

CITY OF LACONIA - CITY COUNCIL MEETING

May 26, 2020

7:00 P.M.

5/26/2020 - Minutes

1. CALL TO ORDER

Mayor Hosmer called the meeting to order at the above date and time.

As Mayor of the Laconia City Council, due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020/04, this Board is authorized to meet electronically.

Please note that there is no physical location to observe and listen to the meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, this is to confirm that we are:

a) Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means;

We are utilizing the Zoom platform for this electronic meeting. All Council Members have the ability to communicate during this meeting through the Zoom platform, and the public has access to watch the live YouTube at <https://www.youtube.com/laconianh>, listen to this meeting through dialing the following phone # 1-646-558-8656 or participate by the Zoom app: Webinar ID: 886 3938 2050 password 916676

b) Providing public notice of the necessary information for accessing the meeting;

We previously gave notice to the public of how to access the meeting using Zoom, and instructions are provided on the City of Laconia's website at: www.laconianh.gov

c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access;

If anybody has a problem, please call 524-3877 ext 249 or email at: cityclerk@laconianh.gov

d) Adjourning the meeting if the public is unable to access the meeting.

In the event the public is unable to access the meeting, we will adjourn the meeting and have it rescheduled at that time.

Please note that all votes that are taken during this meeting shall be done by Roll Call vote.

Let's start the meeting by taking a Roll Call attendance. When each member states their presence, also please state whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know Law.

2. SALUTE TO THE FLAG

Councilor Cheney lead the Salute to the Flag.

3. RECORDING SECRETARY

Cheryl Hebert, City Clerk

4. ROLL CALL

City Clerk Hebert took a roll call vote:

Councilor Cheney: YES, (physically present)

Councilor Bownes: YES, Is anyone in the room with you? NO

Councilor Lipman: YES, Is anyone in the room with you? NO

Councilor Haynes: YES, (physicall present)

Councilor Hamel: YES, Is anyone in the room with you? NO

Councilor Felch: YES, Is anyone in the room with you? NO

Mayor Hosmer noted all six (6) Councilors were in attendance and a quorum has been established.

5. STAFF IN ATTENDANCE

Scott Myers, City Manager

Glenn Smith, Finance Director

6. COUNCIL PROCLAMATION

7. ACCEPTANCE OF MINUTES FROM PREVIOUS MEETINGS

7.A. Special Budget Meeting minutes of May 11, 2020

Minutes of the meeting were distributed to the City Council on Thursday, May 14, 2020. With no corrections or changes submitted to the Clerk, the minutes will be accepted as distributed.

7.B. Regular meeting minutes of May 11, 2020

Minutes of the meeting were distributed to the City Council on Thursday, May 14, 2020. With no corrections or changes submitted to the Clerk, the minutes will be accepted as distributed.

8. CONSENT & ACTION ITEMS

9. CITIZEN COMMENTS FOR MATTERS NOT ON THE AGENDA

No comments from the public were made.

10. INTERVIEWS

11. NOMINATIONS, APPOINTMENTS & ELECTIONS

12. COMMUNICATIONS

13. PUBLIC HEARINGS

14. PRESENTATIONS

15. MAYOR'S REPORT

Mayor Hosmer noted that earlier this evening Police Chief Matt Canfield and Fire Chief Kirk Beattie presented their budget presentations. Mayor Hosmer also noted the great work that the Fire Department did over the holiday weekend in the Weirs with a fire that could have cause millions of dollars of damage.

Mayor Hosmer also spoke about the CARES Grant for small businesses and encourages people to go to www.goferr.nh.gov to apply for these funds.

