

MUNICIPAL COMPLEX
DATE: MONDAY, JUNE 21, 2021

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

III. CALL TO ORDER

Mayor Becksted called the meeting to order at 7:15 p.m.

IV. ROLL CALL

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

V. INVOCATION

Mayor Becksted asked everyone to join in a moment of silent prayer in memory of Mark Stebbins who recently passed away.

VI. PLEDGE OF ALLEGINANCE

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

VII. ACCEPTANCE OF MINUTES – JUNE 7, 2021; OCTOBER 5, 2020; OCTOBER 19, 2020 & OCTOBER 26, 2020

Assistant Mayor Splaine moved to accept and approve the minutes of the June 7, 2021; October 5, 2020; October 19, 2020 and October 26, 2020 City Council meetings. Seconded by Councilor McEachern and voted.

VIII. RECOGNITION AND VOLUNTEER COMMITTEE REPORTS

A. 2021 Division II NHIAA Girls Lacrosse Champions – Portsmouth High School Clippers

Tom Kozikowski introduced the players and called them forward to receive a plaque from Mayor Becksted recognizing their 2021 Division II Championship.

B. 2021 Division II NHIAA Boys Lacrosse Champions – Portsmouth High School Clippers

Tom Kozikowski announced and requested each member of the team to come forward and receive a plaque from Mayor Becksted recognizing their 2021 Division II Championship.

IX. PUBLIC COMMENT SESSION – (Via Zoom)

Josh Denton spoke in support of his request as Commander of the VFW to hold a parade on September 11th to acknowledge the end of the Afghanistan War. He said that this is a non-political parade and he would work with city staff and recommended this be referred to the City Manager with authority to act.

Andrew Bagley spoke in support of the funding request under Councilor Kennedy for a skateboard park. He also spoke in support of Columbus Day and Indigenous Peoples' Day. He also expressed concern with the elimination of seven teachers because the School Department did not receive the appropriate funding it needed to maintain the positions.

Fawn Gaudet, Coalition for Indigenous Peoples' Day, spoke in support of the change of Columbus Day to Indigenous Peoples' Day. She said injustice was done to indigenous people and Columbus Day is a day of mourning for them.

Denise (Inaudible), Alton, NH, spoke in support of Indigenous Peoples' Day and asked the City to approve the request.

Councilor Kennedy moved to suspend the rules to take up Item XIII. B.1. – Resolution – Appropriation for Funds. Seconded by Councilor Huda and voted.

XIII. CITY COUNCIL MEMBERS

B. COUNCILOR HUDA

1. Resolution – Appropriation for Funds

Councilor Huda explained the Resolution and the reason for bringing it forward.

Councilor McEachern asked if this is something we need to have in order to accept funds. City Attorney Sullivan said because of the amount of funds, Councilor Huda felt we should have a public hearing before accepting the funds.

Councilor Trace asked the City Attorney how he feels regarding this matter as well as City Manager Conard. City Attorney Sullivan said that this is requirement for towns, not cities and Councilors Kennedy and Huda felt there should be a public hearing to determine the acceptance of funds. City Manager Conard said as part of the adoption of the budget one of the resolutions was for accepting grants and donations and does not specifically call for a public hearing.

Assistant Mayor Splaine said the City Council decides to put an item to a public hearing which then allows the public an opportunity to respond.

Councilor Whelan said in Councilor Huda's motion it indicates any funds over \$10,000.00 and he doesn't want to be holding public hearings for smaller amounts.

Councilor Lazenby asked how many public hearings we are anticipating if Councilor Huda's proposed motion passes. City Manager Conard said she would speak with Finance Director and the City Clerk to find out how many we have voted on this year for grants and donations.

Councilor Kennedy said that we could lower the tax rate by 12 cents and would like to get that information out to the public. She asked if the City Council is responsible for accepting and approving School Department grants and donations.

Councilor McEachern said he feels the amount is too low to hold a public hearing.

Councilor Tabor said the City Manager explained that we passed a resolution for approval of grants and donations during our budget adoption process. He further stated that this resolution is for towns and not cities. This is a process used during town meetings.

Councilor Trace said she agrees the amount is small and that we need to have trust for the City staff and what they do.

Councilor Kennedy said she would like to change the amount to \$100,000.00.

Councilor Huda moved to adopt a Resolution relative to NH RSA 31:95-B, Appropriation for funds made available during the year. (Unanticipated Moneys – I.E. ARP Funds). Seconded by Councilor Kennedy with a friendly amendment to change the amount from \$10,000.00 to \$100,000.00.

Councilor Huda said these funds are COVID related and it is a large amount.

Councilor Kennedy said the local money comes in after the adoption of the budget. She said allowing a public hearing we offer the public the opportunity to understand the funds. She feels there would only be a few public hearings a year.

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

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

Public Hearing:

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

- **PRESENTATION**

City Manager Conard said we are looking for a vote this evening with the understanding that the funds would appear on the agenda for acceptance and approval.

