

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, APRIL 20, 2020

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

Remote Meeting Via Zoom Conference Call

Per NH RSA 91-A:2 III (b) the Chair has declared COVID-19 Outbreak an emergency and has waived the requirement that a quorum be physically present at the meeting pursuant to the Governor's Executive Order 2020-04, Section 8, as extended by Executive Order 2020-5, and Emergency Order #12, Section 3. Members will be participating remotely and will identify their location and any person present with them at that location. All votes will be by roll call.

to access by web (<https://zoom.us/join>)

to access by phone, dial (929-436-2866)

Meeting ID (276 622 239)

Password (242060)

Mayor Becksted recited that this is a Remote Meeting via Zoom Conference Call. Per NH RSA 91-A:2III (b) the Chair has declared COVID-19 Outbreak an emergency and has waived the requirement that a quorum be physically present at the meeting pursuant to the Governor's Executive Order 2020-04. Section 8, as extended by Executive Order 2020-5, and Emergency Order #12, Section 3. Members will be participating remotely and will identify their location. All votes will be by roll call.

- I. **WORK SESSION – POSTPONED**
- II. **PUBLIC DIALOGUE SESSION [when applicable – every other regularly scheduled meeting] – POSTPONED**
- III. **CALL TO ORDER**

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

IV. **ROLL CALL**

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

V. **INVOCATION**

Mayor Becksted said we are taking precautionary measures for our safety.

VI. **PLEDGE OF ALLEGIANCE**

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

Councilor Lazenby moved to suspend the rules in order to take up Item XVII – Presentation by Health Officer Kim McNamara regarding COVID-19 Update and XVII B. – Presentation by Economic Development Manager Nancy Carmer regarding Economic Development matters relating to the pandemic. Seconded by Councilor Kennedy.

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

XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

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

Health Officer McNamara provided a detailed presentation regarding COVID-19. She reported that we are in the response phase and there are many unknowns. She addressed effective treatments and vaccine development for the virus. She explained that New Hampshire is in the protective surge phase and the next two – three weeks will be telling on moving forward.

Assistant Mayor Splaine thanked Kim for her work. He asked where people could receive a test and a mask. Health Officer McNamara said Senior Services Director Sullivan has been conducting a mask drive at Community Campus. She also indicated that there is limited testing for the virus. She said the general public could get tested right now if you meet the requirements for testing.

City Manager Conard said that information is available on the website and contained in the city newsletter.

Assistant Mayor Splaine spoke on what stores and organizations should do. He asked if there was any advice for the rest of us regarding receiving masks. Health Director McNamara said masks provide proper protection and people are urged to use them. City Manager Conard announced the next mask drive will be held on Tuesday from 10:00 a.m. to Noon at Community Campus.

Councilor McEachern asked Health Director McNamara if she is aware of any means to increase testing. Health Director McNamara said the Governor is working on trying to get more tests however, Massachusetts is in the throws of this right now, which makes it difficult to get tests here in New Hampshire.

Mayor Becksted urged the public to review our website and the newsletter for regular updates regarding the pandemic.

B. Presentation by Economic Development Manager Nancy Carmer regarding Economic Development matters relating to the pandemic

Economic Development Manager Carmer spoke on small businesses and what we are hearing, and our efforts in the works as well as plans for the Economic Development Commission moving forward. She reported that Portsmouth has more small businesses than Dover, Rochester and Somersworth combined. She explained that Portsmouth has 745 firms with 1-4 employees, which equals 41% of the total.

Councilor Kennedy expressed concern regarding businesses with 15 and under employees, and of that group how many have parking in the garage and are paying for parking. She would also like the list of essential businesses to be made public. City Manager Conard said that the list is available on the website.

Councilor Lazenby thanked Economic Development Manager Carmer for her hard work on this matter. He said the pay check protection plan has not reached all the businesses as of yet and we need to look at things on a federal level.

Councilor McEachern thanked the small business banks for their work on these matters.

VII. ACCEPTANCE OF MINUTES – FEBRUARY 18, 2020

Councilor McEachern moved to approve and accept the minutes of the February 18, 2020 City Council meeting. Seconded by Councilor Lazenby.

