

## CITY COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: MONDAY, JANUARY 13, 2014

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

### **I. CALL TO ORDER**

Mayor Lister called the meeting to order at 7:00 p.m.

### **II. ROLL CALL**

**PRESENT:** Mayor Lister, Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Lown, Dwyer, Morgan, Spear and Thorsen

### **III. INVOCATION**

Mayor Lister asked everyone to join in a moment of silent prayer.

### **IV. PLEDGE OF ALLEGIANCE**

Councilor Spear led in the Pledge of Allegiance to the Flag.

### **V. PROPOSED ADOPTION OF RULES AND ORDERS OF THE PORTSMOUTH CITY COUNCIL**

City Manager Bohenko stated that this is the first order of business the City Council needs to act on this evening.

Councilor Lown said he would like to change Rule 23 and go back to where the Mayor names the appointments to the Boards and Commissions. He has provided the City Council with the new language. He also stated that he has run the motion by City Attorney Sullivan and he agrees with the language.

**Councilor Lown moved to adopt the Rules and Orders of the Portsmouth City Council. Seconded by Councilor Thorsen.**

Councilor Kennedy discussed nominations to the various Boards and Commissions and how it would work.

**Councilor Lown moved to amend Rule 23 – Committee Nomination to read as following: *Except for committees created solely by the Mayor, the Mayor shall submit for approval by the City Council all nominations of non City Councilors to committees. All nominations shall be laid on the table until the next regularly scheduled Council meeting. The Mayor shall make all appointments of the City Councilors to committees. Seconded by Councilor Thorsen.***

Councilor Kennedy asked the City Attorney to discuss how the Council would enter into a Non-Public Session to discuss a nomination. City Attorney Sullivan stated that the person must be given notice and the opportunity to hold the meeting in a public setting.

Councilor Kennedy said she wants to make sure the City Council has the ability to enter into Non-Public Session if it is necessary.

City Attorney Sullivan explained the former process of Rule 23 and how it differs from the proposed change.

**Amendment passed.**

Councilor Spear asked for the former City Councilors to explain the reason why they are now in favor of going back to the former Rule 23.

Mayor Lister said it was difficult to make appointments and it served as a detriment for people to apply for Boards and Commissions.

Councilor Dwyer would like to see a Committee of the City Council bring forward nominations for Boards and Commissions. She said the process did not work well.

Councilor Thorsen said he voted against the rule change. He said it did not change the outcome as the City Council has retained the ability to not accept an appointment and this makes the process less tedious.

Councilor Kennedy said she thought it would change the process for a discussion of who would serve on the Committee. She said the rule was never followed and she would like to vet people in the more confident way.

**Main motion passed as amended. Voted to adopt the Rules and Orders of the Portsmouth City Council by amending Rule 23 - Committee Nomination to read as following: *Except for committees created solely by the Mayor, the Mayor shall submit for approval by the City Council all nominations of non City Councilors to committees. All nominations shall be laid on the table until the next regularly scheduled Council meeting. The Mayor shall make all appointments of the City Councilors to committees.***

**VI. ACCEPTANCE OF MINUTES** *(There are no minutes on for acceptance this evening)*

**VII. PUBLIC COMMENT SESSION**

Mayor Lister stated he would like to allow people 2 ½ minutes to speak.

**Assistant Mayor Splaine moved to suspend the rules in order to allow each person 3 minutes to speak. Seconded by Councilor Kennedy and voted.**

Bob Hassold said the City Council needs to live up to the promises made during the election and thanked them for their time in serving the City.

Michael Stasiuk asked the City Council to find a way to dial back the development in the north end. He feels the development in the City is not thoughtful and the buildings are taking up too much area in the City.

Barbara Bowlus spoke regarding the possible development of Whole Foods and expressed support for Councilor Kennedy's amendment to have different zoning for different areas. She also said she supports Councilor Morgan's amendment and Mayor Lister's amendment to change design review.

