

CITY COUNCIL MEETING MINUTES
CITY COUNCIL CHAMBERS
SEPTEMBER 30, 2019

7:30PM

The City Council President, Barry Connell, called the meeting to order at 7:30pm, followed by the Pledge of Allegiance. The City Council President then instructed the City Clerk to call the roll. The following Councillors answered present: Zeid, Devlin, Eigerman, Giunta, Khan, McCauley, Shand, Tontar, Vogel, Connell. 10 present, 1 absent (OBrien).

(Sound Check)

1. MOMENT OF SILENCE

2. PLEDGE OF ALLEGIANCE

3. CALL TO ORDER

4. LATE FILE ITEMS – COMM192_09_30_19; ORDR140_9_09_19 and ODNC037_06_24_19 updated on desks

Motion to waive the rules, to accept late files, by Councillor Zeid, seconded by Councillor Khan. So voted.

5. PUBLIC COMMENT

1. Tom Kolterjahn	64 Federal St	Brown School
2. Arissa Ibrahim	85 Prospect St	Brown School
3. Lea Pearson	250 High St	Brown School
4. Mike Merriman	6 Little Pond Rd, Merrimac	Asst Harbormaster
5. Andrew Malatesta	37 Federal St	Asst Harbormaster
6. Gregory Downs	40 Riverview Dr, Newbury	Asst Harbormaster
7. Mike Noonan	47 Milk St	Brown School
8. Judy Tymon	39 Lime St	Brown School
9. Marianne Vesey	10 Kent St	Brown School
10. Renee Hamel	10 Parsons St	Brown School
11. Rebecca Wish Esche	30 Lime St	Brown School
12. Victoria Carr	1 Hill St	Brown School
13. Ed Cameron	5 Milk St	Brown School
14. Madeline Nash	19 Arlington St	Brown School
15. Bill Harris	56 Lime St	Brown School
16. Elizabeth Harris	56 Lime St	Brown School
17. Jeanette Isabella	100 Water St	Brown School
18. Tim Wareham	10 20 th St, Newbury	Asst Harbormaster
19. Roxanne Doherty	52 Milk St	Brown School
20. Sue Benveniste	51 Milk St	Brown School
21. Barbara Oswald	158 State St	Brown School
22. Kathleen Droste	77 Lime St	Brown School
23. Rick Doucette	69 Marlboro St	Brown School
24. Scott Nelson	55 Milk St	Brown School
25. Karen Wiener	7 Lincoln St	Brown School
26. Mary	487A Merrimac St	Brown School

6. COMMENDATION FOR TIM WAREHAM

7. MAYOR'S COMMENT

The Mayor gave an update pursuant to her written communication.

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.

8. APPROVAL OF MINUTES

- September 9, 2019 (Approve)

9. TRANSFERS

- NONE

10. COMMUNICATIONS

- COMM190_09_30_19 Ltr from Judy Tymon re: Brown School Overlay District (P&D)
- COMM191_09_30_19 Block Party - Neptune Street - 10/20/19 (PS)

11. APPOINTMENTS

First Reading

Re-Appointments

- APPT127_09_30_19 Paul Healy 8 N St CPA Committee 10/1/2022
- APPT128_09_30_19 Adrienne Silversmith 4 Willow Ave Cultural Comm 10/30/2022

To be Referred to Planning & Development

- APPT129_09_30_19 Malcolm Carnwath 22 Strong St Historical Comm 9/30/2022

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

Budget & Finance

- 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
- COMM186_09_09_19 FY2019 Year-End Financial Report
- COMM189_09_09_19 CPC Revised Recommendation for FY2020 Appropriations
- ORDR140_09_09_19 FY2020 Supplemental Budget Request #1
- ORDR141_09_09_19 Approval to Pay Prior Year Bills (Human Resources, Parks)

Public Safety

- COMM160_06_10_19 Defibrillators on Plum Island
- COMM188_09_09_19 Newburyport Half Marathon - 10/20/2019
- ORDR139_09_09_19 Two-Hour Resident Parking Zones
- ORDR143_09_09_19 Handicapped Parking Space – St. Paul’s Church

**END OF CONSENT AGENDA
REGULAR AGENDA**

Motion to approve Consent Agenda by Councillor Zeid, seconded by Councillor Khan. So voted.

12. MAYOR’S UPDATE

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

13. COMMUNICATIONS

- COMM192_09_30_19 LATE FILE 10-Year Financial Projection
Motion to refer to Budget & Finance and Committee of the Whole by Councillor Tontar, seconded by Councillor Vogel. So voted.

