

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, APRIL 21, 2014 TIME: 7:00 PM

AGENDA

- I. CALL TO ORDER [7:00PM or thereafter]
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE

PROCLAMATION

- 1. Earth Day – April 22, 2014

PRESENTATION

- 1. Seacoast Science Center – Marine Mammal Rescue by Wendy Lull

- V. ACCEPTANCE OF MINUTES – JANUARY 13, 2014; JANUARY 21, 2014 AND FEBRUARY 3, 2014

- VI. PUBLIC COMMENT SESSION

- VII. PUBLIC HEARING

- A. BORROWING RESOLUTION IN AN AMOUNT OF UP TO FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) FOR THE NEW FRANKLIN SCHOOL BOILER REPLACEMENT AND OTHER IDENTIFIED ENERGY CONSERVATION MEASURES

- VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First Reading of Proposed Amendment to Chapter 7, Article I, Section 7.103 – Parking and Traffic Safety Committee by the addition of one (1) alternate Committee Member ***(Sample motion – move to pass first reading of the proposed Ordinance amendment, as presented, and schedule a public hearing and second reading at the May 5, 2014 City Council meeting)***
- B. Adoption of Proposed Borrowing Resolution Re: New Franklin School Energy Project. ***(Sample motion – move to adopt the attached borrowing Resolution in an amount of up to Four Hundred Thousand Dollars (\$400,000.00) for the New Franklin School Boiler Replacement and Other Identified Energy Conservation Measures, as presented) Please Note: requires a two-thirds vote for passage.***

- C. Third and Final Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Inserting a New Article 5A – Character Districts (aka Form-Based Zoning) and further to Adopt the Zoning Map for the Character Districts for the Maps referenced in Section 10.5A14.10 of Article 5A
(Sample Motions:
1) **Move to suspend the rules to allow for amendments to the proposed ordinance;**
2) **The City Council has the option to adopt any of the 6 amendments in the City Manager’s comments on a case by case basis which requires separate motions:**
3) **Move to pass third and final reading of the proposed Ordinance, as amended)**
- D. Third and Final Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Miscellaneous Conforming Amendments to Implement Character-Based Zoning
(Sample motion – move to pass third and final reading of the proposed ordinance, as presented)

IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Request for Approval of Pole License to install 1 pole on Spinney Road set in conjunction with the Sanderson Field Subdivision **(Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes)**
- B. Request for Approval of Pole License to install 1 pole and 90 feet of underground conduit on Vaughan Street and 330 feet of underground conduit on Green Street **(Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes)**
- C. Letter from Doug Bates, Greater Portsmouth Chamber of Commerce requesting permission to use property owned by the City located behind Portsmouth High School for an athletic event for the Portsmouth Challenge on Saturday, June 7, 2014 from 9:00 a.m. – Noon **(Anticipated action – move to refer to the City Manager with power)**
- D. Letter from David Hallowell, Portsmouth Maritime Folk Festival, requesting permission to hold the Annual Portsmouth Maritime Folk Festival on Saturday, September 27, 2014 and Sunday, September 28, 2014 and further the closure of 3 parking spaces immediately in front of the RiRa Pub and Breaking New Grounds from 12:00 a.m. until 6:00 p.m. on September 28, 2014 **(Anticipated action – move to refer to the City Manager with power)**

- E. Letter from Josh Pierce, Seacoast Area Bicycle Routes, requesting permission to allow SABR to host a commuter breakfast from 7:00 a.m. – 10:00 a.m. on Friday, May 16, 2014 at Popovers in Market Square and further request that the City Council recognize May 16th as Bike/Walk to Work Day in Portsmouth (**Anticipated action – move to refer to the City Manager with power**)
- F. 2014 Second Omnibus Sidewalk Obstruction Renewals (**Anticipated action – move to refer to the City Manager with power**)

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

(There are no items under this section of the agenda this evening)

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

Items Which Require Action Under Other Sections of the Agenda:

- 1. First Reading of Proposed Resolutions and Ordinances:
 - 1.1. First Reading for Proposed Amendment to Chapter 7, Article I of the Ordinances Re: Parking and Traffic Safety Committee (**Action on this matter should take place under Section VIII of the Agenda**)
- 2. Public Hearing and Adoption of Proposed Resolution:
 - 2.1 Public Hearing and Adoption of Proposed Borrowing Resolution of up to Four Hundred Thousand Dollars (\$400,000.00) for the New Franklin School Boiler Replacement and Other Identified Energy Conservation Measurers (**Action on this item should take place under Section VIII of the Agenda**)
- 3. Third and Final Reading of Proposed Resolutions and Ordinances:
 - 3.1. Third and Final Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Inserting a New Article 5A – Character Districts (aka Form-Based Zoning) and further to Adopt the Zoning Map for the Character Districts for the Maps reference in Section 10.5A14.10 of Article 5A (**Action on this item should take place under Section VIII of the Agenda**)
 - 3.2 Third and Final Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Miscellaneous Conforming Amendments to Implement Character Based Zoning (**Action on this item should take place under Section VIII of the Agenda**)

City Manager's Items Which Require Action:

1. Interim Senior Programming Space
2. Proposed Additional Areas to Implement Character-Based Zoning (Form-Based Zoning)
3. Involuntarily Merged Lots Re: 194 Wibird Street

Informational Items

1. Presentation and Discussion with Cynthia Scarano, Executive Vice President of Pan Am Railways
2. Reminder Re: FY15 Budget Schedule
3. Report Back Re: Various Proposed Zoning Ordinance Amendments
4. Update on Isles of Shoals Employee Parking Program
5. Strategic Marketing Plan for Downtown Parking Shuttle
6. Events Listing

B. MAYOR LISTER

1. Appointments to be Voted:
 - Barbara McMillan reappointment to the Conservation Commission
 - Kimberly Meuse appointment to the Conservation Commission (Alternate)
 - Samuel "Wes" Tator appointment to the Sustainable Practices Blue Ribbon Committee
 - Lawrence Cataldo appointment to the Taxi Commission
 - Stephen Dunfey appointment to the Taxi Commission
2. Resignation – Nate Alger from the Sustainable Practices Blue Ribbon Committee

C. ASSISTANT MAYOR SPLAINE

1. Creating A Fee Penalty Guideline for Violations of Land Use Board Approvals (*Postponed from the April 7th City Council meeting*)
2. Status of Abandoned or Derelict Buildings (*Postponed from the April 7th City Council meeting*)

D. COUNCILOR KENNEDY

1. *Transportation Center (*Postponed from the April 7th City Council meeting*)
2. *Establish Transportation Committee (Discussion Purposes Only) (*Postponed from the April 7th City Council meeting*)

E. COUNCILOR LOWN

1. Parking & Traffic Safety Committee Minutes of the March 13, 2014 meeting (***Sample motion – move to approve and accept the minutes of the March 13, 2014 Parking & Traffic Safety Committee meeting***) (*Postponed from the April 7th City Council meeting*)

F. COUNCILOR MORGAN

1. *Master Plan – Update of our Master Plan’s Implementation Plan section, in anticipation of the 2015 Master Plan Review (**Sample motion – move to request the City Manager to coordinate with staff the update of the Implementation Plan in our current Master Plan, to be made available to the public and City Council by end of May 2014**) (Postponed from the April 7th City Council meeting)
2. *Portwalk – Request for Work Session to review:
 - a) enforcement
 - b) penalties
 - c) process and path forward: how we got here and what is the plan/process to prevent this from happening again
(Postponed from the April 7th City Council meeting)
3. *Civility by City Officials (Postponed from the April 7th City Council meeting)

G. COUNCILOR SPEAR

1. *Metering of Parrott Avenue Parking Lot (**Sample Motion – move to refer to the Fee Committee for a Report Back**)

H. COUNCILOR THORSEN

1. Legal Analysis regarding Financial Disclosures received from NHMA and suggested amendment language to Administrative Code (Postponed from the April 7th City Council meeting)
2. *New Ordinance – Prohibit the establishment of commercial gambling operations within the City of Portsmouth (**Sample motion – move to request to bring back for first reading when written by the Legal Department**)

XII. MISCELLANEOUS/UNFINISHED BUSINESS

XIII. ADJOURNMENT [AT 10:00PM OR EARLIER]

**KELLI L. BARNABY, CMC/CNHMC
CITY CLERK**

**Indicates Verbal Report*

INFORMATIONAL ITEMS

1. Notification that the Conservation Commission Minutes of the September 11, 2013 and October 9, 2013 meetings are available on the City’s website for your review
2. Notification that the Historic District Commission Minutes of the October 2, 2013 and October 9, 2013 meetings are available on the City’s website for your review

NOTICE TO THE PUBLIC WHO ARE HEARING IMPAIRED: Please contact Dianna Fogarty at 603-610-7270 one-week prior to the meeting for assistance.