16. COMMITTEE REPORTS

16.A. FINANCE (Lipman (Chair), Hamel, Cheney)

16.A.i. **WOW Trail Funding**

16.A.ii. **Downtown TIF Financing**

16.B. PUBLIC SAFETY (Cheney (Chair), Bownes, Lipman)

16.C. GOVERNMENT OPERATIONS & ORDINANCES (Bownes (Chair), Felch, Cheney)

16.C.i. **Review of Chapter 167, Noise and Chapter 161 Licensing as it pertains to outdoor sound equipment and loudspeakers**

16.C.ii. **Ordinance Amending Chapter 221, Vehicles and Traffic/Parking on Sublawns**

16.C.iii. **Procedural review of grant applications**

16.C.iv. **Regulation of Short Term Residential Rental Businesses**

16.C.v. **Proposed Historic Overlay District**

16.C.vi. **Scenic Road Motorcycle Noise Petition**

16.D. LANDS & BUILDINGS (Hamel (Chair), Haynes, Felch)

16.D.i. **Downtown parking garage**

16.D.ii. **Repair & maintenance of City buildings**

16.D.iii. **Perley Pond Maintenance**

16.D.iv. **Plan for the DPW Compound**

16.D.v. **Continuation of the discussion regarding parking in the Lakeport area**

16.E. PUBLIC WORKS (Haynes (Chair), Felch, Bownes)

16.E.i. **Retaining Wall Policy**

17. LIAISON REPORTS

Councilor Hamel updated the Council on the Colonial Theatre. The vaulted ceilings have been completed, plumbers and electricians are present, the sidewalk is being worked on, and Canal Street work is continuing. The job is about 35% complete with only 32% of the budget being used.

Anyone can contact Justin Slattery at the BEDC to purchase a paver stone for the sidewalk in front of the Colonial Theatre. 524-3057 is the contact number for Justin Slattery.

18. **CITIZENS REQUESTS TO COMMENT ON CURRENT AGENDA ITEMS**

Attorney Bill Woodbury, Normandin, Cheney, and O'Neill representing The Dive, LLC - Just wanted to make the Council aware that he is present this evening if there are any questions for him in regards to the proposed lease agreement.

19. **CITY MANAGER'S REPORT**

19.A. **Project Updates Report**

City Manager Myers administratively approved some changes for some previously approved items to extend time for outdoor loudspeaker requests and fireworks requests.

City Manager Myers noted for the record that City Hall opened officially for in person business today, May 26, 2020. He explained that the City Clerk, Assistant Assessor, and an employee from Planning took the lead and acted as a "greeter" in the lobby to direct the residents once they entered the building and ensured everyone remained socially distant. City Manager Myers still would like to remind the public that we are requesting any transactions that can be done online to do so. He also thanked the Parks and Rec Department for getting City Hall ready in order to be able to open up to the public in a safe manner.

City Manager Myers also noted that the Weirs Bridge was open for traffic earlier than expected as it opened Friday, May 23, 2020.

City Manager Myers reviewed the report.

Councilor Hamel requested a document explaining how emergency services will access the other side of Durkee Bridge once that bridge shuts down in September.

City Manager Myers explained it has been discussed whether that project will be taking place this fall or put it off till next Spring due to the economy slowly opening back up.

Councilor Hamel also suggested that maybe with Durkee Bridge, one side could be done at a time rather than shutting the entire bridge down all at once.

Councilor Hamel also mentioned the park at Busy Corner and the condition that it is in.

Councilor Cheney mentioned a letter that was received from a constituent in regards to trash pick up in the Weirs area.

City Manager Myers stated the particular property in question has been on the City's radar for a few years and this is being addressed with the proper departments.

Councilor Cheney would like a report back on the status of this property.

19.B. **Monthly Economic Development Report**

City Manager Myers reviewed the report.

20. **NEW BUSINESS**

20.A. **First reading of Resolution 2020-05, relative to the 2020 Assistance to Firefighters Grant**

Councilor Cheney moved to waive a reading of this Resolution in its entirety and to read by title only, seconded by Councilor Haynes;

City Clerk Hebert took a roll call vote:

Councilor Cheney: YES

Councilor Bownes: YES

Councilor Lipman: YES

Councilor Haynes: YES

Councilor Hamel: YES

Councilor Felch: YES;

the motion passed with all in favor.