Joe Caldarola spoke in support of Councilor Morgan's amendment. He said he is opposed to the large developments in the City. The proposed conference center does not provide for parking and the expected capacity of the center would be 750 people. He requested the City Council to carefully consider the proposed amendment by Mayor Lister.

Jerry Zelin spoke in support of all zoning amendments before the City Council this evening. He stated that developers would build as large as allowed in zoning in the CBA and CBB Districts; the only restrictions for the building must not cover 95% of the lot. He said the buildings are too large and spoke to the design review process.

John Springer, Harborcorp Attorney said the proposed amendments directly relate to their development. He said when you file the Site Review for the project you become vested. He spoke to the benefits of the design review process. Attorney Springer reported that their plans are very detailed and they have been under negotiations with Whole Foods for months.

Adam Irish spoke to the cartoon in the Gazette picturing the downtown. He said it is important to look at what the City looks like to others. The City is no longer quaint and we are sacrificing the character of the City.

Harold Whitehouse spoke from a letter dated July of 2007 to the editor. He said the City is losing its historic value. The article addressed the waterfront and the changes. He also spoke to the river walk. He said if you keep building people will not keep coming.

Claire Kittredge spoke regarding the size and scale of the City. She said we need intelligent growth and spoke in support of passing first reading of the ordinance eliminating the design review process.

Margaret O'Rourke spoke in support of the amendments proposed by Councilor Kennedy and Councilor Morgan. She does not support the policy proposed by Mayor Lister and said residents want to control the construction of inappropriate sized buildings. She asked why we need a consultant to look at the bicycle friendly and pedestrian friendly areas for the City.

John Feeney said there has been a great deal of change in the last 8 years he has lived in the City. He spoke in support of Councilors Kennedy and Morgan's amendments. He feels we have created our parking problems.

Patricia Bagley spoke in support of Councilors Kennedy and Morgan's amendments. She said she is concerned with the proposed policy of Mayor Lister and feels we are moving in the wrong direction. Ms. Bagley also stated that she does not feel the north end has been treated fairly.

Mimi Clark spoke in support of Councilor Kennedy's amendments.

Joe Almedia said many people care and they're listening. He is here speaking as a resident and business owner. He expressed opposition to the height restrictions. He said it is about the design guidelines and his concerns with the goals listed in Councilor Kennedy's amendments.

Martin Ryan listed buildings that would not meet the height requirements. He said there is a list of 30 buildings all above 45 feet and all are from the civil war era.

Susan Denenberg said we need to decide what we value in the City. She said many people are upset with the Portwalk project.

Mark Brighton said he supports Councilor Kennedy's amendments and the goals are valid. He stated we need to improve the process. Mr. Brighton said to eliminate the conditional use permit, is saying the decisions made in the past were wrong.

Dick Bagley said the City needs to strive for transparency and for everyone to come together. He felt the recent joint meeting was not controlled and that the HDC should not have been part of the meeting. He said having first readings approved this evening is the right thing to do.

Bob Shouse said there is no reason to amend the height limits. He urged the City Council not to move forward with Mayor Lister's amendment. A building moratorium is not the right thing to do.

## **VIII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. Letter from Robert Zarnetske, U.S. General Services Administration, regarding long-term utilization of the T.J. McIntyre Federal Building located at 80 Daniel Street and the adjacent parking lot

**Councilor Spear moved to have the City Manager work with Mayor Lister to send a letter back to GSA requesting a Work Session with GSA, City Council and Congressional Delegation to discuss the GSA proposal and further, the status of the transfer of the McIntyre Property to the City. Seconded by Councilor Kennedy.**

Councilor Thorsen recommended that the new City Council should have an informational meeting prior to the Work Session to allow the Council to be more effective.

City Manager Bohenko said he could provide a summary from 2002 to present to the Council. He feels that would be the best place to start. He stated he would work with Mayor Lister to come forward with dates for a Work Session.