The Council Chambers
City Hall
Portsmouth, New Hampshire

A Proclamation

Whereas:

As we prepare to observe Earth Day 2014 on April 22nd, the global community continues to face extraordinary challenges, such as health issues, food and water shortages, and economic struggles; and

Whereas:

All people, regardless of race, gender, income or geography, have a right to a healthy, sustainable environment with economic growth; and

Whereas:

It is understood that the citizens of the global community must step forward and take action to create a green economy to combat the aforementioned global challenges; and

Whereas:

A green economy can be achieved on the individual level through educational efforts, public policy and consumer activism campaigns; and

Whereas:

Portsmouth, as the first eco-municipality on the East Coast, is mindful of these connections and continues to support such initiatives, including annual events to promote sustainability in our community.

Now, therefore, I, Robert J. Lister, Mayor of the City of Portsmouth, on behalf of the members of the City Council and the citizens of Portsmouth, do hereby encourage residents, businesses and institutions to use the occasion of

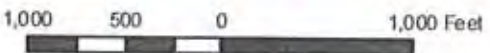
Earth Day 2014

to celebrate the Earth and commit to building a sustainable and green economy, to urge others to undertake similar actions, and to participate in various Service Projects in our City.

Given with my hand and the
seal of the City of Portsmouth,
on this 21st day of April, 2014.


Robert J. Lister, Mayor of Portsmouth





Proposed Marine Mammal
Rescue Sign Locations

DO NOT APPROACH SEALS

Call the NH Marine Mammal Hotline at

603-997-9448



**Seals haul out onto beaches to rest.
Watch quietly from at least 150 feet away.**

Seals are wild animals and can be dangerous!

Keep dogs away.



It is illegal to disturb any marine mammal.
Violators are subject to penalties under the
Federal Marine Mammal Protection Act.

www.seacoastsciencecenter.org



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 27th 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 25th 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 16th. 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 16th 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 17th. 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 7th. 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 7th 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 20th 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

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: TUESDAY, JANUARY 21, 2014

PORTSMOUTH, NH
TIME: 6:00PM [or thereafter]

- At 6:00 p.m., a Work Session was held regarding the Right-to-Know Law.

I. CALL TO ORDER

Mayor Lister called the meeting to order at 7:25 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 Lown led in the Pledge of Allegiance to the Flag.

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

VI. PUBLIC COMMENT SESSION

Tom Carroll said there is still a serious scrap metal problem at the Port. He said it is a continuing problem and a large piece of metal was picked up today and brought to the PDA.

Mark Brighton said linking budgets with cost of living adjustments is not a proper way to measure.

Dick Bagley said he feels the Rules and Orders for the City Council need to be updated. He stated that the City Council is not following Rules 19 and 20. He also expressed his opposition to the policies adopted by the City Council.

Joe Caldarola said he supports all the motions on the agenda and we need to work together. He feels the request of the Economic Development Commission should be broadened to allow participation by residents.

Lawrence Cataldo is an advocate for character based zoning and looking at what the City wants to look like in 50 years. He asked the City Council to give this professional consideration.

Jerry Zelin said he is not against Form-Based Zoning, a conference center or Whole Foods. He looks forward to the development of the north end and how it fits with the character of the City.

Norm Olsen congratulated all that are serving on this council. He reported that the average household income in the City is \$63,000.00. He said the City Council needs to defend residents against further increases and costs.

Jeffrey Kisiel asked the City Council not to eliminate the conditional use permit. The project with Harborcorp is trying to help provide a conference center with parking. He said 45 feet is not an issue and walking between Portwalk development does not feel intrusive.

Caitlyn Hassett spoke regarding the Fire and Ice Festival beginning on Thursday, February 13th at the Port Inn.

Erik Anderson spoke concern with residents and businesses that have become vacant and would like the City Council to look into this. He feels there needs to be a collective discussion of the Council on how they want department budgets to come in and the guidelines and purposes.

Chris Thompson Harborcorp, spoke to the conference center and Whole Foods development. He feels the design review process was very helpful and they're working to improve the project.

Bob Shouse said Assistant Mayor Splaine should be duly recognized for getting Martin Luther King recognized in the State of New Hampshire.

Barbara DeStefano asked the City Council to not move forward with the conditional use permit elimination. She said that developers and property owners need consistency. She indicated that she agrees with Councilor Shaheen's proposal to increase the parking back to \$1.00 but does feel that free parking should remain on Sundays.

Paul Mannle spoke in support to eliminate of the conditional use permit. He feels it was never needed. He said that smart developers will always find a way.

Councilor Dwyer asked if City Attorney Sullivan could respond to an ordinance on vacant property. City Attorney Sullivan said we have options under state laws with regards to vacant property.

VII. APPROVAL OF GRANTS/DONATIONS

- A. *Acceptance of Donations to the Coalition Legal Fund
- Town of Moultonborough - \$6,500.00
 - Town of Carroll - \$1,000.00

Councilor Lown moved to approve and accept the donations, as listed, to be placed in the Coalition Legal Fund. Seconded by Councilor Kennedy and voted.

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.535 – Exceptions to Dimensional Standards in the Central Business District, which would eliminate a Conditional Use Permit under Section 10.535.13

Councilor Kennedy moved to pass first reading and establish a public hearing and second reading at the March 17, 2014 City Council meeting, and further, that the City Council refer this proposed Ordinance amendment to the Planning Board for report back to the City Council prior to the March 17, 2014 public hearing. Seconded by Councilor Thorsen.

Councilor Lown moved to amend and postpone the ordinance until March 3, 2014. Seconded by Councilor Spear.

Councilor Lown said he understands the intent is to regulate one of many issues with zoning. It makes sense not to enact a height limit.

Councilor Kennedy said she will oppose the motion. She said were not enacting a height limit; it is what is allowed under conditional use. She said Form-Based Zoning will not cover all the concerns.

Councilor Spear said the City has worked hard over the last 2 years. He is excited about Form-Based Zoning coming forward in 5 weeks.

Councilor Thorsen asked about the impact of the change and whether the time frame is a relative issue and what areas are not going to be covered. Planning Director Taintor spoke to the areas that will be covered.

Councilor Dwyer asked if the motion made by Councilor Lown would be better served as a postponement to take it up with the Form-Based Zoning.

Councilor Lown said that was his intention, to combine the two for discussion.

City Attorney Sullivan said tabling is what is currently used, but postponement would be the correct term.

City Manager Bohenko said both ordinances would still come forward.

Councilor Kennedy said at second reading we could postpone the ordinance as well. She said we could still have discussions on March 3rd and it would be in place.

Councilor Morgan said she supports Councilor Kennedy's comments. We are not here to talk about Form-Based Zoning this evening. This amendment is important to protect areas outside the Form-Based Zoning area.

Councilor Shaheen said we have invested much time and effort over the months and a piece-mail approach is not good policy. She said we need to provide stability and consistencies over what people will see in their back yard.

Assistant Mayor Splaine said he is against delaying the ordinance. We don't want to get hand cuffed and that is why we should move forward with first reading. This is going through the process the City Council adopted. The City Council should be generating dialogue around the table and with residents by sitting around the table with residents and setting a public hearing to have a fascinating discussion. He said we will not agree with Form-Based Zoning in one meeting and there are many details to review. He said we should not delay this any further and he would like to pass first reading this evening.

Councilor Morgan said she feels it is important to protect the other areas of the City. We need to pass first reading now.

Councilor Shaheen said as she reads the proposal it says the CBD A & B so it would not address the northern tier and Islington Street. She said as crafted it does not do that.

City Manager Bohenko said that is correct. He said the City Council needs to take each ordinance separately.

Councilor Shaheen said we have spent countless public time on this and we need to address this issue as it relates to Form-Based Zoning.

City Manager Bohenko said Islington Street is in CBDB. He said once the legal notice is posted anything in the CBD A & B would be covered. Planning Director Taintor said there are approximately 10 lots in the CB A District abutting the North Mill Pond that would be affected by the change. There are 5 lots adjacent in the CBB District, many are very small house lots and there are 15 lots.

Councilor Spear said staff and Planning Board have been listening to our conversation over the last several months.