Councilor Cheney moved a first reading of Resolution 2020-05, relative to authorizing the City Manager to accept and expend a grant on behalf of the City in an amount up to \$12,500 for the Assistance to Firefighter's Grant, seconded by Councilor Haynes;

City Clerk Hebert took a roll call vote:

Councilor Cheney: YES

Councilor Bownes: YES

Councilor Lipman: YES

Councilor Haynes: YES

Councilor Hamel: YES

Councilor Felch: YES;

the motion passed with all in favor.

Councilor Cheney moved to schedule a public hearing on June 8, 2020 during the regular Council meeting to gather public input prior to adoption, seconded by Councilor Haynes;

Councilor Cheney: YES

Councilor Bownes: YES

Councilor Lipman: YES

Councilor Haynes: YES

Councilor Hamel: YES

Councilor Felch: YES

the motion passed with all in favor.

20.B. **First reading of Ordinance 2020-229, to amend Chapter 229, Wharves, and to**

request a second reading and Public Hearing on June 8, 2020 during the regular City Council meeting

Mayor Hosmer read the background to this Item.

City Manager Myers explained the reasonings for this request to amend Chapter 229, Wharves. If this were to pass, the Dive Lease would need to go to a public hearing.

Councilor Haynes moved to waive a reading of this Ordinance in its entirety and to read by title only, seconded by Councilor Felch;

City Clerk Hebert took a roll call vote:

Councilor Cheney: NO

Councilor Bownes: YES

Councilor Lipman: YES

Councilor Haynes: YES

Councilor Hamel: YES

Councilor Felch: YES

the motion passed with five (5) in favor and one (1) opposed.

Councilor Felch moved a first reading of Ordinance 2020-229, to amend Chapter 229, Wharves, seconded by Councilor Haynes;

Councilor Bownes thinks this is premature at this time.

Councilor Lipman would like to see the Lease discussed before this amendment.

City Manager Myers explained that the Lease can't be signed without the changes to this Chapter being done first.

Councilor Lipman stated that there would be no reason to amend Chapter 229 if the lease isn't approved.

Councilor Hamel still has concerns with the lease. Mayor Hosmer stated that is the next item to be discussed. Councilor Hamel explained he is not ready to go to public hearing on this item without addressing some of the unknowns in regards to the lease.

Councilor Felch thinks the amendment to Chapter 229 can be done without even approving the Lease.

Mayor Hosmer called the question:

City Clerk Hebert took a roll call vote;

Councilor Cheney: NO

Councilor Bownes: NO

Councilor Lipman: NO

Councilor Haynes: NO

Councilor Hamel: NO

Councilor Felch: YES

the motion failed with one (1) in favor and five (5) opposed.

Councilor Lipman thinks the reason this failed is because of the order in which this was presented.

City Manager Myers explained that if it is the wish of one of the five (5) Councilors that voted in opposition of this item would like to revisit this motion after the discussion of the next item, The Dive, LLC lease, they could do so as it has already been advertised.

20.C. **Request to refer review of the proposed lease with The Dive, LLC to a public hearing on June 8, 2020 during the regular City Council meeting**

City Manager Myers reviewed the changes that were implemented at the request of the Council from the last Council meeting. At the last meeting the vote was to pass the proposed lease with the changes implemented by a (4) four to (2) vote. The changes are as follows:

Page 1 of 10 - the last two sentences were added: Attached hereto, incorporated here and made a part hereof is an estimate of cost for the construction and renovation of the new finger dock. The Dive shall post a construction bond in the full amount of the estimated construction cost.

Page 5 of 10 - The original line regarding "shall make all deliveries" was taken out and it now reads: d. Deliveries to the The Dive shall be scheduled for weekdays or weekends before 10:30 am.

Page 5 of 10 - under f. The Dive will comply with the Laconia Noise Ordinance at all times. No live music will be allowed at The Dive and amplified music shall be limited to ambient levels that support reasonable conversation levels.

