

CITY COUNCIL MEETING MINUTES
CITY COUNCIL CHAMBERS
DECEMBER 9, 2019

7:15PM

Pole Hearing – Bayberry Road

The Council President called the meeting to order at 7:20pm. 9 present, 2 absent (Giunta, OBrien). Dave Boucher from National Grid spoke. Gail Derrivan spoke in favor. Hearing closed at 7:28pm.

7:30PM

The City Council President, Barry Connell, called the meeting to order at 7:30pm, followed by the Pledge of Allegiance. A moment of silence was held for Yolanda Collins and William “Smokey” Greenwood. The City Council President then instructed the City Clerk to call the roll. The following Councillors answered present: Shand, Tontar, Vogel, Zeid, Devlin, Eigerman, Giunta, Khan, McCauley, Connell. 10 present, 1 absent (OBrien).

(Sound Check)

1. MOMENT OF SILENCE

2. PLEDGE OF ALLEGIANCE

3. CALL TO ORDER

4. LATE FILE ITEMS – on Councillors’ desks: new language for ORDR161_11_25_19 Preservation Restriction, language for ODNC044_11_12_19

5. PUBLIC COMMENT

1. Tina Wasserman	20 Russia St	Snow Ban Parking
2. Marilyn Evans	41 Virginia Ln	Marijuana
3. Jane Snow	9 Coffin St	General Comment
4. Nicole Nadeau	6 Bayne Ln	Marijuana
5. Al Jason	4 Warren St	Marijuana
6. Connie Preston	18 Atwood St	Marijuana
7. Allison Balentine	6 Hart Rd	Marijuana
8. Tim Brennan	26 Alberta Ave	Marijuana
9. Matt Kane	63 Curzon Mill Rd	Marijuana
10. Lynn Schow	75 High St	Marijuana
11. Josh Baumfeld	75 High St	Marijuana
12. Mike Young	22 Charter St	Marijuana
13. Eileen Bernau	13R Bromfield St	Marijuana

6. MAYOR’S COMMENT

The Mayor gave an update pursuant to her written communication. The Mayor and the City Council President jointly read a commendation for Councillor Larry G. Giunta, Jr.

CONSENT AGENDA

NOTE: ALL ITEMS LISTED UNDER CONSENT AGENDA WILL BE ENACTED BY ONE MOTION. THERE WILL BE NO SEPARATE DISCUSSION OF THESE ITEMS. IF DISCUSSION IS DESIRED, THAT ITEM WILL BE REMOVED FROM THE CONSENT AGENDA AND CONSIDERED SEPARATELY.

7. APPROVAL OF MINUTES

- November 25, 2019

(Approve)

8. TRANSFERS

- NONE

9. COMMUNICATIONS

- NONE

10. APPOINTMENT

First Reading - NONE

ALL ITEMS NOTED BELOW ARE REMOVED FROM THEIR RESPECTIVE COMMITTEES WITH THE MOTION TO APPROVE THE CONSENT AGENDA:

Budget & Finance

- COMM112_02_11_19 Memo re: Fire-Based EMS Cost/Benefit Analysis
- COMM120_03_11_19 Central Congregational Grant Award Letter
- ORDR132_07_15_19 CPC FY2020 Recommended Appropriations (COTW)
Project No. 9 held in committee.
- ORDR136_08_19_19 Fuller Track Phase II Loan Order
- COMM189_09_09_19 CPC Revised Recommendation for FY2020 Appropriations
- ORDR158_11_12_19 Rescission of Marijuana Sales Tax (COTW)
- TRAN065_11_25_19 Free Cash \$15.5K to Meeting Recording \$15.5K

License & Permits

- COMM208_11_25_19 2020 Class II Vehicle License - Plum AutoWorks, Inc.