14. APPOINTMENTS

Second Reading

- APPT117_09_09_19 Susan Shefte 36 Woodland St Library Board of Directors 10/1/2026
Councillor Connell recused.
- APPT118_09_09_19 Gregory A. Downs 40 Riverview Dr, Asst Harbormaster/Shellfish
Newbury Constable/Special Police 10/1/2022
- APPT119_09_09_19 Andrew C. Malatesta 37 Federal St, Asst Harbormaster/Shellfish
Newburyport Constable/Special Police 10/1/2022
- APPT120_09_09_19 Mike Merriman 6 Little Pond Rd, Asst Harbormaster/Shellfish
Merrimac Constable/Special Police 10/1/2022
- APPT121_09_09_19 Tim Wareham 10 20th St, Asst Harbormaster/Shellfish
Newbury Constable/Special Police 10/1/2022

Re-Appointments

- APPT123_09_09_19 Donna Conway 27 Marlboro St Emma Andrews Lib Comm 10/30/2020
- APPT124_09_09_19 Aine G. Ellrott 43 Purchase St Emma Andrews Lib Comm 10/30/2020
- APPT125_09_09_19 Elizabeth Valeriani 29 Oak St Emma Andrews Lib Comm 10/30/2020
- APPT126_09_09_19 Elizabeth L. Watson 53 Warren St Emma Andrews Lib Comm 10/30/2020

Motion to approve Second Reading appointments by Councillor Zeid, seconded by Councillor Tontar. Roll call vote, 9 yes, 1 recused (Connell), 1 absent (OBrien). Motion passed.

15. ORDERS

- ORDR144_09_30_19 Tree Care and Plantings Gift Acceptance \$40,732
Motion to refer to Budget & Finance by Councillor Tontar, seconded by Councillor Khan. So voted.
- ORDR145_09_30_19 Snow Emergency Parking – Greenleaf Street
Motion to refer to Public Safety by Councillor Shand, seconded by Councillor Giunta. So voted.
- ORDR146_09_30_19 Restricted Parking - Merrimac Street at Ashland Street
Motion to refer to Public Safety by Councillor Tontar, seconded by Councillor Vogel. So voted.

16. ORDINANCES

- ODNC039_08_19_19 Amendment to Salary of Elected Officials (**2nd Reading**)
Motion to approve second reading by Councillor Tontar, seconded by Councillor Zeid. Roll call vote, 10 yes, 1 absent (OBrien). Motion passed.
- ODNC042_09_30_19 Parking at Public Parks and Playgrounds
Motion to refer to Neighborhood & City Services by Councillor Shand, seconded by Councillor Zeid. So voted.

17. COMMITTEE ITEMS

NOTE: UNDERLINED COMMITTEE ITEMS WILL BE CONSIDERED AT THIS MEETING

- **ODNC033_05_13_19 Zoning – Amendment to Former George W. Brown School Parcels**
Councillor Khan recused. Motion to remove from Planning & Development by Councillor Eigerman, seconded by Councillor Giunta. So voted. Motion to approve by Councillor Eigerman, seconded by Councillor Zeid. Motion to amend, add “or 20 senior affordable units” to Maximum Residential

Density in Scenario 1, by Councillor Eigerman, seconded by Councillor Shand. Roll call vote, 7 yes, 2 no (Zeid, Connell), 1 recused (Khan), 1 absent (OBrien). Motion passed. Motion to amend, add “or 24 senior affordable units” to Maximum Residential Density in Scenarios 2 and 3, by Councillor Tontar, seconded by Councillor Vogel. Roll call vote, 3 yes (Tontar, Vogel, Connell), 6 no, 1 recused (Khan), 1 absent (OBrien). Motion failed. Motion to approve as amended by Councillor Eigerman, seconded by Councillor Zeid. Roll call vote, 9 yes, 1 recused (Khan), 1 absent (OBrien). Motion passed.

The Council President announced the Council would take a two minute recess.