Page 8 of 10 - under Subletting & Assignment - the word approximately was changed to substantially.

Page 9 of 10 - housekeeping changes to the numbering was done. Number 2 was added reading "The Dive shall be solely responsible for the maintenance of the utilities installed at the Dock Expansion. The Dive shall reimburse the city for all costs of repairs to the Dock Expansion within the first three years of this Lease Agreement.

Councilor Hamel questioned number 3 on page 2 in regards to the timeframe of the construction. Councilor Hamel is concerned with the last line which reads "There shall be no limit to the amount of extensions agreed to."

City Manager Myers explained that some items are out of anyone's controls such as Wetland permits, so we thought it was best to not include specific timeframes but it does state reasonable extensions.

Councilor Hamel is also concerned with number 1 on page 3 in regards to ADA compliance.

City Manager Myers explained that if The Dive is not in compliance with all State and Federal guidelines, then there wouldn't be approval through the City for an occupancy permit. All local, State, and Federal laws will be enforced.

Councilor Felch stated that the compliance is with the dock that they are building.

City Manager Myers explained compliance also has to be with any temporary dock that they are using while building their dock as well.

Councilor Cheney referenced page 2, item 3 regarding the 60 days. Councilor Cheney doesn't like that there are no consequences listed if this timeframe is not met. Councilor Cheney would also like it stated somewhere that the vessel is also ADA compliant, not just the dock. Councilor Cheney also referenced a letter that the Council received from the Mount Washington stating that the leesee's customers will not be able to use the ramp for access of The Dive. Councilor Cheney would like that explained before he casts his vote. Councilor Cheney also spoke about page 6, item 3, Certificate of Insurance. He thinks the City should be totally indemnified. On page 8, item 1, Councilor Cheney would like the line that reads: "The Dive may assign this lease to another legal entity made up of the same or substantially the samemembers as The Dive, with the prior written approval of the City, which consent shall not be unreasonably withheld." explained in more detail. At the top of page 9 there needs to be more to define what access The Dive could possibly get if the Mount Washington refuses use of the ramp. The Dive will need to install a ramp for ADA access.

City Manager Myers stated in regards to the liability and indemnification, that wording came directly from the City's insurance carrier. In respect to the other concerns, this lease was tentatively approved at the last Council meeting pending the changes that the Council had previously requested. If it weren't for Chapter 229 requiring a public hearing this lease would already be approved. The concerns being expressed tonight may need a significant re-write rather than just wordsmithing.

Councilor Cheney stated part of the problem is that new concerns keep coming up and he wouldn't want to rush into something that still needs tweaking.

Attorney Woodbury addressed the Councilor's concerns. In regards to the timeframe of construction, it is the priority to get this project done as soon as possible but some delays may be out of The Dive's control. If the timeframe of the completion is in The Dive's control, then language could be added to address that. With respect to ADA compliance, the vessel is in full compliance with ADA regulations and as far as any other ADA compliance regulations those will all be addressed and in compliance. Attorney Woodbury stated as far as the ramp is concerned, he has reached out to Mr. Morace today to open up the line of communication to be able to arrive on an agreement. Attorney Woodbury also said proper insurance would be secured to make sure everyone is covered. As far as Councilor Cheney's concern with indemnity, The Dive is willing to add the necessary language. In regards to the subletting concern, as long as the lease is in full compliance, it is the hopes that there wouldn't be any concerns.

Councilor Hamel would like to see some sort of documentation from the Flagship stating The Dive can use the ramp for access to their venue.

Attorney Woodbury stated that in the two years that The Dive has been in business, there has only been one request for an individual to have access to The Dive and there are other accommodations that can be made. The Dive has a smaller boat that is used, if need be, in order to pick up an individual at another more accommodating location to bring them to The Dive.

Councilor Hamel understands what Attorney Woodbury is saying but other restaurants must be ADA compliant whether they use it or not.