Neighborhoods & City Services

- COMM194_10_15_19 Ltr from Newburyport Livable Streets
- COMM196_10_15_19 Ltr re: Road and Sidewalk Work on Merrimac and High Streets (COTW)
- COMM197_10_28_19 Ltr re: Phillips Drive Neighborhood Drainage (COTW)
- ORDR162_11_25_19 Bartlet Mall Resolution

Public Safety

- ORDR094_04_08_19 Traffic Changes - Green, Pleasant, and Titcomb Streets
- ORDR145_09_30_19 Snow Emergency Parking – Greenleaf Street
- ORDR146_09_30_19 Restricted Parking – Merrimac Street at Ashland Street
- COMM198_10_28_19 Ltr re: Middle Street Parking/Curb Cuts
Councillor Devlin removed from the Consent Agenda.
- ORDR151_10_28_19 Amendment to 2-Hour Resident Zones
- COMM202_11_12_19 Newburyport Rotary Santa Parade - 12/1/2019
Councillor Devlin removed from the Consent Agenda.
- COMM205_11_12_19 Ladies' Night Out Run/Walk - 12/7/2019
Councillor Devlin removed from the Consent Agenda.
- COMM209_11_25_19 Frigid Fiver - 1/26/2020
- COMM210_11_25_19 Ahavas Achim Interfaith Candle Lighting - 12/16/19-1/5/20

Public Utilities

- COMM206_11_25_19 Pole Hearing - Bayberry Road

END OF CONSENT AGENDA REGULAR AGENDA

Motion to approve the Consent Agenda as amended by Councillor Zeid, seconded by Councillor Giunta. So voted.

11. MAYOR'S UPDATE

12. APPOINTMENTS

Second Reading - NONE

13. ORDERS

- **ORDR163EP_12_09_19 Emergency Preamble - Morrill Charitable Foundation Gift Acceptance \$110K**
Motion to waive the rules by Councillor Eigerman, seconded by Councillor Tontar. So voted.
Motion to approve by Councillor Tontar, seconded by Councillor Vogel. So voted.
- **ORDR163_12_09_19 Morrill Charitable Foundation Gift Acceptance \$110K**
Motion to approve by Councillor Tontar, seconded by Councillor Khan. So voted.

14. ORDINANCES

- **ODNC042_09_30_19 Parking at Public Parks and Playgrounds (2nd Reading)**
Motion to approve second reading by Councillor Zeid, seconded by Councillor Tontar. Roll call vote, 10 yes, 1 absent (OBrien). Motion passed.

15. COMMITTEE ITEMS

NOTE: UNDERLINED COMMITTEE ITEMS WILL BE CONSIDERED AT THIS MEETING

Budget & Finance

In Committee:

- **COMM112 02 11 19 Memo re: Fire-Based EMS Cost/Benefit Analysis**
Motion to receive and file by Councillor Tontar, seconded by Councillor Zeid. So voted.
- **COMM120 03 11 19 Central Congregational Grant Award Letter**
Motion to receive and file by Councillor Tontar, seconded by Councillor Zeid. So voted.
- **ORDR132 07 15 19 CPC FY2020 Recommended Appropriations (COTW)**
Project No. 9 held in committee.
Motion to refer to Budget & Finance for the next Council Session pursuant to Rule 7H by Councillor Tontar, seconded by Councillor Zeid. So voted.
- **ORDR136 08 19 19 Fuller Track Phase II Loan Order**
Motion to refer to Budget & Finance for the next Council Session pursuant to Rule 7H by Councillor Tontar, seconded by Councillor Zeid. So voted.
- **COMM189 09 09 19 CPC Revised Recommendation for FY2020 Appropriations**
Motion to refer to Budget & Finance for the next Council Session pursuant to Rule 7H by Councillor Tontar, seconded by Councillor Zeid. So voted.
- **ORDR158 11 12 19 Rescission of Marijuana Sales Tax (COTW)**
Motion to waive Rule 12D, as one of the sponsoring councillors was not present, by Councillor Zeid, seconded by Councillor Giunta. So voted. Motion to approve by Councillor Tontar, seconded by Councillor Zeid. Roll call vote, 9 yes, 1 present (Vogel), 1 absent (OBrien). Motion passed.
- **TRAN065 11 25 19 Free Cash \$15.5K to Meeting Recording \$15.5K**
Motion to approve by Councillor Tontar, seconded by Councillor Zeid. So voted.