Councilor Dwyer said if there are only 15 lots, she does not see a problem putting this ordinance in place and passing first reading. She will vote against the motion to postpone.

Mayor Lister passed the gavel to Assistant Mayor Splaine.

Mayor Lister said he initiated the ordinance because of what he heard on the campaign trail, and we as a City Council need to take a stand on whether we want Form-Based Zoning or not. It is important to do that sooner than later. He said we are working hard on this matter and we need to protect the City. He said he would not support the motion for postponement.

Assistant Mayor Splaine returned the gavel to Mayor Lister.

Councilor Shaheen asked if the City Council could move the first reading up for Form-Based Zoning sooner than March 3rd.

Councilor Dwyer said we need time to allow the public to ask questions.

On a roll call vote 4-5, motion to amend and postpone the ordinance until March 3, 2014 failed to pass. Councilors Shaheen, Lown, Dwyer, Spear voted in favor. Assistant Mayor Splaine, Councilors Kennedy, Morgan, Thorsen and Mayor Lister voted opposed.

Councilor Spear said the City skyline is most interesting because of the rooftops. He said developers will build to the height allowed in the ordinance. Form-Based Zoning tried to take a creative approach. We are looking at removing the conditional use permit this evening. He read what is allowed under the conditional use permit which will be taken away.

- Publicly accessible open space areas such as widened sidewalks, plazas, pocket parks, playgrounds or other significant public open space areas;
- Underground parking in lieu of surface parking;
- The use of high quality building materials in the building design including, but not limited to: slate or copper roofing; copper gutters and downspouts; restoration brick; granite sills, lintels, foundations, stoops and steps; and wood windows along the façade elevation;
- Significant scaling elements in the building design such as increased setbacks, step backs, reduced footprint and volume, the use of pitched roof forms, banding, quoining and other massing techniques to maintain a pedestrian scale along the façade;
- Significant restoration or reconstruction of a “focal” or “contributing” building;
- Permanent protection of a significant view corridor

Councilor Thorsen said the Board of Adjustment has the ability to grant variances for zoning if we eliminate the conditional use permit and zoning changes need to be approved by the Zoning Board of Adjustment.

Councilor Dwyer said the Zoning Board of Adjustment would have been the better body to make the decision.

Councilor Lown said the Zoning Board of Adjustment should not be granting variances to go higher. He feels it is a bad idea and said this motion will limit development which is what allows the City to be affordable.

Councilor Spear said this ordinance was passed to give the land use boards more time. He asked since September how many projects have been granted a conditional use permit. Planning Director Taintor said one project. Councilor Spear spoke to 2 Council meetings held in 2007 that were 3 hours which discussed increasing the height of the Harborcorp from 50ft to 60ft.

Councilor Shaheen said if we do Character Based Zoning right we don't need this motion. We don't need a conditional use permit or a height restriction. She said we all agreed that there was something about the process that did not work.

Councilor Thorsen said Councilor Spear is right that the conditional use permit has not been in place very long. The permit process is a very long process and asked how many projects currently are in queue. Planning Director Taintor said there are 3 projects and there are no other projects that could get design review process before March 3rd.

On a roll call 5-4, voted to pass first reading and establish a public hearing and second reading at the March 17, 2014 City Council meeting, and further, that the City Council refer this proposed Ordinance amendment to the Planning Board for report back to the City Council prior to the March 17, 2014 public hearing. Assistant Mayor Splaine, Councilors Kennedy, Morgan, Thorsen and Mayor Lister voted in favor. Councilors Shaheen, Lown, Dwyer and Spear voted opposed.

IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Acceptance of Donation to the Fire Department
 - Newburyport Five Cents Savings Bank - \$500.00***(Anticipated action – move to approve and accept the donation to the Fire Department for the fire donation fund)***

- B. Letter from Jeanine Sylvester, Runner's Alley, LLC, requesting permission to hold the 17th Annual Runner's Alley/Redhook Brewery Memorial 5k on Sunday, May 25, 2014 ***(Anticipated action – move to refer to the City Manager with power)***

- C. Request for Approval of Pole License to install 1 pole at the intersection of Adams Drive and FW Hartford Drive to accommodate a new underground electrical system in the Woodlands area ***(Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes)***

- D. Letter from Becky Coliandris, Alzheimer's Association, requesting permission to hold the Seacoast Walk to End Alzheimer's on Sunday, September 28, 2014 ***(Anticipated action – move to refer to the City Manager with power)***

- E. Letter from Caitlyn Hassett, on behalf of the Chamber of Commerce, requesting permission to hold a city wide 'Fire and Ice' Festival President's Day weekend, February 13-17, 2014 ***(Anticipated action – move to refer to the City Manager with power)***

Councilor Kennedy moved to adopt the Consent Agenda. Seconded by Assistant Mayor Splaine and voted.

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Town of Exeter Request to Explore Alternative Options for Shared Wastewater Services

Councilor Thorsen move to refer to the City Manager for report back. Seconded by Councilor Kennedy.

Discussion followed on where the sewer would go if we were to allow Exeter onto our system.

Councilor Kennedy spoke to the concern in her neighborhood surrounding this matter. City Manager Bohenko said we would not look at Peirce Island for this; we would look at the Pease Plant.

Councilor Morgan asked if the report back would have an impact on the future at Pease. City Manager Bohenko said absolutely.

Motion passed.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Elderly and Disabled Exemptions

City Manager Bohenko reviewed the elderly and disabled exemptions and the 3 options that are available for the City Council to consider.

Councilor Kennedy moved to authorize the City Manager to proceed with Option B and to bring the Resolutions back for first reading at the February 3, 2014 City Council meeting, as presented. Seconded by Councilor Shaheen.

Option B: The income and asset levels for both the elderly and disabled taxpayers by the Social Security increase of 1.5%; this would increase the limits (rounded up) as follows:

- **Single** **\$35,704.00 increase of \$528.00**
- **Married** **\$44,044.00 increase of \$651.00**
- **Asset Limit of** **\$119,016.00 increase of \$1,759.00**

Councilor Shaheen stated she agrees that the CPI would be the more appropriate benchmark but would not vote to bump someone out. If this is helping keep people in the City she is ok with that.

Motion passed.

2. Letter from Steven Wilson, for property located at 143 Daniel Street (former Connie Bean Center), for Exchange of Easements

City Manager Bohenko addressed the letter from Steven Wilson.

Councilor Lown moved to accept the recommendation of the Planning Board, regarding the request of Steven Wilson for an exchange of easements, as presented. Seconded by Councilor Thorsen and voted.

3. New Hampshire Department of Transportation Exit 7 Project Acceptance

City Manager Bohenko spoke to the Exit 7 project and that it is a federally funded project. He reported this was 80% funded with State funds and 20% by the City.

Councilor Kennedy moved to accept the New Hampshire Department of Transportation Exit 7 Market Street and Kearsarge Way Intersection and Traffic Improvement Project. Seconded by Councilor Lown and voted.

City Manager's Informational Items

1. *Update on Snow Removal Budget*

City Manager Bohenko reported that 65% of the snow removal budget has been expended and there may be a need to come forward for a special appropriation from the Contingency Fund if we were to expend all the funding within the snow removal budget.

Councilor Kennedy moved to suspend the rules in order to take up Item XI. E.1. – Report Back on Fire Study Committee. Seconded by Councilor Thorsen and voted.

E. COUNCILOR LOWN

1. Report Back on Fire Study Committee

Councilor Lown thanked Chief Achilles for his participation and assistance during the Committee's work. He said we want to look at staff times, use of volunteer fire fighters and overtime.

Councilor Thorsen moved to authorize the City Manager to work with the Fire Chief and the Fire Study Committee to initiate a Request For Qualifications (RFQ) for a consultant to review the summary as outlined in the Portsmouth Fire Department Study, as presented, and further to extend the Fire Study Committee by 120 days. Seconded by Councilor Lown.

Councilor Dwyer said the Committee was not recommending the use of a private ambulance company.

Councilor Kennedy expressed her opposition to privatization of the ambulance services for the City.

Assistant Mayor Splaine moved to amend the motion to remove recommendation #4 of the Committee's Report to Analyze the advantages/disadvantages of using private ambulance services in Portsmouth. Seconded by Councilor Kennedy.

Chief Achilles said the Fire Department support any items that could improve services. He said it is important to provide data driven information.

On a roll call 5-4, voted to amend the motion to remove recommendation #4 of the Committee's Report to analyze the advantages/disadvantages of using private ambulance services in Portsmouth. Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Dwyer and Morgan voted in favor. Councilors Lown, Spear, Thorsen and Mayor Lister voted opposed.