Budget & Finance

In Committee:

- COMM112_02_11_19 Memo re: Fire-Based EMS Cost/Benefit Analysis
- COMM120_03_11_19 Central Congregational Grant Award Letter
- **ORDR119 06 10 19 Bond Order - Streets and Sidewalks \$10M**
Motion to remove from Budget & Finance by Councillor Tontar, seconded by Councillor Zeid. So voted. Motion to refer to Budget & Finance and Committee of the Whole by Councillor Tontar, seconded by Councillor Khan. So voted.
- **ORDR132 07 15 19 CPC FY2020 Recommended Appropriations (COTW) Project No. 9 held in committee.**
Motion to refer ORDR132_07_15_19, ORDR136_08_19_19, COMM189_09_09_19, collectively, to Budget & Finance by Councillor Tontar, seconded by Councillor Vogel. So voted.
- **ORDR136 08 19 19 Fuller Track Phase II Loan Order**
- **COMM186 09 09 19 FY2019 Year-End Financial Report**
Motion to receive and file by Councillor Tontar, seconded by Councillor Khan. So voted.
- **COMM189 09 09 19 CPC Revised Recommendation for FY2020 Appropriations**
- **ORDR140 09 09 19 FY2020 Supplemental Budget Request #1**
Motion to approve and divide by Councillor Tontar, seconded by Councillor Zeid. So voted. Motion to approve (comm vote 3-0) \$10K for Travel/Training by Councillor Tontar, seconded by Councillor Zeid. So voted. Motion to approve \$1K for Overtime Animal Control by Councillor Tontar, seconded by Councillor Zeid. So voted. Motion to approve \$13,621 for Zoning Administration/Enforcement Officer by Councillor Tontar, seconded by Councillor Khan. So voted. Motion to approve \$59,480 for School Budget by Councillor Tontar, seconded by Councillor Zeid. So voted. Motion to approve (comm vote 2-1) \$10K for Overtime DPS Highway by Councillor Tontar, seconded by Councillor Khan. Roll call vote, 8 yes, 2 no (Zeid, Devlin), 1 absent (OBrien). Motion passed. Motion to approve \$5K for Facilities Maintenance Supplies by Councillor Tontar, seconded by Councillor Khan. So voted (1 no – Zeid). Motion to approve (comm vote 3-0) \$60K for Sidewalk Repairs by Councillor Tontar, seconded by Councillor Khan. Motion to amend, request that sidewalks damaged by roots across the city be prioritized, by Councillor Eigerman, seconded by Councillor Zeid. So voted. Motion to approve as amended by Councillor Tontar, seconded by Councillor Khan. So voted. Motion to approve \$10K for DPS Water Legal Expenses and \$10K for DPS Sewer Legal Expenses, collectively, by Councillor Tontar, seconded by Councillor Zeid. So voted.
- **ORDR141 09 09 19 Approval to Pay Prior Year Bills (Human Resources, Parks)**
Motion to approve by Councillor Tontar, seconded by Councillor Zeid. So voted.

Education

Councillor Giunta announced the next meeting is October 7th at 5:30pm in the Senior/Community Center.

In Committee:

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General Government

In Committee:

- **ODNC037 06 24 19 Ordinance regarding City Solicitor Appointment and Duties**
Motion to remove from General Government by Councillor Giunta, seconded by Councillor Vogel. So voted. Motion to approve as amended in committee, with insertion of language “proposed by the Mayor and/or the City Solicitor” after “settlement” in Section 2-249, by Councillor Giunta, seconded by Councillor Vogel. Roll call vote, 10 yes, 1 absent (OBrien). Motion passed.
- **ORDR135 08 19 19 Election Equipment**
Motion to remove from General Government by Councillor Giunta, seconded by Councillor Tontar. So voted. Motion to approve by Councillor Giunta, seconded by Councillor Tontar. Motion to amend, change “on or before” to “after”, and “Preliminary Election scheduled on September 17” to “Election on November 5”, and strike “Preliminary” on line 7, by Councillor Zeid, seconded by Councillor Tontar. So voted. Motion to approve as amended by Councillor Giunta, seconded by Councillor Tontar. Roll call vote, 10 yes, 1 absent (OBrien). Motion passed.