**Motion passed.**

## **IX. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

### **A. CITY MANAGER**

#### **1. Proposed Ratification of City Council Policies**

City Manager Bohenko said the City council has various policies before them to be ratified this evening. If any Council member has concerns regarding the policies it may be useful during the course of time bring the policy back for more in-depth discussion and the reason is to provide staff with a direction on items.

**Councilor Kennedy moved to ratify City Council Policies as presented. Seconded by Councilor Lown.**

Councilor Dwyer spoke to City Council Policy 2009-01 regarding the Recreation Board, Peirce Island Committee, Conservation Commission, and other Blue Ribbon Committees as deemed necessary would meet on a quarterly basis with the Chairman of the aforementioned Boards and Commissions, along with their City Council liaison. Quarterly meetings to take place March, June, September and December. Subsequent to the quarterly meetings, the chairman of the aforementioned Boards and Commission shall report to the City Council at their next available meeting. She stated in general it is good for the Boards and Commissions to meet with the City Council.

**Motion passed.**

City Manager Bohenko reviewed the list of upcoming City Council meetings. He asked the City Council to bring the CIP with them for the January 27<sup>th</sup> Work Session. He said the CIP is required to be adopted by the Planning Board and before moving forward with the budget the City Manager needs an approved CIP. He further stated that January 25<sup>th</sup> is a "Non-Meeting" to discuss collective bargaining. Councilor Spear asked when the Form-Based Zoning informational meeting will be held. City Manager Bohenko said Wednesday, January 29th in the Levenson Room at the Library. He said another notice will be put out for the meeting. He feels the meeting will be very informative.

Councilor Shaheen asked about the public comment meeting for the Harborcorp project on January 16<sup>th</sup>. He said there is a rule change process of the Planning Board for public hearings and addressed the issue of people wanting to make presentations. The rule proposes 3 rounds for public hearings; the second round could be for presentations and third is for people to continue to speak. He said each round would be 3 minutes. Assistant Mayor Splaine asked if it would include the developers as well. City Manager Bohenko said that has not been typically contemplated but it is for the decision of the Planning Board.

Councilor Dwyer said the issue of presentations by individuals would be helpful if similar processes are used for Boards and Commissions across the board. Councilor Kennedy stated she agrees with Councilor Dwyer and would like a template put together and present it to all the Boards and Commissions. City Manager Bohenko said we need to see how it works before coming out with a template.

Councilor Shaheen asked about the upcoming public hearing on January 16<sup>th</sup> of the Planning Board. City Manger Bohenko said the public hearing is being continued and the Planning Board would act on the new rule before the public hearing is reopened.

## **B. MAYOR LISTER**

### 1. City Council Board and Commission Assignments 2014-2015

Mayor Lister said the City Council has a list of assignments and he would like the Council to make a motion for the appointment of the Historic District Commission and Planning Board Representatives. He also stated if any City Councilor has issues with any of the assignments he would be happy to discuss them at another time.

**Assistant Mayor Splaine moved to approve Councilor Kennedy to serve as the Council Representative to the Historic District Commission in accordance with Chapter 1, Article IV, Section 1.404 of City Ordinance. Seconded by Councilor Shaheen and voted.**

**Councilor Kennedy moved to approve Councilor Thorsen to serve as the Council Representative to the Planning Board in accordance with Chapter 1, Article III, Section 1.303 of City Ordinance. Seconded by Councilor Lown and voted.**

Mayor Lister reviewed the appointments for Council Assignments as followed:

- African Burial Ground Committee, Blue Ribbon – Councilor Chris Dwyer
- Chamber of Commerce – Assistant Mayor Jim Splaine
- Economic Development Commission – Councilor Stefany Shaheen and Councilor Eric Spear
- Fees Schedule Study Committee – Councilor Brad Lown and Councilor Chris Dwyer
- Legislative Delegation – Subcommittee – Mayor Robert Lister, Assistant Mayor Jim Splaine, Councilor Stefany Shaheen and Councilor Chris Dwyer
- Parking and Traffic Safety Committee – Councilor Brad Lown
- Pease Development Authority Liaison – Councilor Brad Lown
- Pease Development Authority – Port Subcommittee – Councilor Esther Kennedy
- Peirce Island Committee – Councilor Esther Kennedy
- Public Access Financial Advisory Committee – Councilor Eric Spear
- Recreation Board – Councilor Eric Spear
- Sustainable Practices Blue Ribbon Committee – Councilor Zelita Morgan
- Taxi Commission – Councilor Zelita Morgan
- Veterans' Affairs Organization Liaison – Mayor Robert Lister

Mayor Lister thanked the City Council for their services to the Boards and Commissions.

2. Policy Regarding First Reading on Ordinance Amendments

Mayor Lister passed the gavel to Assistant Mayor Splaine.

**Mayor Lister moved that any proposed ordinance to be acted on by the City Council shall be submitted one meeting in advance of any first reading and that the proposed ordinance is submitted to the Legal Department to draft in the City Ordinance format. Further, that all appropriate Departments, Boards and Commissions be advised of the ordinance prior to first reading and when necessary, require a report back with policy to become effective February 3, 2014. Seconded by Councilor Spear.**

Assistant Mayor Splaine returned the gavel to Mayor Lister.

Councilor Dwyer said she would like to add to the motion. She said that this has always been what the City Council has done. She would like to identify a time for report back.

Councilor Spear said a modification is delaying the effectiveness for us to pass various first readings before the City Council. City Attorney Sullivan said the Harborcorp developer is vested and protected to any regulatory changes. Councilor Spear said we do not need to pass this quickly based on City Attorney Sullivan's response to the question. He said Councilors Kennedy and Morgan's items will not have bearing on the particular development. He said significant changes would need to be made. He feels we should pass the motion without a delay of becoming effective. Councilor Spear said in looking at Councilor Kennedy's proposal you have a proposal drafted by a secret group of City Councilors with Ted Jankowski and thrust upon the City Council. He indicated the process we normally take is the City Council ask the Planning Board or Planning Department to review the matter and report back. He said the Planning Department are the experts in the field and address the concerns of residents and then the City Attorney drafts an ordinance to come back to the City Council for first reading which allows for a carefully crafted ordinance and it is a clear approach which provides public involvement and is transparent.

Councilor Lown said the word he is hearing is that there is an emergency in the City. He said this policy does not prevent any City Council from suspending or waiving the policy and going forward for first reading. He said let the City Council decide by 6 votes to suspend the rules if there is an emergency. All the policy does is require the boards to review the matter and for the City Attorney to draft an ordinance. He said 2 weeks is the time the City Council would need to wait.

Councilor Kennedy said the reason for bringing the document forward is not just Harborcorp. She was elected by the people to look at the mass of buildings. She said we have done this in the past. She stated she contacted NHMA and spoke with Christine Fillmore and was told that this could be common practice in many communities. She said there is no time limit for when the second reading needs to take place. She said it allows us to get this into the process. Councilor Kennedy said it allows the Boards and Commissions to look at the ordinance before second reading. She said the public has asked her to do this and the design review was a direct request of the Planning Department and the Planning Board. We need to answer the concerns of the public on mass development.

Councilor Dwyer said the policy as written did not include an effective date.

Councilor Thorsen said the Council has always gone through this process. He said he opposes the policy because he does not feel the policy is needed.

Councilor Morgan said she agrees with Councilor Thorsen. She said she is opposed to the policy and we should not remove the liberty of submitting items and presenting ideas. She said residents have discussed the matter of development for the last 9 months.

Councilor Dwyer said we are not yet talking about Harborcorp. She said we are not talking about a rule change; it is a policy that we always have followed. It is to allow the City Attorney to review the ordinance and make sure what is brought forward to the City Council is what the Council wants to do, and something that can be legally done before first reading.