On a roll call 8-1, voted to pass main motion as amended. Councilors Shaheen, Kennedy, Lown, Dwyer, Morgan, Spear, Thorsen and Mayor Lister voted in favor. Assistant Mayor Splaine voted opposed.

Main motion passed as amended as follows:

Voted to authorize the City Manager to work with the Fire Chief and the Fire Study Committee to initiate a Request For Qualifications (RFQ) for a consultant to review the summary as outlined in the Portsmouth Fire Department Study, as presented, with the removal of recommendation #4 of the Committee to Analyze the advantages/disadvantages of using private ambulance services in Portsmouth and to extend the Fire Study Committee by 120 days.

Councilor Kennedy moved to suspend the rules in order to continue the meeting beyond 10:00 p.m. Mayor Lister indicated he would like to adjourn the meeting at 10:45 p.m. Seconded by Councilor Spear and voted.

At 10:10 p.m., Mayor Lister declared a brief recess. At 10:15 p.m., Mayor Lister called the meeting back to order.

2. Parking and Traffic Safety Committee Action Sheet and Minutes of the December 12, 2013 meeting

Councilor Spear moved to approve and accept the Action Sheet and Minutes of the Parking and Traffic Safety Committee meeting of December 12, 2013. Seconded by Councilor Thorsen and voted. Councilor Kennedy voted opposed.

B. MAYOR LISTER

1. Appointments to the Senior Sub-Committee of the Recreation Board
 - Carl Diemer, Chair; Todd Henley, Kory Sirmaian, Judith Bunnell, Maureen O'Leary, Diane Share and Cindi Shanley

Mayor Lister announced that he has appointed the following individuals to serve on the Senior Sub-Committee of the Recreation Board: Carl Diemer, Chair; Todd Henley, Kory Sirmaian, Judith Bunnell, Maureen O'Leary, Diane Share and Cindi Shanley.

C. COUNCILOR SHAHEEN

1. Parking Rates at High Hanover Parking Garage

Councilor Shaheen said she heard from countless people that this change needs to be made.

Councilor Shaheen moved to request that the City Manager report back on the impact of the elimination of the first hour free parking at the High-Hanover Garage, and, further the impacts of increasing the rate from \$.75 per hour to \$1.00 per hour at the High-Hanover Garage. Seconded by Councilor Lown and voted.

D. COUNCILOR KENNEDY

1. Visual Time Lines for Land Use Boards

Councilor Kennedy said she is looking for the Planning Department to provide a visual time line of when a person starts a process and how it goes from one board to another. City Manager Bohenko stated he would assign this task to a staff person.

Councilor Kennedy said she would like this on the website.

City Manager Bohenko said the Planning Department understands what the public is looking for. He said there are many variances and we need to put many disclosures on the chart. He said they will not be absolute and that there is a tremendous work load in the Planning Department right now, and we will work on the request.

Councilor Kennedy requested a report back on the Planning Department looking at providing a visual time line for projects that includes what happens when a person starts the process, how the process goes from one board to another and at what point in the process would the person expect to go to the various boards. (No action taken).

F. COUNCILOR DWYER

1. Update on African Burying Ground

Councilor Dwyer provided a brief update on the African Burying Ground project and announced they have reached the \$1,000,000.00 mark in the fundraising campaign with part of those funds coming from receiving an LCHIP Grant. (No action required).

G. COUNCILOR MORGAN

1. *Form-Based Zoning

Councilor Morgan said she is supportive of Form-Based Zoning going to the next process of input by the public. She stated it is important to have dialogue and she would like to have a side by side document to show what exists now and what is being proposed. She said that having a side by side representation would be beneficial for everyone.

Councilor Morgan requested the Planning Department to prepare a side by side comparative zoning document involving our current zoning and proposed Form-Based Zoning ordinance, indicating where one supplements or supplants the other, to be made available during the upcoming Form-Based Zoning meeting on January 29, 2014, along with maps to make the discussions on January 29th as meaningful as we can.

Planning Director Taintor indicated they will provide maps which show heights and footprints of buildings. Also, large poster size draft tables have been put together which go through each zoning chapter and listing what chapters are not effected at all by Form-Based Zoning or character base zoning. Councilor Morgan suggested that a log of questions and proposals by individuals with the answers or solutions be created. City Manager Bohenko indicated the staff will work on what has been described in the spirit of Councilor Morgan's suggestions.

Councilor Dwyer said most people will be interested in the dimensional tables.

City Manager Bohenko said we will try to work on what has been discussed and does not feel there is a need for a motion as he will direct staff on this matter.

H. COUNCILOR SPEAR

1. Parking Garage Location

Councilor Spear moved that the Council request the Economic Development Commission report back with a suitable location for a downtown parking garage that is not the Worth Lot. The Committee will consider privately held properties and municipal properties and/or a public-private partnership. Seconded by Councilor Lown.

Assistant Mayor Splaine said that the time is right to move this and he would rather see the Council come to a resolution sooner than later.

Councilor Morgan moved to amend the motion to include the Parrott Avenue Lot as not being a suitable location for a downtown parking garage. Seconded by Assistant Mayor Splaine.

Councilor Shaheen asked Councilor Spear why he suggested the Economic Development Commission over the Parking and Traffic Safety Committee. Councilor Spear said the Parking and Traffic Safety Committee has looked at this for 6 months last year and we did not move forward with their recommendations. He stated that the Economic Development Commission is motivated and we are working towards private entities getting involved with the City.

Councilor Lown thanked Councilor Spear for bringing this matter forward. He said that this is for a report back.

Amendment passed.

Councilor Thorsen moved to suspend the rules to continue the meeting to 11:00 p.m. Seconded by Councilor Morgan and voted.

Councilor Shaheen said we cannot delay this matter any further.

Main motion passed as amended as follows: Voted that the Council request the Economic Development Commission report back with a suitable location for a downtown parking garage that is not the Worth or Parrott Avenue Lots. The Commission will consider privately held properties and municipal properties and/or a public-private partnership. Further the City Manager is permitted to initiate negotiations with private parties to achieve the same.

I. COUNCILOR THORSEN

1. Financial Disclosure Ordinance Amendment

Councilor Thorsen provided a handout to the Council and suggested a Work Session be held prior to the June 30, 2014 deadline for submitting Financial Disclosures and that the establishment of the date for this Work Session is at the discretion of Mayor Lister.

City Attorney Sullivan said that we need to look back at the 1987 City Council records to see at that time what the City Council was looking to do.

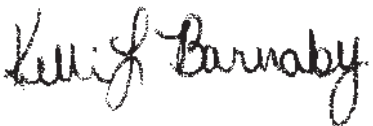
Mayor Lister said we should hold a Work Session in public because this has far reaching implications.

Assistant Mayor Splaine said there are many concerns about potential conflicts.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

XIII. ADJOURNMENT [AT 10:00PM OR EARLIER]

At 11:00 p.m., Councilor Spear moved to adjourn. Seconded by Councilor Morgan and voted.



Kelli L. Barnaby, CMC/CNHMC
City Clerk

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, FEBRUARY 3, 2014

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

At 5:45 p.m., an anticipated "Non-Meeting" was held with Counsel regarding Negotiations – RSA 91-A:2, I (b-c).

I. CALL TO ORDER [7:00PM or thereafter]

Mayor Lister called the meeting to order at 7:10 p.m.

II. ROLL CALL

Present: Mayor Lister, Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Lown, Dwyer, Spear and Thorsen

Absent: Councilor Morgan

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

Councilor Shaheen led the Pledge of Allegiance to the Flag.

PRESENTATIONS

1. Mayor's Award to James and Laurie Teetzel for contributions and work on Memorial Park

Mayor Lister read a statement commending James and Laurie Teetzel for their contributions and work on Portsmouth's new Memorial Park which serves to pay tribute to the brave men and women who have defended our liberties, to tell their story, to inspire a powerful, emotional experience and to provide a peaceful place for quiet contemplation.

Mayor Lister then presented Mr. Teetzel with an award and gifts in recognition of their vision, efforts and financial contributions which Mr. Teetzel accepted on behalf of himself and his wife Laurie with thanks and appreciation.

2. Comprehensive Annual Financial Report (CAFR) – Scott McIntire of Melanson, Heath & Company, P.C. Auditors' Financial Report for the Year Ending June 30, 2013 (Annual Audit)

Scott McIntire of Melanson, Heath & Company provided a Presentation on the Comprehensive Annual Financial Report (CAFR) of the City of Portsmouth for the Year Ending June 30, 2013. Mr. McIntire reviewed the various highlights of the CAFR with the City Council as well as the Management Letter.

