide FY19 actuals.

Finance Director Belanger said the CPI going from 20 to 21 is 2.1%. She said contracts have increases over 2%.

Councilor McEachern asked would it be easier to get non-salaries and benefits adjusted to fiscal year it is a way to bring transparency to the budget process and limited to non-salaries employees and benefits.

City Manager Conard said we can show many of the scenarios and you would have all the information but understand we will show it, but not recommend it.

Councilor McEachern said we have an allocation of where the money is going.

Motion passed. Councilor Lazenby voted opposed.

XIV CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Adoption of Proposed Capital Improvement Plan (CIP) FY2021-2026

City Manager Conard said the public hearing was held on January 18, 2020 and copies of the plans were available to the public for review and the proposed budget will be made available April 24, 2020.

Councilor Lazenby moved to adopt the Capital Improvement Plan as presented. Seconded by Councilor Tabor.

Councilor Huda said she would like to see what the cost of a project makes up. She said these are all for infrastructure that need to be done.

Motion passed.

2. Proposed Resolution to Request Peer Review of the Great Bay Total Nitrogen Permit

City Manager Conard said the presentation was held on this matter and we would join the other 9 communities on the resolution. She said we have been extended for a month.

Councilor Kennedy asked what is the cost for us to join the 9 communities

Deputy City Attorney Woodland said much of the back-up shows the Committee has not engaged Hall & Associates. She said we are not joining anything we are not part of a coalition, we have common interest. She indicated we are getting Attorney Taylor it is the City Council's call.

Councilor Lazenby moved to adopt the proposed resolution to request a peer review of the draft General Permit, and advise the Governor and regulators of the request in accordance with its term. Seconded by Councilor McEachern.

Councilor Kennedy expressed concerns regarding the bay. She said she does not want to do anything to make the bay better than it is today we need to put the environment first.

Deputy City Attorney Woodland said it is based on the best interest of the bay. She said the staff is committed to the resilience of the Great Bay.

Councilor Tabor said he supports the motion and it is smart to do this.

Councilor Lazenby appreciates the manner of drafting the resolution. He appreciates looking at environment concerns.

Councilor Trace echoed Councilor Kennedy opinions.

Motion passed.

4. Council Rules – Order of Business

City Manager Conard reviewed the memorandum regarding this matter.

Assistant Mayor Splaine moved to amend Rues #7 – Order of Business as outlined in the City Manager’s memorandum dated February 27, 2020. Seconded by Councilor Whelan.

Assistant Mayor Splaine said he wants to see comments to come earlier.

Councilor Kennedy said we are still able to do presentations at first reading.

Motion passed.

XV. CONSENT AGENDA

Councilor Kennedy asked to remove Item B. – Acceptance of Easements for 60 Penhallow Street (Brick Market) from the Consent Agenda.

- A. Letter from Richard Mason, Veterans Count, requesting permission to hold the Veteran’s Count 5k Road Race on Saturday, July 4, 2020 (***Anticipated action – moved to refer to the City Manager with authority to act***)

Councilor Kennedy moved to adopt the Consent Agenda. Seconded by Assistant Mayor Splaine and voted.

- B. Acceptance of Easements for 60 Penhallow Street (Brick Market)

City Manager Conard reported on January 16, 2020, the Planning Board granted site plan review approval for an application from Dagny Taggart,, LLC for property located on Daniel Street (aka 60 Penhallow Street) for the second part of the proposed Brick Market development to construct a new four-story commercial building with a footprint of 17,200 square feet and 59,600 feet square feet of gross floor area.

She indicated this building is part of the Brick Market development project that also includes 3 Pleasant Street and 30 Penhallow Street, all of which are owned by the project proponent. The total combined lot area for these properties is 1.12 acres.

Per Section 10.5A.43.33 of the Zoning Ordinance, a development that is not located in an incentive overlay district and that contains at least one acre of lot area shall be allowed an additional story in height (up to 10 feet) if at least 20% of the property is assigned and improved as community space. The building height requirement in this zoning district is three stories or 40’. The project as approved by the Planning Board has a building height of 39’, but is four stories. Therefore, the project must include a minimum of 20% of community space, which must have permanent deeded access to the City. In November 2019, the City Council accept easements dedicating 20% of the total project area as deeded community space. No further action is required by the City Council on this item.

In addition to approval for an increase in the number of stories, the 60 Penhallow Street project was granted a conditional use permit by the Planning Board to exceed the maximum building footprint

allowed by 2,200 square feet (17,200 where 15,000 is the maximum allowed). Per Section 10.5A43.43 of the Zoning Ordinance, for a building that contains either ground floor parking, a parking garage, or underground parking levels the Planning Board may grant a conditional use permit to allow a building footprint of up to 30,000 square feet in the CD4 District if all of the following criteria are met:

- a. No story above ground floor parking shall be greater than 20,000 square feet.
- b. All ground floor parking areas shall be separated from any public or private street by a liner building.”
- c. At least 50% of the gross floor area of the ground floor shall be dedicated to parking.*
- d. At least 30% of the property shall be assigned and improved as community space required under 20.5A46.20. The size, location, and type of the community space shall be determined by the Planning Board based on the size and location of the development, and the proposed and adjacent uses.
- e. The development shall comply with all applicable standards of the ordinance and the City’s land use regulations.