Councilor Shaheen said she is going to support the motion. She said she spent hours knocking on doors and discussed transparency and that is what the residents want. She feels it is more expedient to have gone through the process and reviewed by the City Attorney to get the City Council further down the path.

Assistant Mayor Splaine said Councilor Lown and Councilor Dwyer make a decent point that 6 members could suspend the rules. This policy can be created any time with 5 votes of the City Council. If any City Councilor wants to move first reading it can be done with 5 votes. He stated he is a strong supporter of transparency. Assistant Mayor Splaine said the time between first reading and public hearing allows for time to review and provide input.

Councilor Shaheen said we need to have more information to become informed and if there are any implications. She said we know that this is best practice, and has been done in the past.

Councilor Kennedy said the ordinance change still goes to the Planning Board for them to review after first reading and you have ample time to look into the ordinance.

Councilor Shaheen asked City Attorney Sullivan to explain the difference between this current policy and the 2 week proposed. City Attorney Sullivan said with a zoning amendment it becomes effective the morning after first reading and the second reading and public hearing is advertised, and would be applied to any building application that comes forward after tomorrow. He further explained the difference between policies and laws.

Mayor Lister passed the gavel to Assistant Mayor Splaine.

Mayor Lister said we adopted the rules and orders of the City Council which maintains order and civility. He stated historically, this is how the City Council has proceeded with proposed ordinance amendments. In no way is this policy to curtail any City Council Member's request for ordinance amendments, but rather to develop a process that will assure that the proposed ordinances meet all the legal requirements, as well as not create any unintended consequence of conflicting with other ordinances. He indicated that he added the date of effectiveness to allow for discussion of the other items on the agenda.



Assistant Mayor Splaine returned the gavel to Mayor Lister.

**On a roll call 5-4, voted that any proposed ordinance to be acted on by the City Council shall be submitted one meeting in advance of any first reading and that the proposed ordinance is submitted to the Legal Department to draft in the City Ordinance format. Further, that all appropriate Departments, Boards and Commissions be advised of the ordinance prior to first reading and when necessary, request a report back with policy to become effective February 3, 2014. Councilors Shaheen, Lown, Dwyer, Spear and Mayor Lister voted in favor. Assistant Mayor Splaine, Councilors Kennedy, Morgan and Thorsen voted opposed.**

3. Proposed Council requests to Planning Board
  - a) Amendment to Zoning Ordinance Section 10.535.10 – Eliminate the Conditional Use Process that allows building heights up to 50 feet in the Central Business A district and up to 60 feet in the Central Business B district

**Councilor Thorsen moved to request that the Legal Department consider and report back on the adoption of an amendment to zoning ordinance section 10.535.10 which would eliminate the conditional use process that allows building heights to be up to 50 feet in the Central Business A district and up to 60 feet in the Central Business B district. Also, request that the Legal Department put into form for first reading with a report back at the January 21, 2014 City Council meeting with a public hearing and second reading at the March 17, 2014 City Council meeting. Seconded by Councilor Morgan.**

Councilor Lown said the ordinance was adopted by the Council a few months ago and the Planning Board and Historic District Commission discussed it and here we are a few months later asking them to review the ordinance again.

Councilor Spear said he is against the content of the motion and removing the conditional use permit but he would support it because it is right for the City Attorney to draft and report back.

Councilor Thorsen said the Historic District Commission and Planning Board has reviewed the ordinance and in this case the last City Council voted to put it in and all we are doing is looking at whether this City Council wants to take it out. He said the Legal Department should draft the ordinance, bring it back for first reading. He does not feel it needs to go to the Planning Board. Councilor Thorsen said he is now in agreement with it not going to the Planning Board.

Councilor Dwyer said that this is simply a measure that the City Council did at the end of the term to get to Form-Based Zoning. She said there is no harm doing this. She stated under her name she will make a motion to pass first reading of Form-Based Zoning and have a public hearing on March 17<sup>th</sup>. She said it sounds like this evening we can do what ever we want.