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

IX. PUBLIC COMMENT SESSION

Gerald Duffy spoke on McIntyre and expressed congratulations for getting Red Gate/Kane back to the table. He said we have 5 months to come up with a new design. He spoke to the decision making process for interim agreement would require framework on economic neutrality. He asked what the details are for the process that will be used. He also asked what the process would be for public involvement.

Sarah LaChance spoke to the potential increase in absentee voting for the upcoming elections. She understands the increase will lead to additional staffing.

Mark Brighton said we are all in this together and City management needs to give a full accounting on why we have not for lowed more staff. He said the taxpayer is providing vacation time to people who are not doing what they need to and based on that, they should be let go.

Debbie Jennings spoke against the merged lots. She said the records describe the property as a single lot. She stated the Zoning Board of Adjustment would not have allowed the variance. She indicated the previous one merged was denied by the Zoning Board of Adjustment and City Attorney Sullivan. She said several deeds described the lot as a single lot and three surveys have been completed.

Brian Wazlaw spoke regarding voting in September and November. He addressed the expansion of absentee voting which will increase the number of voters voting absentee. He stated at the last election they receive 240 absentee ballots and it took 6 hours to process. He indicated he is estimating 800 absentee ballots to process for just his Ward, which is Ward 5. He requested that City Council contact our Senators to support HB556 which would assist the City in the process of ballots.

Bernie Pelech would like to know if Thaxter Road comments would be appropriate at this time. Mayor Becksted said you can speak at this time on that matter. Attorney Pelech said this has been a long process taking over 2 years. He state the unmerging of lots was recommended by the Planning Department and Planning Board and the evidence is clear there has not been a voluntary merged lot and the burden is on the City to demonstrate that. Attorney Pelech said the lots should be unmerged.

Patricia Bagley Councilor Trace read a letter regarding keeping the City of Portsmouth running and there are many deserving, such as Kelli Barnaby and Valerie French continue to turn the wheels of governments. She said the Public Works Department pick up the trash, the Health Department continue to do an excellent job, the Police and Fire Departments allow us to feel safe every day. She thanked City Manager Conard, Mayor Becksted and the City Council for marching on and we have learned that it is what leadership should look like.

XII. MAYOR BECKSTED

1. Appointments to be Considered:
 - Reappointment of Richard Blalock to the Recreation Board

The City Council considered the reappointment which will be acted upon at the next City Council meeting.

2. Acceptance of Resignation from MaryAnn Blanchard from the Conservation Commission

Councilor Kennedy moved to accept the resignation of MaryAnn Blanchard from the Conservation Commission with regret and to send a letter of thanks and appreciation for her years of service to the City. Seconded by Councilor Tabor.

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

4. Letters to Sister/Friendship Cities on Behalf of the Mayor

The City Council thanked Mayor Becksted for sending our Sister/Friendship Cities letters of support during these trying times. No action taken.

3. Creating a Committee for Small Business & Restaurant Relief Fund

Mayor Becksted spoke regarding the establishment of a Committee "Clipper Strong Fund" for Small Business & Restaurant Relief Fund. He announced that he would have Councilors Kennedy and Tabor serve once the Committee was created. He stated he will be donating \$500.00 from his business and has 6 other companies that are matching his donation.

Councilor Kennedy spoke in support of the idea.

Councilor Tabor said discussion has taken place about creating a landing page on the website.

Councilor Lazenby spoke to the need to know what businesses have received relief funding in order to address those businesses that have not.

No action taken.

XIII. CITY COUNCIL MEMBERS

A. COUNCILOR LAZENBY

1. Considerations for more Absentee Voting in 2020 Elections

City Clerk Barnaby explained the process of Absentee Voting and reported on HB556 regarding early processing of absentee ballots. No action required.

B. COUNCILOR HUDA

1. Latest Data Re: Forecasted Economic Downturn Caused by the COVID-19 Virus

Councilor Huda motion to request an updated report to the residents and City Council from the City Manager on the current financial condition of the city on the immediate actions that the city is taking to maintain and safeguard our financial position while still providing necessary services during and after this pandemic was not acted upon.