City Manager Bohenko noted on page 50 the change in terminology. Mr. McIntire explained that GASB have changed some of the terminology and most notably is the old term of “Net assets” is now “Net position”.

Councilor Dwyer asked Mr. McIntire to review the recommendation in the Management Letter regarding control of trust funds as she feels this is a substantive recommendation. Mr. McIntire stated this is not recommended because it is a significant weakness and it is not urgent, but is meant as a tightening down and formalizing of what already exists.

Councilor Shaheen referred to page 48 stating that there are variances in the final budget numbers for 3 categories, licenses and permits, other revenues and other services. Mr. McIntire stated that both motor vehicles and building permits are estimated and both came in higher than originally estimated. Finance Director Belanger stated that regarding the other revenues category, it is higher than estimated due to the receipt of the Worker’s Comp payback from LGC and regarding other services, there were parking rate changes In January 2013 as well as ambulance revenue higher than estimated.

Mayor Lister thanked Mr. McIntire for his presentation.

V. ACCEPTANCE OF MINUTES *(There were no minutes on for acceptance)*

VI. PUBLIC COMMENT SESSION

Matt Nania, 18 Dunlin Way – spoke regarding his concerns with the proposal by Sea 3 to ship propane via railway with the current proposal being 16 cars, 6 days a week. He stated his primary concern is safety as there has been an increase in railway accidents across the country due to the age of the railway infrastructure. He stated on 01/23/14, the NTSB released a statement which called for “avoiding populated areas” which is the opposite of the Sea 3 proposal as the tracks run along Islington Street, North Mill Pond, Maplewood Avenue, etc.

Lew Brown, 65 Laurel Court - expressed his concerns regarding the Sea 3 propane proposal stating that the tracks are of indeterminable age and have not been regularly used. He stated there have been 660 reported derailments between 1995 and 2005 and there is no access for emergency vehicles. He concluded by stating that the noise will also be an issue.

Corinne and Tom Szopa – 132 Spinnaker Way – stated they bought their home in September 2013 but if they had known this was coming they wouldn’t have bought it. They stated the negative impacts include noise, public safety, etc. and asked that the City of Portsmouth contact the Town of Newington regarding this issue.

Bob Gibbons, Spinnaker Way, distributed some information regarding the proposal and requested the City Council, City officials and residents to attend an upcoming Planning Board meeting in Newington on February 10, 2014 at 7:00 p.m.

Andrea Abbott, 594 Kearsarge Way – stated she agrees with all of the previous speakers and stated that her grandmother grew up in the Canadian town that recently experienced a tragic derailment. She stated that Atlantic Heights and Laurel Court have only one way in and one way out, so they would be stuck if something happened.

Joe Almeida, 33 Blossom St. - spoke opposed to removing the ability of the Historic District Commission to grant conditional use permits stating that it is a matter of trust. He stated he has confidence in the current board members and wants the Council to trust the HDC to make decisions.

Patricia Bagley, 213 Pleasant St. - spoke in support of Assistant Mayor Splaine's proposal for a resolution to oppose discrimination against transgendered individuals and feels that it would be a great thing for the City of Portsmouth to do especially since the State of New Hampshire has not.

Stephanie Krepp, 13 Porpoise Way, spoke regarding the Sea 3 propane proposal stating she agrees with the previous speakers on this issue and thanked Assistant Mayor Splaine for bringing attention to this matter. She stated that we need to request that safety standards are determined as well as providing another egress for Atlantic Heights before anything further is allowed.

Alison Tanner, 380 Greenleaf Avenue – stated that Greenleaf Avenue is being used as a major throughway due to the construction on Lafayette Road and asked that sidewalks be installed and signage installed to detour trucks to go to the Rotary instead of Peverly Hill Road.

Marie Kelleher, 297 Peverly Hill Road – also requested that sidewalks be considered for the Peverly Hill Road area as there are many places in the area for families to go to i.e., Plains Ball Field, YMCA, etc. but they can't walk to these locations safely. She also requested that trucks be rerouted from Peverly Hill Road.

Councilor Kennedy moved to Suspend the Rules to move up on the Agenda, Item XII.C.1. Seconded by Councilor Shaheen and voted.

1. Sea-3 Inc. Terminal Newington

Assistant Mayor Splaine stated he is suggesting four initiatives concerning the Sea-3 plans and the margin of safety for which the City should advocate as trains containing propane travel through Portsmouth. He stated first, we need to contact our Congressional Delegation, and urge them to meet with federal officials, including those of the Federal Railroad Administration, who have regulatory authority over train lines or propane shipments to ensure the greatest possible safety as the shipments travel through our neighborhoods and ask that they report back to us. Secondly, we should also contact the NH Dept. of Transportation to ensure that they become fully involved in discussion concerning the expansion plans of Sea-3 to guarantee oversight of rail line conditions and crossings throughout the Seacoast. He suggested also notifying Maine officials as well, since this could affect residents of that state. Third, request our city officials to ask state and federal authorities to determine if the owners of the rail line, or Sea-3, have had to undergo any environmental impact studies or analysis as a result of the large expansion requests related to their rail shipments. He continued that with

the additional use of rail traffic, there will be added diesel exhaust pollution and the possibilities of affects on sensitive wetlands, as well as potential impact on the Piscataqua River. Finally, the 4th initiative is that we encourage our Fire Chief and other city officials as necessary to consider organizing a regional-wide forum, including at least the neighboring communities of Newington, Greenland, Stratham, Exeter, Kittery and Eliot and invite the officials of Sea-3 to learn of frequency of planned shipments as well as rail line officials to learn the planned margin of safety and how speed limits are regulated and enforced. The forum could also include consideration of a method to be sure that local safety officials are informed of times of shipment and explore any additional training needed to prepare for eventualities.

City Manager Bohenko stated that he and City staff agree with everything said this evening. He gave a brief update of actions taken thus far including various communications with the Town of Newington Planning Board, multi-town communications to the NH DOT Bureau of Rail and Transit request RR Grade Crossing Inspections at the Newington and Portsmouth Industrial Tracks and to the Federal Railroad Administration – Region 1 requesting track inspection along the Newington and Portsmouth industrial tracks. He stated he has assigned Peter Britz of the Planning Department to coordinate efforts on behalf of the City. He stated we will also reach out to the Rockingham Planning Commission, Congressional Delegates and State Legislative Delegation. He stated this will take the efforts of all of the affected communities. He stated that City staff and the Mayor will be attending the Newington Planning Board meeting on February 10th and he would like to put together a plan of action as we may need to retain consulting services. He stated that we are navigating into federal territory so we need to find out the condition of the rails and B&M/Pan Am will be aggressive in protecting their interest. He concluded that as a city we have heard the concerns and will work towards a regional plan, but cautioned that it is important to recognize who controls and regulates the tracks and is why the Federal Congressional Delegation needs to be involved.

Fire Chief Achilles stated he has been communicating with the Town of Newington and Sea 3 in regards to safety concerns and are monitoring the progress as it goes along. He stated he has reached out to his peers across the country who are already dealing with this and is instituting training efforts.

Councilor Shaheen stated it would be helpful for people to understand why the Town of Newington has jurisdiction to approve the Sea-3 proposal. City Manager Bohenko stated that Sea-3, Inc operates a propane terminal facility at 190 Shattuck Way in the Town of Newington. Representatives for the Sea-3 facility have filed for site review with the Town of Newington Planning Board to modify the facility and operations. Up to the present, propane has been shipped to the facility by freighters and offloaded for distribution by truck. Due to changes in the industry, Sea-3 has proposed to expand its existing terminal to allow it to receive shipments by rail and then either distribute it regionally by truck or export it by ship.

Councilor Kennedy asked what else citizens can do to keep their voices heard. City Manager Bohenko stated it will be essential for people to contact their State Representatives. He stated he will put together a link on the City web page with contact information as well as compiling all of the written communications, etc.

Councilor Dwyer asked if there have been any hazard calls for the existing facility. Chief Achilles stated 1 or 2 but nothing serious.

Assistant Mayor Splaine stated he is satisfied with the initiatives taken by the City Manager over the last couple of months and has confidence in the City and staff moving forward as it progresses. He stated he would like an update again at the February 18th Council meeting and regularly thereafter. City Manager Bohenko stated the staff will proceed as previously described but again encouraged citizens to write to their delegation and feels it is more important that the City write letters. He stated the more letters the better.