Councilor Lown said all the ordinance amendment would do is remove the conditional use permit and eliminate the waiver.

Councilor Thorsen said he agrees with Councilor Lown. He said he does not feel we need a motion at all for this. He said we could ask the City Attorney to draft an ordinance to bring back for City Council review at the next meeting.

**On a roll call 7-2, voted to request that the Legal Department consider and report back on the adoption of an amendment to zoning ordinance section 10.535.10 which would eliminate the conditional use process that allows building heights to be up to 50 feet in the Central Business A district and up to 60 feet in the Central Business B district. Also, request that the Legal Department put into form for first reading with a report back at the January 21, 2014 City Council meeting with a public hearing and second reading at the March 17, 2014 City Council meeting. Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Morgan, Spear, Thorsen and Mayor Lister voted in favor. Councilors Lown and Dwyer voted opposed.**

b) Design Review Regulations

**Councilor Kennedy moved to request that the Planning Board evaluate its design review regulations to consider eliminating the entire design review process. Seconded by Assistant Mayor Splaine.**

Councilor Spear said he has not heard that the design review process is flawed and it helps with the process. He would vote the motion to go through the process and come back with a first reading.

Councilor Dwyer said the Planning Board should evaluate the design review process. She does not feel we should remove or eliminate it without the analysis.

Councilor Kennedy said design review in many communities have a list of criteria and encourages the Planning Department to review the information.

Assistant Mayor Splaine said Councilor Kennedy made excellent points. He sees the value of design review and purpose.

Councilor Thorsen said this matter is here because there is a concern the process needs to change. He said we need to convey to the Planning Board what they are being asked to do.

Councilor Kennedy said City Attorney Sullivan and Mayor Lister spoke to the Historic District Commission on this matter and maybe Mayor Lister could go before the Planning Board on this matter.

Councilor Thorsen said he should have a conversation with Mayor Lister and Councilor Kennedy to prepare a list for something specific for the Planning Board to address. Councilor Dwyer said that is a great suggestion. She said it may be premature for a vote by the City Council on this matter.

**Councilor Kennedy moved to amend the motion to delete “consider eliminating” and replace with “to investigate” and further request a report back to the City Council at the March 3, 2014 City Council meeting. Seconded by Councilor Thorsen.**

**On a unanimous roll call 9-0, voted to pass main motion as amended which is as follows: *Voted to request that the Planning Board evaluate its design review regulations to investigate and further request a report back to the City Council at the March 3, 2014 City Council meeting. Main motion passed, as amended.***

c) Process for Architectural Review

**Councilor Kennedy moved to request that the Planning Board consider a process for architectural review of building projects located outside of the Historic District with a report back to the City Council at the April 7, 2014 City Council meeting. Seconded by Councilor Thorsen.**

Councilor Kennedy said during the campaign many heard that outside the downtown, the City Council has forgotten the other areas of the City.

Councilor Dwyer said she has brought the matter of architect review in the past without support of the City Council. She said to have architect review outside the Historic District would be enormous.

Assistant Mayor Splaine said Councilor Dwyer brings a good point and it is good to start the discussion and find ways to continue it.

**Councilor Kennedy moved to amend the motion to hold a Work Session with the City Council on March 3, 2014 at 6:00 p.m. to review and come forward with parameters for architectural review. Seconded by Councilor Thorsen and voted.**

**Main motion passed as amended which is as follows: *Voted to request that the Planning Board consider a process for architectural review of building projects located outside of the Historic District with a report back to the City Council at the April 7, 2014 City Council meeting and to hold a Work Session with the City Council on March 3, 2014 at 6:00 p.m. to review and come forward with parameters for architectural review.***

At 10:10 p.m., Mayor Lister called a brief recess. At 10:20 p.m., Mayor Lister called the meeting back to order.