Councilor Lipman is wondering if a semi-colon is added between the two sentences on page 6 item 1a if that would satisfy Councilor Hamel's concerns.

Councilor Lipman also stated that the City could ask Primex to reassess the insurance details to include higher limits.

Councilor Bownes understands that some Councilors still have concerns with the language in the lease. Councilor Bownes still thinks this is premature.

Mayor Hosmer asked for clarification as to whether the items that the Council requested at the last meeting have been resolved and now there are additional issues being looked at that were not raised two weeks ago? It seems this item is not moving forward and nullifying the four to two in favor vote two weeks ago.

City Manager Myers stated in regards to the language in Chapter 229, which prohibits the City to leasing the public docks to a commercial user, is why this item was brought forward for an amendment. Having this amendment always requires a public hearing if the City were to enter into a lease agreement. Therefore, this will delay the process even more if the changes in Chapter 229 are approved.

Mayor Hosmer is also concerned with balancing the equities. The value to the City is present, but the opportunity of entering into a lease with The Dive and the City benefitting from a brand new dock may expire if this is delayed too long.

Councilor Lipman thinks that the issues that were raised are solvable and would like to get every one on board to be in agreement.

Mayor Hosmer had a conversation with Mr. Morace today to address his concerns. Mr. Morace is looking out for his own business and does not want to incur any added liability but is also willing to open up communications with The Dive to discuss deliveries and ramp use.

City Manager Myers stated there are two options, either table this tonight and bring a new document back on June 8th and then a possible public hearing on June 22, or continue this evening to schedule a public hearing for June 8th and a second reading and then at that time small amendments could be offered up that are not substantive changes.

Council is in consensus to move forward with option two that the City Manager just presented.

Councilor Bownes doesn't understand why this needs to be decided on tonight but he does support a lease agreement with The Dive.

Councilor Hamel still is troubled by the ADA accessibility and doesn't want that to come back on the City.

Councilor Felch stated tonight's vote isn't voting to approve the lease it would be just to move it forward.

Councilor Lipman agrees with Councilor Felch.

Mayor Hosmer would like to see this move forward with the understanding it will continue to be worked on in regards to the issues that were raised tonight by Councilor Hamel and Councilor Cheney.

Councilor Lipman would like to see a business friendly fashion that this can progress.

Councilor Haynes would like to move forward to a public hearing.

Councilor Bownes can support to move this to a public hearing.

Councilor Felch moved to waive a reading of the proposed lease with The Dive, LLC, in its entirety and to read by title only, seconded by Councilor Haynes;

City Clerk Hebert took a roll call vote:

Councilor Cheney: NO

Councilor Bownes: YES

Councilor Lipman: YES

Councilor Haynes: YES

Councilor Hamel: NO

Councilor Felch: YES

the motion passed with four (4) in favor and two (2) opposed.

Councilor Felch moved a first reading of the proposed lease with The Dive, LLC, seconded by Councilor Haynes;

City Clerk Hebert took a roll call vote:

Councilor Cheney: NO

Councilor Bownes: YES

Councilor Lipman: YES

Councilor Haynes: YES

Councilor Hamel: NO

Councilor Felch: YES

the motion passed with four (4) in favor and two (2) opposed.

Councilor Felch moved to schedule a second reading and public hearing regarding the proposed lease with The Dive, LLC on June 8, 2020 during the regular City Council meeting to gather public input, seconded by Councilor Haynes;

City Clerk Hebert took a roll call vote:

Councilor Cheney: NO

Councilor Bownes: YES

Councilor Lipman: YES

Councilor Haynes: YES

Councilor Hamel: NO

Councilor Felch: YES

the motion passed with four (4) in favor and two (2) opposed.

Councilor Lipman moved to reconsider Item 20B, seconded by Councilor Haynes;

City Clerk Hebert took a roll call vote

Councilor Cheney: NO

Councilor Bownes: NO

Councilor Lipman: YES

Councilor Haynes: YES

Councilor Hamel: NO

Councilor Felch: YES

the motion passed with Mayor Hosmer voting in the affirmative to break the three (3) to three (3) tie.