City Manager Conard reported on the various freezes that have been put in place due to the economic downturn cause by the COVID-19 Virus. She advised the City Council that we are tracking revenue closely and we are seeing more new motor vehicle registrations. She indicated that we are encouraging timely payment for property taxes. City Manager Conard reported to the Council that the Assessor's webpage has tax relief program information available to the public. She advised the City Council the budget will be released on Friday, April 24th.

Assistant Mayor Splaine congratulated the City Council on a zero based budget when in January and February we were looking at a significant increase of 5%. He said we need to cut back on expenses and look forward to what we want for a budget going forward to 2024.

Councilor Kennedy thanked Councilor Huda for her work on the budget. She stated residents need to look at the budget and come forward and provide thoughts on what programs and services can be changed.

Mayor Becksted also thanked Councilor Huda for her work on the budget

XIV. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant for Victim of Crime Act (VOCA) to the Portsmouth Police Department

Councilor Kennedy moved to approve and accept the grant to the Portsmouth Police Department as presented. Seconded by Councilor Huda.

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

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Sidewalk Café Licenses

City Manager Conard reviewed the policy for sidewalk cafes with serving alcohol. She reported there are 4 establishments requesting permits with various departments reviewing the requests and recommending approval. She advised the City Council that we are pro-rating the fee on a per month basis.

Councilor Lazenby moved to amend its policy requirement to allow sidewalk café seasonal fees be prorated for the 2020 season; and further to authorize the City Manager to enter into Area Service Agreements with Popovers on the Square, Raleigh Wine Bar and Market, The District, and Fezziwigs Food and Fountain for outdoor alcohol service on City land for the 2020 season subject to City Council Policy No. 2012-02, and further subject to all Governor's orders relating to the COVID-19 pandemic. Seconded by Councilor McEachern.

Councilor Kennedy expressed concern with the distancing of chairs. City Manager Conard stated that would be part of the permit conditions and inspection of premises.

Councilor McEachern asked if the fee could be reduced and distancing required with less tables and chairs.

Councilor Trace indicated she supports the ratio.

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

Applications for Sidewalk Cafés providing Alcohol Service – Private Sidewalk:

City Manager Conard reviewed the operation of the establishments that provide alcohol services outside on private land.

Councilor Lazenby moved to authorize the City Manager to enter into an Area Service Agreements with Row 34 and BRGR Bar for outdoor alcohol service on City land for the 2020 season subject to City Council Policy No. 2012-02, and further subject to all Governor's orders relating to the COVID19 pandemic. Seconded by Councilor McEachern.

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

2. Portsmouth Housing Authority – Release of Reverter

City Manager Conard explained the project and conveyance with report back to Planning Board and recommendation.

Councilor Lazenby moved to refer this item to the Planning Board for a report back and recommendation back. Seconded by Councilor McEachern.

Councilor Kennedy spoke opposed to the motion. She said this effects elderly properties.

Councilor Trace spoke opposed to the motion. She indicated she wants to stay with the original intent of owners.

Councilor Huda stated the original owners put requirements in the deed for a reason.

City Manager Conard said this is just a referral to the Planning Board this evening.

Councilor Lazenby said this is just a referral to the Planning Board and it is appropriate to do that and we need to look at these issues. He said the City Council needs to look to our boards on an issue of this matter to refer to the Planning Board.

Councilor Trace said the City Council did not receive sufficient information to make an educated, unbiased opinion.

City Attorney Sullivan said the reason to refer to the Planning Board is why it should go to them for answers to the questions, and the Planning Board would conduct a study and report back to the City Council. He stated when this matter comes back to the City Council is when you decide about the reverter.

Assistant Mayor Splaine supports the project and necessary component. He does not want to see anything effect the quality of housing.

Councilor Whelan said he was waiting for the City Attorney to weigh in on this matter. He said more information on the deed is needed and why the restrictions were put on the deed.

Councilor McEachern said there is not enough information to make a decision on the reverter but we need more answers and the Planning Board would supply that information in a report back.

Councilor Whelan moved to table until the May 4, 2020 City Council meeting. Seconded by Councilor Kennedy.

City Attorney Sullivan advised the City Council the Planning Board has authority to gather more information and conduct a public hearing if they choose.

Councilor McEachern would like to move this to the Planning Board and not table the matter to the next meeting.

Councilor Lazenby said he agrees with Councilor McEachern it is clear that this is an important project. He said this is about respect for the recommendation of the City Manager and staff. He stated he would like to hear from Craig Welch on this matter.