Education

In Committee:

-

General Government

In Committee:

-

License & Permits

In Committee:

- COMM029_04_30_18 Outdoor Seating – West Row Café
- COMM104_01_14_19 Seacoast Taxi - Application by Richard Hewlett for 2019
- **ODNC043 11 12 19 Prohibition of Non-Medical Marijuana Retailers (COTW)**
Motion to remove from License & Permit and Committee of the Whole by Councillor Vogel, seconded by Councillor Tontar. So voted (1 no - Vogel). Motion to waive Rule 12D, as one of the sponsoring councillors was not present, by Councillor Giunta, seconded by Councillor Zeid. Roll call vote, 10 yes, 1 absent (OBrien). Motion passed. Motion to approve first reading (comm vote 2-1, Vogel) by Councillor Zeid, seconded by Councillor Giunta. Roll call vote, 9 yes, 1 present (Vogel), 1 absent (OBrien). Motion passed.
- **COMM208 11 25 19 2020 Class II Vehicle License - Plum AutoWorks, Inc.**
Motion to approve by Councillor Vogel, seconded by Councillor Zeid. So voted.

Neighborhoods & City Services

In Committee:

- ORDR048_06_13_16 Sidewalk Order
- COMM111_10_10_17 Petition for Road Repairs and Repaving – Squires Glen
- **COMM194 10 15 19 Ltr from Newburyport Livable Streets**
Motion to refer to Neighborhood & City Services for the next Council Session pursuant to Rule 7H by Councillor Zeid, seconded by Councillor Khan. So voted.
- **COMM196 10 15 19 Ltr re: Road and Sidewalk Work on Merrimac and High Streets (COTW)**
Motion to refer to Neighborhood & City Services for the next Council Session pursuant to Rule 7H by Councillor Zeid, seconded by Councillor Khan. So voted.
- **COMM197 10 28 19 Ltr re: Phillips Drive Neighborhood Drainage (COTW)**
Motion to refer to Neighborhood & City Services for the next Council Session pursuant to Rule 7H by Councillor Zeid, seconded by Councillor Khan. So voted.
- **ORDR162 11 25 19 Bartlet Mall Resolution**
Motion to approve by Councillor Zeid, seconded by Councillor Shand. So voted.

Planning & Development

In Committee:

- ODNC029_01_28_19 Zoning Map Amendment – Storey Ave South
- ODNC038_07_15_19 Zoning Amendment – Waterfront West Overlay District (COTW)
- COMM185_09_09_19 Memo re: Waterfront West Sustainability
- COMM201_10_28_19 Memo re: Proposed Zoning Change – WWOD
- **ODNC045 11 12 19 Zoning Amendment - Definition “Marijuana Retailers” (w/ PB and COTW)**
Motion to remove from Planning & Development and Committee of the Whole by Councillor Eigerman, seconded by Councillor Giunta. So voted (1 present – Vogel). Motion to waive Rule 12D, as one of the sponsoring councillors was not present by Councillor Eigerman, seconded by Councillor Zeid. So voted. Motion to approve first reading (comm vote 3-0) by Councillor Eigerman, seconded by Councillor Zeid. Roll call vote, 9 yes, 1 present (Vogel), 1 absent (OBrien). Motion passed.
- **ODNC044 11 12 19 Zoning Amendment - Prohibition of Non-Medical Marijuana Establishments (w/ PB and COTW)**

Motion to remove from Planning & Development and Committee of the Whole by Councillor Eigerman, seconded by Councillor Giunta. So voted (1 present – Vogel). Motion to waive Rule 12D, as one of the sponsoring councillors was not present, by Councillor Eigerman, seconded by Councillor Giunta. So voted. Motion to approve first reading with the following amendments: 1. Change NP to SP in I-1, I-1B on Table of Use Regulations, 2. strike “marijuana retailer” and insert “medical marijuana treatment center” on page 3, by Councillor Eigerman, seconded by Councillor Giunta. Councillor Eigerman yielded the floor to Councillor Khan. Motion to amend Section XXXI-F.2., strike “No marijuana business” and replace with “Neither use number 802 (marijuana establishments without retail sales) nor use number 803 (medical marijuana treatment centers or registered marijuana dispensaries)”; replace “marijuana businesses” with “marijuana establishments” throughout the ordinance, by Councillor Khan, seconded by Councillor Eigerman. Roll call vote on the amendments, 9 yes, 1 present (Vogel), 1 absent (OBrien). Motion to approve as amended by Councillor Eigerman, seconded by Councillor Giunta. Roll call vote, 9 yes, 1 present (Vogel), 1 absent (OBrien).

The City Council President called a special meeting pursuant to Rule 2A and waived the rules such that the Clerk does not have to physically deliver notice of the meeting.