- **CITY COUNCIL QUESTIONS**

Councilor Kennedy said she would like it in the motion that this come back to the City Council. Mayor Becksted said the City Manager has stated that this will come back to the City Council for acceptance and approval.

Councilor Huda asked how this encompasses the School Department. City Manager Conard said the School Department has a different process and the School Board directs the expenditures of funds.

City Attorney Sullivan said there is no clear statute to follow and he would recommend accepting the funds.

Councilor Huda said the School Department does not have the authority as well as the back of the document requires the City Manager to accept the funds. City Attorney Sullivan stated the School Department is a department of City government and the Charter states that all powers and authority belong to the City Council.

- **PUBLIC HEARING SPEAKERS**

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

- **ADDITIONAL COUNCILOR QUESTIONS AND DELIBERATIONS**

Councilor Kennedy moved to authorize the City Manager to apply for, accept and expend the Coronavirus State and Local Fiscal Recovery Funds through the American Rescue Plan Act of 2021 in the amount of \$6,441,140.00, with the final approval of the plan for expenditures by the City Council and subject to the attached terms and conditions of the offer and the rules and regulations pertaining thereto. Seconded by Councilor Huda and voted.

First Reading of Ordinance:

- B. First Reading of Ordinance amending Chapter 1, Article IV – COMMISSIONS AND AUTHORITIES, Section 1.414 AUDIT COMMITTEE

Councilor Kennedy moved to pass first reading and schedule a public hearing and second reading at the July 12, 2021 City Council meeting. Seconded by Councilor Huda and voted.

Third and Final Reading of Ordinance:

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

Councilor McEachern moved to pass third and final reading of the ordinance. Seconded by Councilor Whelan and voted.

XII. MAYOR BECKSTED

1. Clarification Regarding Indigenous Peoples' Day Vote on 6/7/2021

Councilor McEachern moved to reconsider the action taken by the Council on June 7, 2021, with respect to Indigenous Peoples' Day under suspension of the rules. Seconded by Councilor Trace and voted.

Councilor Trace moved to pass the motion regarding Indigenous Peoples' Day, as amended, so that in the City of Portsmouth the state holiday of Columbus Day shall be known as Columbus and Indigenous Peoples' Day. Seconded by Councilor Kennedy.

City Attorney Sullivan spoke to the complexity of the parliamentary process that took place during the June 7th City Council meeting. He said he and the City Clerk reviewed the motion and nothing had happened which was not the intention of the City Council.

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

2. Resignation of Steven Gray from the Cable Television & Communications Commission

Councilor Kennedy moved to accept with regret the resignation of Steven Gray from the Cable Television & Communications Commission with a letter of thanks and appreciation for his service to the City. Seconded by Councilor Huda and voted.

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

Councilor Trace moved to appoint Henry Mellynchuck to the Conservation Commission until April 1, 2024. Seconded by Councilor Huda and voted. Councilor Kennedy abstained from voting on this appointment.

Councilor Trace moved to appoint Beth Margeson to the Zoning Board of Adjustment until December 1, 2024 filling the unexpired term of John Formella. Seconded by Councilor Huda and voted.

XIII. CITY COUNCIL MEMBERS

A. COUNCILOR McEACHERN

1. Request Presentation on Creating a Community Housing Trust

Councilor McEachern requested a Presentation on Creating a Community Housing Trust at a future City Council meeting.

B. COUNCILOR HUDA

2. Final Report regarding MBRC to Reopen Portsmouth

Councilor Huda moved for a Final Report Back from the Blue Ribbon Committee Chair James Petersen. Seconded by Councilor Kennedy.

Councilor Huda said she would like to know the final numbers for permits and barriers.

Motion passed.

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Renewal of Boarding House Permits

City Manager Conard said this is a request to approve the renewal of Boarding House Permits.

Assistant Mayor Splaine asked for an outline on how to apply for a Boarding House Permit. Mayor Becksted said a report could come back at a future meeting.

Councilor Kennedy moved to renew the Boarding House Permits for 278 Cabot Street and 350-352 Hanover Street as presented. Seconded by Councilor Huda and voted.

2. Request to Schedule Work Session Regarding Community Power

Assistant Mayor Splaine moved to schedule a work session on Monday, August 9, 2021 at 7:00 p.m. regarding this topic. Seconded by Councilor McEachern and voted.

XVI. CONSENT AGENDA

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

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

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

XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

A. Email Correspondence

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

B. Letter from Michael Griffin, Portsmouth Lodge of Elks, requesting the City Council approval to place a referendum question on the Municipal Election ballot to allow KENO to be offered in Portsmouth

C. Letter from George Remick requesting a referendum question to be placed on the Municipal Election ballot to allow KENO to be offered in Portsmouth

Councilor Kennedy moved to refer to the City Attorney with a report back at the July City Council meeting. Seconded by Assistant Mayor Splaine and voted.

D. Letter from Derek Nadeau regarding providing enhanced Public Safety and continual commerce of high traffic city area and provide law enforcement with video footage (no audio), for monitoring and follow up investigation purposes for a period of 2 weeks (not traffic enforcement)

Councilor Kennedy moved to refer to the Parking and Traffic Safety Committee for report back to the City Council. Seconded by Assistant Mayor Splaine.