Councilor Trace said she believes that it should be tabled and provide the City Council with more information. She said that this is nothing against workforce housing or the project. She said we need more information to make a decision. She asked if we needed to suspend the rules to have Craig speak.

Mayor Becksted said because he is part of Portsmouth Housing Authority and the project he would allow Craig to speak.

Craig Welch said he would provide any additional information now or prior to the Planning Board report back. He said that this is straight forward and that the Portsmouth Housing Authority still owns and operates Feaster Apartments. He stated if we did not continue to own and operate Feaster apartments then until we went to close on the property the reverter provision would not be part of the matter. He said City Attorney Sullivan advised Portsmouth Housing Authority that they needed to go before the City Council before going to the Planning Board. He said this is about the title and does not have anything to do with Parrott Avenue property.

Councilor Tabor asked Craig to speak to the benefit of the landscape.

Craig said this was approved back in 2018 by the board/commissions. He stated the federal government has done all local approvals and this has to do with 839 square feet of land for a parking spot. He stated we need to clear the title and reverter provision.

Councilor Trace asked Craig if there is a reason it did not come before the City Council. Craig said that is unclear with the deed whether it was envisioning the entire Feaster property or other land. He stated if we were to sell Feaster, the property would revert back.

Mayor Becksted asked when does the Planning Board meet and when would the City Council be able to look at something.

City Manager Conard said the Planning Board will meet this Thursday but the schedule is not set in stone. She said it would make the May 21, 2020 Planning Board meeting.

Councilor Trace asked Craig if the Council could see the original deed for the Feaster property. Craig said the deed was included in the request and provided to you.

Councilor Trace said she is questioning whether Feaster was separate from the property.

City Manager Conard asked if you are looking for the deed it is attached to the City Manager comments. She advised the Council delaying this could cause difficulties with advertising in time for the May 21, 2020 City Council meeting.

Councilor Tabor said he supports moving this forward to the Planning Board.

Councilor Huda said she would support it with all information that the Planning Board will receive in making a decision.

Councilor Lazenby said that the Planning Board is the right place for this to go and this is a step that we need to do. He said he does not want to see another delay with this project.

Councilor McEachern said he does not feel it is the fault of city management or Craig Welch. He stated it is the City Council that is responsible to refer this to the Planning Board with a recommendation back with evidence to make a decision on this matter.

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

3. Request for Restoration of Involuntarily Merged Lots at 27 Thaxter Road

City Manager Conard said that this is the same information provided at the last City Council meeting. She reported on the long history of appeals.

Councilor Lazenby moved approve the unmerging of the two involved lots at 27 Thaxter Road as requested by the applicant Chad Callihan and as recommended by the Planning Board. Seconded by Councilor McEachern.

Mayor Becksted said he has lived this at both ends from the Planning Board and City Council. He said the Jennings attorney spoke to this at the last meeting. He said two plans were presented to the Planning Department. He stated this was not an involuntary merged lot.

Councilor Kennedy said we have reviewed this matter and she agrees with Mayor Becksted.

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

XVI. CONSENT AGENDA

- A. Request for License to Install Projecting Sign for owner Lauren and Chris Atwood of Otter Creek Shop LLC for property located at 206 Market 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. Letter from Jylle Nevejans, Bottomline Technologies, requesting permission to hold a 5k Road Race for CASA on Sunday, September 27, 2020 at 11:00 a.m. ***(Anticipated action – move to refer to the City Manager with authority to act)***

- C. Letter from Ken La Valley, Out of the Darkness, requesting permission to hold the Out of the Darkness Walk on Saturday, September 12, 2020 from 10:00 a.m. to Noon
(Anticipated action – move to refer to the City Manager with authority to act)
- D. Letter from Joi Smith, Friends of the South End, requesting permission to hold the annual Fairy House Tour event, on Saturday, October 3, 2020 and Sunday, October 4, 2020 from 10:00 a.m. – 3:00 p.m. Further, request to close Washington Street between Hancock and Court Streets to through traffic from 9:30 a.m. to 4:00 p.m. both days
(Anticipated action – move to refer to the City Manager with authority to act)

Councilors Kennedy and Trace requested that Item D. be removed from the Consent Agenda.