VII. PUBLIC HEARING

A. CAPITAL IMPROVEMENT PLAN (CIP) FY2015-2020 (*Action on this matter will be taken at the February 18, 2014 City Council meeting*)

Mayor Lister read the legal notice, declared the public hearing open and called for speakers.

Susan Denenberg spoke regarding improving the Worth Lot and adding funding to the Capital Improvement Plan to repave the lot and repair the surrounding sidewalks. She stated that currently volunteers have been planting plants in an effort to make the area prettier and all without city funding. She stated the brick wall is falling and is currently shored up with planters but needs to be addressed as it is a safety issue. She stated the area businesses are willing to partner with the city for beautification of the area and would like city funds allocated.

City Manager Bohenko stated they are currently looking at improvements to both the Worth Lot and Parrott Avenue Lot.

Lynda Rocjek, business owner, presented a statement representing 27 Worth Lot business owners and associates, requesting provisions in the Capital Improvement Plan for improvements and repairs to the Worth Lot.

Seeing no one else wishing to speak, Mayor Lister closed the public hearing.

VIII. APPROVAL OF GRANTS/DONATIONS

A. Acceptance of Grant & Donation to the Police Department:

- Grant from Police Standards and Training Council for Captain Warchol to attend Leadership Seacoast - \$833.33
- Donation from Newburyport Five Cent Savings Bank - \$500.00

Councilor Kennedy moved to approve and accept the grant and donation to the Portsmouth Police Department. Seconded by Councilor Spear and voted.

B. *Acceptance of Donations for Art-Speak

- Robin Lurie-Meyerkopf - \$150.00

Councilor Kennedy moved to accept and approve the donations to Art-Speak for the Art-Speak website line item, as presented. Seconded by Councilor Spear and voted.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Resolution Increasing the Maximum Income Limit for Individuals Qualifying for the Elderly Real Estate Tax Exemption:

Proposed increase of Elderly Exemption by 1.5%

Single	\$35,704.00 increase of \$528.00
Married	\$44,044.00 increase of \$651.00
Asset Limit of	\$119,016.00 increase of \$1,759.00

Councilor Kennedy moved to pass first reading and authorize the City Manager to bring back for public hearing and adoption of the proposed Resolution at the February 18, 2014 City Council meeting. Seconded by Councilor Lown and voted.

- B. First reading of Resolution Increasing the Maximum Income Limit for Individuals Qualifying for the Disabled Real Estate Tax Exemption:

Proposed increase of Disabled Exemption by 1.5%

Single	\$35,704.00 increase of \$528.00
Married	\$44,044.00 increase of \$651.00
Asset Limit of	\$119,016.00 increase of \$1,759.00

Councilor Kennedy moved to pass first reading and authorize the City Manager to bring back for public hearing and adoption of the proposed Resolution at the February 18, 2014 City Council meeting. Seconded by Assistant Mayor Splaine and voted.

X. CONSENT AGENDA

- A. Letter from Mary M. Condella, Seacoast Ride for Polycystic Kidney Disease (PKD), requesting permission to hold the Seacoast Ride for PKD on Sunday, June 8, 2014 (***Anticipated action – move to refer to the City Manager with power***)
- B. Letter from Richard Wagner, AIDS Response Seacoast, requesting permission to hold the 18th Annual Seacoast AIDS Walk and Dog Walk on Sunday, May 4, 2014 from 10:00 a.m. – 5:00 p.m. (***Anticipated action – move to refer to the City Manager with power***)
- C. Letter from Jennifer Hubbell, Executive Director, Girls on the Run New Hampshire, requesting permission to hold 7th Annual Spring Girls on the Run 5K Celebration Road Race on Saturday, June 7, 2014 (***Anticipated action – move to refer to the City Manager with power***)

- D. Request for License from Ben Midgley, owner of Crunch Franchise for property located at 135 Market Street for a projecting sign on an existing bracket (*Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Ben Midgley, owner of Crunch Franchise for a projecting sign at property located at 135 Market Street and, further, authorize the City Manager to execute License Agreements for this request*)

Planning Director's Stipulations:

- *The license shall be approved by the Legal Department as to content and form;*
- *Any removal or relocation of the projecting sign, for any reason, shall be done at no cost to the City; and*
- *Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works*

Councilor Kennedy moved to adopt the Consent Agenda as presented. Seconded by Councilor Lown and voted.

Councilor Kennedy asked that the walk/run events be dispersed throughout other parts of the city and not just the South end.

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Bob Hassold, representing Save Our Working Port (SOWP), requesting a Work Session with the City Council regarding the contract with the scrap metal company at the port expiring in June 2014

Assistant Mayor Splaine moved to refer to Mayor Lister to work with Mr. Hassold and the City Manager to establish a work session within the next few weeks and to include pertinent committees as deemed necessary for the discussion, seconded by Councilor Spear.

Councilor Dwyer stated we need to get the right people to the table i.e., the Legislative Delegation, PDA members, etc and suggested having the Legislative Committee address it as a starting point.

City Manager Bohenko stated that the PDA has a Port subcommittee, so he would like them involved as well.

Councilor Thorsen stated it is a good idea to include other parties but feels we need to maintain leadership of the issue as it is our streets and he doesn't want to pass the buck.

Councilor Dwyer stated we have no jurisdiction and feels taking leadership is bringing the right people together.

Councilor Thorsen stated we need to take action and not drop the ball and even if we don't have the power, we do have the influence.

Councilor Kennedy stated there has been an informational session with the Port sub committee already and there is information on-line. She stated there are also some evaluations taking place now that aren't quite finished yet. She stated some of the people who have spoken on the issue are not residents of Portsmouth and she encourages everyone to look at the whole picture. She stated that the scrap metal recycling pile will need to be located somewhere.

Councilor Shaheen stated there is a role we can play by identifying a list of attendees and invite them to convene at a work session.

Motion voted.

- B. Letter from Spencer A. Niebuhr, Division Sales Manager, Redhook Brewery, requesting permission to conduct an activity involving bagpipers and others gathering at various local establishments on Thursday, February 27, 2014, as part of Portsmouth Beer Week festivities

Councilor Spear moved to refer to the City Manager with power. Seconded by Councilor Lown and voted.

- C. Letter from Ronald Vezina requesting permission to hold a private fireworks display on June 22, 2014 at 9:00 p.m. from the Portsmouth Dog Park (South playground area) in celebration of a wedding

City Manager Bohenko read a memo from Recreation Director Wilson which outlined various reasons why he does not recommend this request be granted.

Councilor Spear moved to accept and place on file. Seconded by Councilor Lown and voted.

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

- 1. Proposed Agreement with Operation Blessing regarding the Greenleaf Recreation Center

Community Development Director David Moore gave a brief overview of the proposed agreement.

Councilor Kennedy moved to authorize the City Manager to enter into a concession agreement with Operation Blessing, Inc. for the Greenleaf Recreation Facility according with the terms in the attachment for two years, with a one-year renewal if agreeable to both parties. Seconded by Councilor Spear and voted.

2. Report Back Re: Parking Rates at High Hanover Parking Garage

Councilor Spear moved to amend the parking rates at High Hanover Parking Garage by increasing the hourly rate from \$0.75 to \$1.00 and eliminate the first hour free parking (does not affect residents free parking on Sundays) with the change to take effect on March 3, 2014, seconded by Councilor Shaheen.

Councilor Lown asked if there are any other resident discounts.

City Manager Bohenko stated that there are patron discounts offered by some restaurants. Councilor Lown asked how residency is proven and to whom. City Manager Bohenko stated it is proven to the attendant at the garage.

Councilor Kennedy asked about the hotels who valet park at the garage. City Manager Bohenko stated there are no valet parking services using the garage.

Councilor Dwyer stated that there are hotel guests that sometimes choose to park at the garage rather than the hotel parking because it is less expensive. She then stated that she wants it stated that this amendment (Option C) is going to bring in close to \$1,000,000.00 and that shows how far this could go towards paying off a bond for another garage.

Councilor Lown stated that this is a good idea and that when the rate was reduced originally, it was an experiment to see if it would bring more people to the parking garage, which it did. He stated now we will see if the market will bear the increase, which he feels it will. He stated the city should continue to fine-tune this fund.

City Manager Bohenko stated it would be important to take advantage of citizen comments and the suggestions to improve the surface lots, etc. He stated that would be an appropriate use of these funds. He stated we are continuing work on the satellite lots to be on-line hopefully in the Spring and that will also need additional funding which this would be able to go towards as well.