**Items b) and c) apply only when ground floor parking is proposed as part of the development. In this case, the project is proposing underground parking.*

Per item d) above, the Planning Board conditional use permit approval requires an additional 10% of community space above the 20% previously approved for this project. The total community space required for this project as approved by the Planning Board is shown on the enclosed plans and is described in the enclosed easement deeds. The plan enclosed shows all of the community space areas described in the enclosed easement deeds. The plan enclosed shows all of the community space areas color-coded by community space type. As there are three separate easement deeds required.

In addition to the community space easements, the project as approved by the Planning Board includes four areas where the upper story of the building will encroach into the City’s right-of-way and therefore require an easement. These four locations are shown on the second plan enclosed.

All of the forgoing has been approved by the Planning Board and is recommended by the Planning & Legal Departments.

The City Council is required to accept any easements for which the City is a grantor or grantee.

Councilor Kennedy asked about the public benefit.

Planning Director Juliet Walker said there are two type of easements. She stated the community space easements are part of the Zoning Ordinance to receive density of the requirement in the ordinance. She spoke to conditional use permits and different types associated. She indicated the community space would have access to the open space. She said the encroachment is the overhanging and what the Historic District Commission approved to projected out into the sidewalk.

Councilor McEachern said the easement is required because of what the Historic District Commission wanted.

Planning Director Walker said it is what was approved by the Historic District Commission.

Councilor Lazenby moved to grant authority for the City Manager to accept the easement deeds and plans for community space and building encroachment in a form similar to those as provided in the City Manager's comments dated February 27, 2020. Seconded by Councilor Tabor.

Mayor Becksted passed the gavel to Assistant Mayor Splaine.

Mayor Becksted said he would not support the motion because views will be lost.

Assistant Mayor Splaine moved to allow the comments by Attorney FX Buioton. Seconded by Councilor Whitehouse and voted.

Attorney FX said we are looking at the City Council view limited and there are protections in place and not looking at defacto review. He provided context on the easement. He said it is to build footprint not for building height.

Councilor Lazenby said that is not our role to approve the project but look at the easements.

Councilor McEachern said what happens if we do not approve the easements.

City Attorney Sullivan said in other to get development benefits the developer has to come for developer would not use the.

Councilor McEachern asked if we did not accept the easements the policy decisions have been met.

FX said there is a case in Concord there was approval by Planning Board related to utilities and tried to look at reviewing the Planning Board decisions. He stated in the case there looking at the costs in the case the developer agreed to pay all the costs. He said these are standard deeds and the developer assumes all costs. He said it is something the City does and the previous City Council did.

City Attorney Sullivan said he would look up the case.

Councilor Kennedy said we are asked to vote on a grant permission for easements is community space because the developer is going beyond the map of the building.

Councilor McEachern said he does not believe our role can take into account the savings of the building or anything the Historic District Commission has approved. He is concerned with us over stepping the role of the Planning Board. He said this opens us up to a host of liability issues. He said he is concerned with City Council speaking against this process in the past and the vote was not accepted as a community benefit.

Councilor Whelan said we look at community spaces and make sure it stays open for the public spaces to be used by the public.

Mayor Becksted passed the gavel to Assistant Mayor Splaine.

Mayor Becksted said Councilor Kennedy spoke on the issue. He stated if we can be for or against something this is a large building in the center of the City.

Assistant Mayor Splaine returned the gavel to Mayor Becksted.

Councilor Trace said she spoke to the project as a citizen and she agrees with Councilor Whelan and the Planning Department and Planning Board and we may not like the decisions and accept the public benefit for the residents of the City.

Councilor Lazenby said if we vote no we are not accepting public community space.

City Attorney Sullivan said in terms of assuring the public gets to use the space the Planning Department and the Legal Department spent time on these documents and the developer is meeting the criteria of the City.

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

XVI. PRESENTTION & CONSIDERATIO OF WRITTEN COMMUNICATIONS AND PETITIONS

- A. Email Correspondence

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

- B. Letter from Steve Hillman, PHS Lacrosse Coach supports a tuft field

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

- C. Letter from Jeff Johnston regarding a reasonable hospitality tax, but disagree with legislation as it is currently proposed

Councilor McEachern moved to accept and place on file. Seconded by Assistant Mayor Splaine and voted.

XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

City Manager Conard spoke on the COVID-19 and stated she will provide a link to the CDC site and everyone is on top of this matter.

Assistant Mayor Splaine said he has been watching the information on this matter and this could be a serious issue. He stated some communities are providing local guidance and he would like the City Manager to coordinate with schools and travel policy and Fire and what Recreation there are. He said as we need to get on top of this matter as it could affect tourism and work to get a news release out.

Councilor McEachern asked if working from home could keep City staff more safe and make them aware of that.

XIX. ADJOURNMENT

At 12:15 a.m., Councilor McEachern moved to adjourn. Seconded by Councilor Whitehouse 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