**C. COUNCILOR KENNEDY**

1. Proposed First Reading on Zoning Changes

**Councilor Kennedy moved to pass first reading of proposed revisions to zoning ordinance and refer to the Planning Board with a report back for second reading and public hearing at the April 7, 2014 City Council meeting. Seconded by Councilor Morgan.**

Councilor Spear expressed concern with the motion. He said that this would go into effect for developers by passing first reading this evening and scheduling a public hearing and second reading for April 7<sup>th</sup>. He fears unintended consequences are too high. He also indicated he would not support something that has not been vetted by the Planning Board to look at how it fits into the ordinance.

**Councilor Shaheen moved to suspend the rules in order to continue the meeting beyond 10:00 p.m. Seconded by Councilor Kennedy and voted.**

Assistant Mayor Splaine said from now to April 7<sup>th</sup> is 84 days, which allows for dialogue and as a City Council we have an obligation to make sure we take a breath and look at what is being done to our City.

Councilor Morgan spoke in support of the motion. She feels this is needed and residents are not against development but want smart development to our scale as a City. She said we have an opportunity to address the concerns and are giving staff and Boards and Commission and the public time to review and make comments. Councilor Morgan said she feels it is a positive step.

Councilor Dwyer said Councilor Spear has brought up important issues. She said the City Council spent 3-4 months on Form-Based Zoning and people did not feel they wanted to go willy-nilly into it. She said it feels wrong to go forward with this where the same City Council voted against Form-Based Zoning. She said this is a serious concern.

Councilor Lown said 5 City Councilors voted earlier this evening a policy to receive feed back on ordinances. He would like to know that the same 5 people would object to passing first reading this evening. He stated he does not have a problem with referring to the Planning Board for feed back but he does object to changing the rules in the middle of the game for the Harborcorp project, it is not respectful.

Councilor Shaheen said she cannot debate the amendment because it has not gone through the process and feels this is more reactive than deliberative. She said we need a full perspective.

Councilor Shaheen said she does not feel we have heard from residents on this proposal and we have not had any vetting from our experts. We could be putting our community in a position we don't want them to be.

Mayor Lister passed the gavel to Assistant Mayor Splaine.

Mayor Lister said he understands the basis to do this and keep the character of the City. He said he would not support the motion. He said we are not having dialogue and we need to slow down.

Assistant Mayor Splaine returned the gavel to Mayor Lister.

**On a roll call vote 4-5, motion to pass first reading of proposed revisions to zoning ordinance and refer to the Planning Board with a report back for second reading and public hearing at the April 7, 2014 City Council meeting failed to pass. Assistant Mayor Splaine, Councilors Kennedy, Morgan and Thorsen voted in favor. Councilors Shaheen, Lown, Dwyer, Spear and Mayor Lister voted opposed.**

**Councilor Dwyer moved to refer the proposed revisions to the zoning ordinance to the Planning Board for report back to the City Council. Seconded by Councilor Shaheen.**

Assistant Mayor Splaine asked when we could expect the report back.

Mayor Lister said we are creating a great deal of work for the staff.

Planning Director Taintor said the Planning Board is scheduled to meet on February 20<sup>th</sup> but the expectation would be the need to have a second Planning Board meeting.

Councilor Shaheen asked if the ordinance would go before the Legal Department and happen simultaneously.

**Motion passed.**

**D. COUNCILOR DWYER**

1. Establish a Work Session on January 21, 2014 at 6:00 p.m. with the City Attorney to review the Right-to-Know Law

Councilor Dwyer said complying with the State Right-to-Know Law poses a great deal of questions. She would like to have all the City Council on the same page.

**Councilor Dwyer moved to establish a City Council Work Session on January 21, 2014 at 6:00 p.m. with the City Attorney to review the Right-to-Know Law. Seconded by Councilor Lown.**

Assistant Mayor Splaine said he supports the motion and would like to see a contemplation of documents regarding this matter from the Attorney General and other law offices. City Manager Bohenkosaid he would provide copies.