Councilor Felch moved to waive a reading of this Ordinance in its entirety and to read by title only, seconded by Councilor Haynes;

City Clerk Hebert took a roll call vote:

Councilor Cheney: NO

Councilor Bownes: YES

Councilor Lipman: YES

Councilor Haynes: YES

Councilor Hamel: NO

Councilor Felch: YES

the motion passed with (4) four in favor (2) opposed.

Councilor Felch moved a first reading of Ordinance 2020-229, to amend Chapter 229, Wharves, seconded by Councilor Haynes;

City Clerk Hebert took a roll call vote:

Councilor Cheney: NO

Councilor Bownes: YES

Councilor Lipman: YES

Councilor Haynes: YES

Councilor Hamel: NO

Councilor Felch: YES

the motion passed with all (4) in favor and (2) opposed.

Councilor Felch moved to schedule a second reading and public hearing on June 8, 2020 during the regular Council meeting to gather public input, seconded by Councilor Haynes;

City Clerk Hebert took a roll call vote:

Councilor Cheney: NO

Councilor Bownes: YES

Councilor Lipman: YES

Councilor Haynes: YES

Councilor Hamel: NO

Councilor Felch: YES

the motion passed with (4) in favor and (2) opposed.

20.D. Request to approve the 2020 first half sewer warrant

Councilor Bownes has left the Council meeting at 9:04 pm.

Councilor Felch moved to approve the 2020 first half Sewer Warrant, seconded by Councilor Cheney;

City Clerk Hebert took a roll call vote:

Councilor Cheney: YES

Councilor Lipman: YES

Councilor Haynes: YES

Councilor Hamel: YES

Councilor Felch: YES

the motion passed with all in favor.

20.E. Request to accept funds provided by the State and Federal Governments in response to the COVID-19 public health emergency

Councilor Cheney moved to accept offers of federal funds as listed under the provisions of RSA 21-P:43 and to authorize the Finance Director as the designated signing authority for submission of claims for these funds,

1. First Responder COVID-19 Stipend Program in an amount not to exceed \$199,260
2. CARES Provider Relief Fund in an amount not to exceed \$37,102.38
3. Governor's Office for Emergency Relief & Recovery Municipal Relief Fund in an amount not to

exceed \$394,778 and

4. FEMA Major Disaster FEMA - 4516-DR-NH Funds

seconded by Councilor Felch ;

City Clerk Hebert took a roll call vote:

Councilor Cheney: YES

Councilor Lipman: YES

Councilor Haynes: YES

Councilor Hamel: YES

Councilor Felch: YES

the motion passed with all in favor.

21. **UNFINISHED BUSINESS**

22. **COUNCIL COMMENTS**

Councilor Haynes thanked the Congregational Church for the display of Flags at Veterans Square.

Councilor Hamel said there was a small ceremony held at Veteran's Square to honor Memorial Day.

23. **FUTURE AGENDA ITEMS**

23.A. **Master Plan**

23.B. **Milfoil Treatment funding requests**

23.C. **Sewer & Water Master Plan**

23.D. **Single Stream Recycling/Concord Co-op/Solid Waste disposal cost reductions**

23.E. **Strategic Planning/Goal Setting**

23.F. **WOW Trail**

23.G. **Weirs Beach Restoration Project**

23.H. **Fair St/Court St traffic problems and accidents**

24. **Any other business that may come before the Council**

25. **NON-PUBLIC SESSION (According to RSA 91-A:3, II)**

26. **ADJOURNMENT**

With no further business to come before the Council and hearing no objection, Mayor Hosmer adjourned the meeting at 9:14 pm.

Respectfully submitted

Cheryl Hebert, City Clerk

MINUTES OF THIS MEETING WERE APPROVED BY COUNCIL ON JUNE 8, 2020