Councilor Kennedy asked when that will be and will it be a free service.

City Manager Bohenko stated that the RFP is currently out and is due back on February 25th and then he can see what the costs will be and what type of services can be offered and report back to the Council. He stated he is trying to be able to offer the service free for the rider, but there will be a substantial cost to run the operation. He stated it will also have to have a 10 minute turnaround time or it won't work and feels that utilizing a countdown clock will allow people to decide if they want to wait another 5 or so minutes or just walk to their destination. Councilor Kennedy stated that even though we are taking away parking during the week for residents (the first hour free), this will offer other options in the future.

Councilor Shaheen stated she brought this forward because she had heard from many citizens that it didn't make sense to give away the first hour free of charge and that the rate is still markedly lower than other communities and parking is a precious commodity and is glad that we are moving forward with Option C.

Motion voted.

3. Proposed Resolution for Bond Authorization of up to Three Million Five Hundred Thousand Dollars \$3,500,000 for the Design and Construction of the Hobbs Hill Water Tank Replacement

Councilor Spear moved to authorize the City Manager to bring back a Bond Resolution in the amount of Three Million Five Hundred Thousand Dollars (\$3,500,000) for the replacement of the Hobbs Hill Landing Water Tank for the February 18, 2014 City Council meeting, seconded by Councilor Kennedy.

Councilor Lown asked where the water will go when the old tank is demolished and what area does this tank service. Deputy Public Works Director Brian Goetz explained that there are 5 tanks that serve the City and this is in the Pease zone. He further stated that they will construct the new tank before the old tank is demolished.

Motion voted.

4. Request to Establish Work Session with GSA on February 18, 2014 Re: McIntyre Federal Building and Property

Councilor Shaheen moved to formally establish a work session for Tuesday, February 18, 2014 at 6:00 p.m. to discuss the T.J. McIntyre Federal Building and property and status of this property, seconded by Councilor Spear.

Councilor Kennedy asked if one hour would be long enough for this discussion. City Manager Bohenko stated that the regular meeting can start at 7:00 p.m. or after, but he can check the availability of others for a 5:30 p.m. start.

Councilor Lown stated this is an interesting and important subject and the city could still get the building. He stated he wants to make sure this meeting is as productive as possible. He stated there are legal issues involved and the city has rights that should be brought up and asserted.

City Manager Bohenko reviewed the history of the issue to date and will provide the timeline of events as background for the Council prior to the work session. He stated he will also provide copies of the law, but explained that the key issue is the relocation of the tenants from the building as some of them do not want to move. He stated that affected the building size at the new Pease location and increased the cost of the rent to those that were going to move. He stated that this has been going on since 2004 and keeps getting pushed back and pushed back and now the GSA is talking about a "Good Neighbor" program in relation to the reuse of the building, meaning they continue to use the building themselves and look to develop a partnership with the City.

Councilor Lown stated this city has an acute parking crisis and this building has a huge lot that sits empty 99% of the time, so we should ask to use that lot.

Councilor Dwyer stated there are now a whole new set of concerns and we need to proceed with care going forward.

Councilor Shaheen stated that the strategy going into the work session should be that we don't want to let go of the notion that we will get the building. She stated we don't want to forfeit the leverage we have and need to send the message that we want to retain the building.

City Manager Bohenko stated we need to talk about the transfer of the property first and let them explain why it can't or won't happen. He stated we were told for 8 years that they were moving towards building a new facility at Pease, they bought the property, hired architects, changed the design to accommodate less occupants, etc. He stated we need the help of our delegation.

Motion passed.

5. Request to Renew Seacoast Growers' Association (Farmers' Market) Proposed 2014 License Agreement

Councilor Kennedy moved to authorize the City Manager to enter into a License Agreement with the Seacoast Growers' Association for 2014, as presented. Seconded by Councilor Spear and voted.

6. Proposed Resolution for Supplemental Appropriation to Fund for FY14 the Settlement of Firefighters and Fire Officers Collective Bargaining Agreements

Councilor Spear moved to establish a public hearing for its February 18, 2014 meeting in order to appropriate an amount of up to \$97,000 from Unassigned Fund Balance to be used in the FY14 Fire Department Budget for implementation of Collective Bargaining Agreements, seconded by Councilor Kennedy.

City Manager Bohenko clarified that this will take a 2/3rd vote on February 18th for passage.

Motion voted.

7. Proposed Easement Re: 30 Maplewood Avenue

Councilor Spear moved to authorize the City Manager to accept an easement for a street lighting controller from 30 Maplewood Avenue, LLC. Seconded by Councilor Dwyer and voted.

B. MAYOR LISTER

1. Appointments to be Considered:
 - Justin Finn to the Planning Board, Alternate
 - Gibson “Mike” Kennedy to the Portsmouth Housing Authority

The appointments of Justin Finn as an alternate to the Planning Board and “Gibson “Mike” Kennedy to the Portsmouth Housing Authority were considered and will be voted at the February 18, 2014 City Council meeting.

C. ASSISTANT MAYOR SPLAINE

1. Sea-3 Inc. Terminal Newington (*Previously addressed.*)
2. Borthwick Forest (*Item withdrawn*)
3. Transgender Discrimination Resolution

Assistant Mayor Splaine moved to refer to the City Attorney to prepare a formal resolution for discussion and acceptance, seconded by Councilor Spear.

Assistant Mayor Splaine explained that only 17 States and the District of Columbia provide protection for transgendered people and New Hampshire is the only New England state that does not. He stated he would like the City of Portsmouth to take a position and pass it on to the State.

Councilor Dwyer stated that this is focused specifically on municipal employees but the School system has a policy regarding transgendered students so perhaps we should look at other policies that may already be in place.

Councilor Lown stated he has no problem with this going forward, but wonders if this has been a problem in regards to city employee hiring. He also wondered if this would be pre-empted by State law and are we certain that this isn't already covered by the State.

Assistant Mayor Splaine explained that in 2009 there was a non-discrimination bill passed by the house, but the senate did not deal with it and tabled it for further study. He stated that it has also been determined that the current same sex laws do not cover transgendered individuals.

Councilor Thorsen stated that there should be a definition of “transgendered” added to the resolution as it appears to be used differently in different places.

Councilor Lown stated that 2 weeks may not be enough time for the City Attorney to bring this back in consideration of all of the other things going on and this is not a current, pressing problem.

Councilor Shaheen asked what other steps would need to be taken to include the Schools in this process. City Manager Bohenko stated this may complicate the issue and maybe should be looked at later.

Councilor Dwyer stated that the School already has a policy in place and that this can be referenced in the resolution.

Motion passed.

D. COUNCILOR KENNEDY

1. Request for Report Back on the Proposed Expansion of the Railway for Sea-3 Propane Terminal and the Effects on the Portsmouth Resident (*Previously addressed*)

E. COUNCILOR THORSEN

1. Mandatory Financial Disclosure as a Requirement for Public Service (*Informational only*)
2. City Council Request to the Planning Board to Review the Design Review Process (*Informational only*)

Councilor Kennedy asked what the time frame is for these to come forward.

Councilor Thorsen stated he has discussed the time line with the Mayor but has found that this will be more work than originally thought in terms of research but would like this to be addressed no later than June. Mayor Lister stated yes, they did discuss the June/July timeline but again, the City Attorney's office already has a lot to do.

Councilor Lown stated he commends Councilor Thorsen for raising the issue and for finding the conflicts in the City Charter which need to be addressed, but he doesn't feel that the City should require mandatory financial disclosures by land use board members. He stated he understands the need for transparency, but board members are already bound by the ordinances and are required to recuse themselves if any conflict of interest exists. He stated this is a trust issue.

Councilor Thorsen stated that even if the Charter is wrong, it is still the Charter and we need to follow it. He stated there is a misunderstanding of what is required to be disclosed as it is not income. He stated he understands it is a sensitive issue but we are trying to correct the discrepancy and it is a long process to do so.

Assistant Mayor Splaine stated he commends Councilor Thorsen for bringing this forward. He stated he was elected to serve of the Charter Commission 25 years ago, but this wasn't addressed.

Councilor Kennedy stated she had to fill out a form to serve on a State Committee and asked what their recommendations are.. Councilor Thorsen stated that he has looked at some of the State Legislation and again, there is a lot of information and he is in the process of researching.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

XIV. ADJOURNMENT [AT 10:00PM OR EARLIER]

Councilor Spear moved to adjourn at 9:50 p.m. Seconded by Councilor Shaheen and voted unanimously.