Councilor Lazenby moved to adopt the Consent Agenda Items A-C. Seconded by Councilor McEachern.

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

- D. Letter from Joi Smith, Friends of the South End, requesting permission to hold the annual Fairy House Tour event, on Saturday, October 3, 2020 and Sunday, October 4, 2020 from 10:00 a.m. – 3:00 p.m. Further, request to close Washington Street between Hancock and Court Streets to through traffic from 9:30 a.m. to 4:00 p.m. both days
(Anticipated action – move to refer to the City Manager with authority to act)

Councilor Lazenby moved to refer to the City Manager with authority to act. Seconded by Councilor McEachern.

On a roll call vote 7-0, motion passed. Councilors Kennedy and Trace abstained from voting on this item.

XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- C. Email Correspondence

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

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

XVIII. CITY MANAGER'S INFORMATIONAL ITEMS

1. Summary of Parking Holiday Revenue Impacts

City Manager Conard reviewed the summary of Parking Holiday Revenue Impacts.

Councilor Kennedy stated she would like to see barriers in front of every restaurant on Bow Street. She said we need to have a way to support the small businesses.

Councilor McEachern said we need to provide relief to owners that are in need of assistance. He spoke regarding putting 15 minute parking spaces back in place.

Parking Director Fletcher advised the City Council some businesses do not want the barriers in front of their establishment.

Public Works Director Rice spoke regarding small business parking passes and the free parking that is available.

Councilor Trace said she agrees with Councilor McEachern and Councilor Kennedy that small businesses need to be taken care of first. She suggested looking at out of the box ways to support our small businesses and residents.

City Manager Conard said no action this evening would mean that the parking holiday would sunset today.

2. Update on Report Back Requested by Councilor Kennedy Regarding Impact Fees

City Manager Conard stated due to the COVID-19 Pandemic this report back will be made at the May 18, 2020 City Council meeting.

3. Letter to Legislature regarding HB 1672 allowing no fault absentee ballot voting

The City Council expressed their support of the letter. No action required.

4. Sagamore Avenue Sewer Extension Project Update

City Manager Conard announced that a survey will be conducted regarding the project. She indicated that a presentation would be held at the May 18, 2020 City Council meeting.

5. Peirce Island Wastewater Treatment Facility Progress Report

City Manager Conard said the update has been provided in your packet regarding the facility.

Councilor Trace spoke regarding the nitrogen numbers for the new facility and expressed concerns.

City Engineer Desmarais said the facility is on schedule and there are some support issues by the vendor due to them not being able to be on site due to COVID-19. He said that the vendor is currently able to support us and things are moving forward as expected. He said he does not see concerns with meeting the nitrogen numbers.

Councilor Kennedy spoke regarding meeting the deadline and a decrease in flow.

City Engineer Desmarais said that there is nothing saying we listed April 1st as a deadline.

Councilor Trace said the hand out in the packet said we were meeting the April 1st deadline.

City Engineer Desmarais said in regards to mile stones achieved we will meet the requirements for the month of April.

Councilor Trace asked if we have any problem with complications with computers will the vendor come back. City Engineer Desmarais said we have the support of the vendor and they are on site at this time.

XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

Councilor McEachern recognized Congressman Matt Lewis for raising \$18,000.00 from running on the tread mill in recognition of the Boston Marathon.

Councilor Lazenby asked about upcoming plans for the McIntyre Subcommittee to meet.

Councilor Whelan said he plans to discuss next steps tomorrow and probably hold a meeting this week. He said we will continue the good work. He is questioning how public we make the meetings. City Attorney Sullivan said the Subcommittee has stated along the way there needs to be a public component, however he does not recommend negotiating in public.

Councilor McEachern echoed that the public will be a part of the process and we will bring options and ultimately we will not decide on our own on this matter. He stated the subcommittee is the Design Committee we are just facilitating a role of discussion.

Councilor Trace thanked the Subcommittee for their work and she looks forward to the public process.

XX. ADJOURNMENT

Councilor Kennedy moved to adjourn at 10:50 p.m. Seconded by Councilor McEachern.

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



KELLI L. BARNABY, MMC/CNHMC
CITY CLERK