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

Neighborhoods and City Services

In Committee:

- ORDR048_06_13_16 Sidewalk Order
- COMM111_10_10_17 Petition for Road Repairs and Repaving – Squires Glen

Planning & Development

In Committee:

- **ODNC008 02 12 18 Disposition of G. W. Brown School**
Motion to remove from Planning & Development by Councillor Eigerman, seconded by Councillor Vogel. So voted. Motion to receive and file by Councillor Eigerman, seconded by Councillor Vogel. So voted.
- ORDR086_01_28_19 CPC FY2019 Amended Recommendation for Affordable Housing Trust Funds
- ODNC029_01_28_19 Zoning Map Amendment – Storey Ave South
- **ODNC032 05 13 19 Zoning – Amend Ag-Con District**
Motion to remove from Planning & Development by Councillor Eigerman, seconded by Councillor Zeid. So voted. Motion to approve by Councillor Eigerman, seconded by Councillor Zeid. Roll call vote, 9 yes, 1 present (Khan), 1 absent (OBrien). Motion passed.
- COMM164_06_24_19 LATE FILE Ltr to Ward 2 Councillor from Eric Goodness
- ODNC038_07_15_19 Zoning Amendment - Waterfront West Overlay District (**COTW**)
Councillor Eigerman suggested the Council discuss the present Waterfront West hearing. Councillor Vogel recused. Councillor Eigerman stated the consensus was not to go forward with the October 10th meeting and he would meet with the ordinance sponsor, Councillor Connell.

Motion to waive the rules, to continue the meeting past 11pm, by Councillor Zeid, seconded by Councillor Tontar. So voted.

- **COMM176 08 19 19 Memo re: Brown School Zoning**
Motion to remove from Planning & Development by Councillor Eigerman, seconded by Councillor Zeid. So voted. Motion to receive and file by Councillor Eigerman, seconded by Councillor Zeid. So voted.
- ODNC040_08_19_19 Zoning Ordinance re: Kennel/Animal Boarding Use
- COMM185_09_09_19 Memo re: Waterfront West Sustainability

- **ORDR142 09 09 19 Acceptance of NRA Deed (COTW)**
- ODNC041_09_09_19 Zoning Map - Colby Farm Residential Overlay District
- **APPT122 09 09 19 Rachel D. Webb PO Box 742 Zoning Board of Appeals 10/1/2020**

Motion to remove from Planning & Development by Councillor Eigerman, seconded by Councillor Zeid. So voted. Motion to approve by Councillor Eigerman, seconded by Councillor Zeid. Roll call vote, 9 yes, 1 recused (Devlin), 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
- ODNC035_05_28_19 Amendment to Health and Sanitation (COTW)
- **COMM160 06 10 19 Defibrillators on Plum Island**
Motion to receive and file by Councillor Devlin, seconded by Councillor Zeid. So voted.
- **COMM188 09 09 19 Newburyport Half Marathon - 10/20/2019**
Motion to approve, contingent on insurance naming City additional insured, by Councillor Devlin, seconded by Councillor Giunta. So voted.
- **ORDR139 09 09 19 Two-Hour Resident Parking Zones**
Motion to refer to Public Safety by Councillor Devlin, seconded by Councillor Zeid. So voted.
- **ORDR143 09 09 19 Handicapped Parking Space – St. Paul’s Church**
Motion to approve by Councillor Devlin, seconded by Councillor Shand. 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

Rules Committee

In Committee:

- ORDR057_08_27_18 Amendment to Council Rule 12A

18. GOOD OF THE ORDER

19. EXECUTIVE SESSION to discuss litigation with respect to the High Street Paving

Motion to go in to Executive Session, for the purpose of discussing litigation with respect to High Street Paving, by Councillor Zeid, seconded by Councillor Giunta. Roll call vote, 10 yes, 1 absent (OBrien). Motion passed. 11:16pm. Motion to come out of Executive Session by Councillor Zeid, seconded by Councillor Vogel. Roll call vote, 10 yes, 1 absent (OBrien). Motion passed. 11:43pm. Motion to schedule an Executive Session meeting of the City Council on Thursday, October 3, 2019 at 5:30pm to continue the discussion of litigation with respect to the High Street Paving by Councillor Devlin, seconded by Councillor Zeid. Roll call vote, 10 yes, 1 absent (OBrien). Motion passed.

20. EXECUTIVE SESSION to discuss litigation with respect to the 193 High Street Zoning Appeal

Councillor Devlin recused. Motion to go in to Executive Session, for the purpose of discussing litigation with respect to the 193 High Street Zoning Appeal, by Councillor Zeid, seconded by Councillor Tontar. Roll call vote, 9 yes, 1 recused (Devlin), 1 absent (OBrien). Motion passed. 11:46pm. The Council President

stated the Council would not come back into Open Session. Motion to come out of Executive Session by Councillor Zeid, seconded by Councillor Tontar. Roll call vote, 10 yes, 1 recused (Devlin), 1 absent (OBrien). Motion passed. 12:15am.