**Motion passed.**

**E. COUNCILOR MORGAN**

1. Proposed First Reading Zoning Amendment – Off-Street Parking Requirements

**Councilor Morgan moved to pass first reading of proposed zoning amendment to Table 10.1112.30, Off-Street Parking Requirements to require conference centers, convention centers, and event centers to provide one (off-street) space per 2 persons of rated capacity. Seconded by Councilor Kennedy.**

Councilor Kennedy said in 1997 there were parking stipulations for all these entities and this is much like other communities.

Councilor Morgan said we need to add these regulations to the Zoning Ordinance.

Planning Director Taintor said in 2009 off-street parking requirements were provided to the City Council. He said there are special parking requirements for the downtown area.

Councilor Spear said in reviewing the ordinance this could have unintended consequences. He said when we try to change laws generally the City Council and staff tries to follow best practices in terms of parking requirements. In the last 30 years of moving away from maximum to minimum requirements. He said what is causing issues in many cities is too many parking regulations. He said parking requirements run counter to our sustainability needs. He said parking requirements create more traffic, diminish tax revenues in a City, and impair walkability. He said the more parking we provide the more money we make.

Councilor Lown said under this amendment the Harborcorp would require 375 parking spaces and this appears to be another effort to affect the Harborcorp project.

Councilor Morgan stated she heard many complaints on parking during her campaign. She said if we think we have parking issues now wait until we have a conference center.

Councilor Shaheen said she would not support the motion because we need to better understand the implications. She said we heard from the Planning Department that Harborcorp is vested, we can't afford a net negative of parking.

Councilor Dwyer said she feels we do have a parking deficiency no matter what use is in front of her, the zoning ordinance should be addressing conference centers in the downtown overlay district.

**On a roll call vote 4-5, motion to pass first reading of proposed zoning amendment to Table 10.1112.30, Off-Street Parking Requirements to require conference centers, convention centers, and event centers to provide one (off-street) space per 2 persons of rated capacity failed to pass. Assistant Mayor Splaine, Councilors Kennedy, Morgan and Thorsen voted in favor. Councilors Shaheen, Lown, Dwyer, Spear and Mayor Lister voted opposed.**

**Councilor Dwyer moved to refer the proposed zoning amendment regarding Off-Street Parking Requirements to require conference centers, convention centers, and event centers to provide one (off-street) space per 2 persons of rated capacity to the Planning Board for report back to the City Council. Seconded by Councilor Thorsen and voted.**

**X. MISCELLANEOUS/UNFINISHED BUSINESS**

Form-Based Zoning (Not on Agenda)

**Councilor Dwyer moved to schedule for first reading the proposed Form-Based Zoning Ordinance for the March 3, 2014 City Council meeting with a public hearing and second reading at the March 17, 2014 City Council meeting. Seconded by Councilor Lown.**

Councilor Morgan said the Form-Based Zoning is a well written document. She said she doesn't feel we would be allowing enough time for residents to review the document.

Councilor Spear said we heard there was an urgency to address these development matters. This is a new type of zoning for the City and we need to get in the pool and try it out. We need to get our feet wet in our intention to evaluate the effectiveness. He said he hopes the public comes out on the ordinance.

Councilor Morgan said we need to allow meaningful discussion. She said we need the public to understand the ordinance.

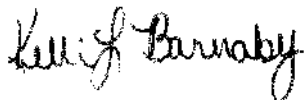
Councilor Kennedy said we need public input because the only input we had was through the Planning Board. She would like to have another Charrette.

Councilor Thorsen said when we took up the questions by the last City Council he voted against because the Council would not have enough time. He agrees we need to take this up earlier than later.

**Motion passed.**

**XI. ADJOURNMENT [AT 10:00PM OR EARLIER]**

**At 11:50 p.m., Councilor Lown moved to adjourn. Seconded by Councilor Spear and voted.**



Kelli L. Barnaby, CMC/CNHMC  
City Clerk