- **ORDR161 11 25 19 Preservation Restriction - 25 Water Street**

Motion to remove from Planning & Development by Councillor Eigerman, seconded by Councillor Zeid. So voted. Motion to approve as amended, insert “Whereas both the parties to this agreement acknowledge that there are various artifacts that deserve protection and that both parties agree to work together in good faith to identify, document, and protect said artifacts as soon as is reasonably practicable” on page 2; add “As stated above, it is the intention of the Grantor and Grantee that this Restriction supersede and replace in the entirety the Prior Restrictions, including the Preservation Restriction Agreement between the Grantor and the Commission recorded at the Registry on March 13, 2002, as Document No. 415394. Accordingly, the second restriction and condition of the Deed shall be of no further force and effect; provided, however, that to the extent any provision of this Restriction is inconsistent with any other provision of the Deed, including, without limitation, the other restrictions and conditions of the Deed, numbered 1, 3, 4, 5, and 6, the provisions of the Deed shall control.” in Section 2.b.; strike “Grantor” and replace with “Grantee” in Section 4.b. (iv), in committee (comm vote 3-0) by Councillor Eigerman, seconded by Councillor Zeid. Roll call vote, 10 yes, 1 absent (OBrien). Motion passed.

Public Safety

In Committee:

- ODNC009_03_12_18 Floating Homes, Houseboats, and Related Marinas
- COMM087_09_24_18 Ltr re: Coffin Street
- COMM116_02_25_19 Toward Zero Waste Newburyport Initiative (*full text available*) (COTW)
- **ORDR094 04 08 19 Traffic Changes - Green, Pleasant, and Titcomb Streets**

Motion to receive and file by Councillor Devlin, seconded by Councillor Zeid. So voted.

- ODNC035_05_28_19 Amendment to Health and Sanitation (COTW)
- **ORDR145 09 30 19 Snow Emergency Parking – Greenleaf Street**

Motion to amend, change from Greenleaf Street to Auburn Street on the westerly side from Vernon Street to Pole 9; add “vehicles shall move no later than twelve hours after snow emergency ceases to allow for snow removal”; add “this order shall expire April 30, 2021”, by Councillor Devlin, seconded by Councillor Shand. So voted. Motion to approve as amended by Councillor Devlin, seconded by Councillor Shand. So voted.

- **ORDR146 09 30 19 Restricted Parking – Merrimac Street at Ashland Street**

Motion to approve as amended, change from Section 13-168 to 13-174; add “for no longer than thirty minutes”, by Councillor Devlin, seconded by Councillor Tontar. So voted (1 no – Zeid).

- **COMM198 10 28 19 Ltr re: Middle Street Parking/Curb Cuts**

Motion to remove from Public Safety by Councillor Devlin, seconded by Councillor Tontar So voted.
Motion to refer to Public Safety for the next Council Session pursuant to Rule 7H by Councillor Devlin, seconded by Councillor Zeid. So voted.

- **ORDR151_10_28_19 Amendment to 2-Hour Resident Zones**

Motion to receive and file by Councillor Devlin, seconded by Councillor Zeid. So voted.

- **COMM202_11_12_19 Newburyport Rotary Santa Parade - 12/1/2019**

- **COMM205_11_12_19 Ladies' Night Out Run/Walk - 12/7/2019**

- **COMM209_11_25_19 Frigid Fiver - 1/26/2020**

Motion to approve by Councillor Devlin, seconded by Councillor Zeid. So voted.

- **COMM210_11_25_19 Ahavas Achim Interfaith Candle Lighting - 12/16/19-1/5/20**

Motion to approve by Councillor Devlin, seconded by Councillor Tontar. So voted.

Public Utilities

In Committee:

- COMM122_11_27_17 Mobilitie Application/Small Cell Utility Petition (re-file)
- ODNC022_05_29_18 Addition to Chapter 5, Article 6 - Small Cell Sites
- **COMM206_11_25_19 Pole Hearing - Bayberry Road**

Motion to refer to Public Utilities for the next Council Session pursuant to Rule 7H by Councillor Zeid, seconded by Councillor Giunta. So voted.

Rules

In Committee:

- ORDR057_08_27_18 Amendment to Council Rule 12A

16. GOOD OF THE ORDER

Councillor Connell thanks the Councillors for their efforts and cogent arguments.

17. ADJOURNMENT

Motion to adjourn by Councillor Vogel, seconded by Councillor Khan. So voted. 10:43pm.