Assistant Mayor Splaine said there is a great deal of enthusiasm by Mr. Nadeau as well as demand so let's try and make this work.

Motion passed.

E. Letter from Attorney Timothy Phoenix on behalf of Bluestone Properties of Rye, LLC, requesting the City Council to authorize City Manager Conard to execute the Parking Agreement confirming the 20 year term for 5 parking space in the Worth Lot behind 135 Congress Street

Councilor Lazenby moved to suspend the rules to allow representatives of Bluestone Properties of Rye, LLC., to address the City Council. Seconded by Councilor Trace and voted.

Attorney Phoenix outlined the issue before the City Council and spoke to his memorandum for 5 parking spaces with a 20 year agreement. He stated Bluestone would have the use of the spaces in the Worth Lot behind 135 Congress Street. He said the draft parking agreement submitted by Bluestone is \$3,750.00 per space/year, totaling \$18,750.00 per year for the first 5 years. He stated following the 5 years it would be at the going rate for the spots. He indicated Bluestone believes that the 5 spaces run with the land and should not have been taken by the city for public use. Attorney Phoenix spoke to the primary uses of 135 Congress Street upon completion of construction would be an art museum and a jazz/blues club, each open to the public, featuring world-class artists and musicians. He said these uses will bring significant interests to the public for which Bluestone estimates that the operation will bring as much as \$20,000,000.00 into the City on an annual basis. He noted that 2 spaces will be used on an essentially full-time basis to park 2 electric shuttle vehicles, which will be used to shuttle visitors to and from municipal parking. Further, the other spaces are also needed for loading and unloading of artists and their artwork, musicians and their instruments and gear as well as general deliveries. In conclusion, he stated that this would be a win/win scenario for both parties.

Councilor Trace moved to authorize the City Manager to execute the Parking Agreement with Bluestone Properties of Rye, LLC, as stated in their prospectus as described by Attorney Phoenix. Seconded by Assistant Mayor Splaine.

Councilor Trace spoke in favor of the request and to the architecture and design of the building.

Assistant Mayor Splaine said we need to renew, restore and revitalize downtown and a commitment to make it work. He feels it is a good agreement and the Council should move forward with approval.

Councilor Kennedy spoke to the amount of the agreement and to the parking spaces.

Mr. Michael Labrie said it is not in his business model to use valet parking as a revenue. He said electric vehicle parking would be a free service to make it easier for people to park. He said they do not plan on making any money on the spots.

Councilor Tabor said the intention was to find a way to make the 5 spaces available. He said it is practical to have the parking with the venue and it does not set a precedent, it will enhance the downtown.

Councilor Huda said that this is a great thing for the City and she supports the position of the City Manager to reach an agreement.

Councilor McEachern said he would support the request and motion. He said the City Manager is requesting direction from the City Council. He does not feel we are setting a precedent and this Council needs to listen to the intent of a previous City Council.

Councilor Kennedy moved to amend the motion to include: *for the first 5 years, 3 out of 5 spots will be guaranteed to be used for valet or electronic vehicle to move people.* Seconded by Councilor Huda.

Attorney Phoenix requested the Council not amend the agreement and to remember that this is a labor of love for the Labrie family.

Mr. Labrie said the intended use of the spaces has been outlined, there are other things associated for the use of the building and the Council should not micromanage the spaces.

City Attorney Sullivan said it would have to be sold to a similar use for the parking to go with the sale of the building.

Councilor Lazenby asked if the amendment refers to Section V of Attorney Phoenix memorandum for the 5 spaces. Councilor Kennedy said she would agree to the language as part of the motion.

Councilor Trace said she is mindful of what the Labrie's have done with the building and it is an issue of trust and not trying to manage someone else's business.

Councilor Whelan said he supports the original motion by Councilor Trace. She said he does not feel the Council should determine what the parking is used for. He stated this is a big benefit for the City, it is a gift to the City and all businesses will benefit from this.

Mayor Becksted said if an adjustment needs to be made, the Labrie's will address it.

On a roll call vote 2-7, motion to amend failed to pass. Councilors Kennedy and Huda voted in favor. Assistant Mayor Splaine, Councilors McEachern, Whelan, Lazenby, Tabor, Trace and Mayor Becksted voted opposed.

On a unanimous roll call 9-0, voted to adopt the main motion.

XVIII. CITY MANAGER'S INFORMATIONAL ITEMS

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

Assistant Mayor Splaine stated he would like to know that future playing fields do not have PFAS.

XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

Councilor Kennedy moved to refer information received from Mr. David Ecker to the City Manager and the Conservation Commission for report back. Seconded by Councilor Huda and voted.

Councilor Kennedy thanked those that attended the skateboard park for the event earlier this evening.

XX. ADJOURNMENT

At 9:30 p.m., Councilor Kennedy moved to adjourn. Seconded by Councilor Huda 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