Respectfully submitted:

A handwritten signature in black ink, appearing to read 'V. French', is written over a light gray rectangular background.

Valerie A. French
Deputy City Clerk

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, April 21, 2014 at 7:00 p.m., Eileen Dondero Foley Council on a Proposed Borrowing Resolution in an amount of up to Four Hundred Thousand Dollars (\$400,000.00) for the New Franklin School Boiler Replacement and Other Identified Energy Conservation Measures. The complete Resolution is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

KELLI L. BARNABY, CMC/CNHMC
CITY CLERK

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KELLI L. BARNABY, CMC/CNHMC
CITY CLERK

#12517

11P4/10.

**IN THE YEAR OF OUR LORD
TWO THOUSAND FOURTEEN
PORTSMOUTH, NEW HAMPSHIRE**

RESOLUTION # – 2014

A RESOLUTION AUTHORIZING THE BORROWING OF UP TO FOUR HUNDRED THOUSAND DOLLARS (\$400,000) THROUGH THE ISSUE OF BONDS AND/OR NOTES AND/OR THE EXECUTION OF LEASE PURCHASE AGREEMENTS FOR THE NEW FRANKLIN SCHOOL BOILER REPLACEMENT AND OTHER IDENTIFIED ENERGY CONSERVATION MEASURES.

RESOLVED: **THAT**, the sum of up to Four **Hundred Thousand Dollars (\$400,000)** is appropriated for the New Franklin School boiler replacement and other energy conservation measures identified in an energy efficiency plan adopted by the Portsmouth School board;

THAT, to meet this appropriation, the City Treasurer, with the approval of the City Manager, is authorized to borrow, on a competitive or negotiated basis, up to **Four Hundred Thousand Dollars (\$400,000)** through the issuance of bonds and/or notes and /or lease purchase agreements of the City under the Municipal Finance Act;

THAT the expected useful life of the project is determined to be at least Twenty (20) years, and;

THAT this Resolution shall take effect upon its passage.

APPROVED:

ROBERT J. LISTER, MAYOR

ADOPTED BY THE CITY COUNCIL

**KELLI L. BARNABY, CMC/CNHMC
CITY CLERK**



PORTSMOUTH SCHOOL DEPARTMENT

OFFICE OF THE SUPERINTENDENT OF SCHOOLS

EDWARD McDONOUGH
SUPERINTENDENT OF SCHOOLS

STEPHEN ZADRAVEC
ASSISTANT SUPERINTENDENT

STEPHEN BARTLETT
BUSINESS ADMINISTRATOR

March 5, 2014

Portsmouth City Hall
1 Junkins Avenue
Portsmouth, NH 03801

Attention: Mr. John P. Bohenko, City Manager

Subject: New Franklin Energy Project

The Portsmouth School Department contracted with Energy Efficient Investments (EEI), located in Merrimack, N.H. to identify energy saving measures for the City's Schools.

The New Franklin School was chosen as the building to implement the initial phase of the energy conservation program. The attached report outlines nine (9) energy conservation measures (ECM) recommended by EEI for the New Franklin School. These measures include the replacement of the failing boilers and are identified in the matrix on page 4 of the attached report.

At their meeting on November 12, 2013 the Portsmouth School Board approved the project pending city approved financing. There remains \$90,000 from FY13 School Improvement bond earmarked for the replacement of a boiler located at New Franklin School. To meet the implementation cost of the additional energy saving measures, the School Board is requesting approval from the City Council for financing of \$400,000. This borrowing will be offset through the use of energy savings and rebates from the utility companies.

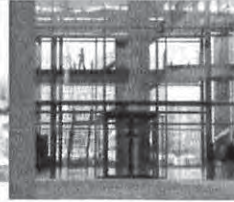
Sincerely,

Edward R. McDonough
Superintendent of Schools

Enclosures: 1

cc: Ms. Judie Belanger, Finance Director
Stephen T. Bartlett, Business Administrator

"THE PURPOSE OF THE PORTSMOUTH SCHOOLS IS TO EDUCATE ALL STUDENTS BY CHALLENGING THEM TO BECOME THINKING, RESPONSIBLE, CONTRIBUTING CITIZENS WHO CONTINUE TO LEARN THROUGHOUT THEIR LIVES."



**ENE Systems, Inc./Energy Efficient Investments, Inc.
Preliminary Investment Grade Audit**

FOR:

**NEW FRANKLIN SCHOOL
CITY OF PORTSMOUTH, NH
SCHOOL DEPARTMENT
SCHOOL ADMINISTRATIVE UNIT #52**

Prepared by:

Paul Murphy, CEM
Michael Davey, CEM

Date: November 6, 2013



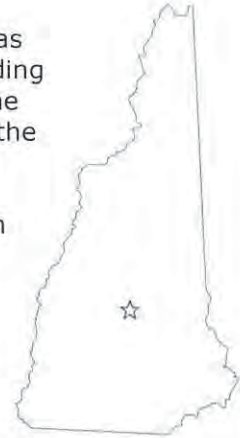
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1. Executive Summary

Energy Efficient Investments, Inc. (EEI) has completed several site visits to the New Franklin School in Portsmouth in the past 3 months, with the goal of identifying potential energy saving measures. EEI is located in Merrimack, NH, and has a proven track record of designing and implementing energy improvements to mechanical systems, building controls systems, insulation and renewable systems. EEI is also an approved energy management contractor with Better Buildings, Pay for Performance, PSNH, Liberty Utilities, and Unil in New Hampshire.

The New Franklin School is a 40,000 square foot elementary school that was completed in three phases with the most recent addition in 2002. The building has two 80% AFUE natural gas boilers, one of which has recently failed. The building has an Energy Star Benchmark score of 71 out of 100. Currently the building has an estimated annual utility cost of \$75,000 per year (electric, natural gas, and water/sewer). Our preliminary audit has identified a potential to reduce energy costs by \$18,633 (25%), through a combination of energy efficiency and renewable measures. These improvements could offset approximately 25 metric tons of carbon dioxide emissions.



The development of every energy project starts with the initial energy assessment which includes a site visit and the collection of utility and operational costs for each location. The next step entails defining measures, budgetary costs, and estimated savings values by measure for each building. This information is documented in the **Preliminary Investment Grade Audit (PIGA)**. This report is reviewed carefully by Portsmouth School District to determine which conservation measures have the funding and savings necessary to be included in the project.

Following the Preliminary Investment Grade Audit approval by School Board EEI will finalize this document to a **Final Investment Grade Audit (FIGA) with exact rebate amounts**. The Final Investment Grade Audit is presented to the customer for acceptance as part of the **Energy Performance Contract (EPC)**. The Energy Performance Contract will clearly define the responsibilities of each party, and will include a **Measurement and Verification (M&V)** procedure that will be used to measure the energy performance of the new systems and equipment installed throughout the school.



Below, you will find the Energy Conservation Measure (ECM) Matrix which summarizes the results of our findings. We fully understand that some of the measures identified above will not be selected due to estimated cost of construction or other factors. These adjustments will be made to the matrix in the Final Investment Grade Audit.

2. ECM Matrix

ECM Matrix

Measure Number	ECM Description	selected	Installed Costs \$	Energy Savings \$	Utility Rebates ¹	Simple Payback (Years)
All Improvements Studied						
ECM #1	Lighting Retrofit	X	\$ 69,900	\$ 4,916	\$ 11,530	
ECM #2	Walk-in Cooler Controls	X	\$ 7,119	\$ 600	\$ 2,000	
ECM #3	Boiler Upgrade - 3 x 850mbh Condensing Boilers	X	\$ 139,080	\$ 3,300	\$ 12,000	
ECM #4	Kitchen Hood Controls	X	\$ 17,290	\$ 1,450	\$ 4,000	
ECM #5a	Digital Pneumatic Controls		\$ 50,540	\$ 3,300	\$ 1,125	
ECM #5b	Direct Digital Controls (DDC)	X	\$ 99,343	\$ 3,300	\$ 1,125	
ECM #6	Solar Photovoltaic	X	\$ 50,000	\$ 1,417	\$ 7,300	
ECM #7	Water Conservation Measures	X	\$ 30,757	\$ 2,400		
ECM #8	Building Weatherization (Airseal, Weatherstrip...)	X	\$ 30,590	\$ 1,300	\$ 10,706	
ECM #9	Computer Power Management Software (40 Lic)		\$ 4,522	\$ 600		
	ECM 2 Subtotal		\$ 444,079	\$ 18,683	\$ 48,661	21.2
	Project Development and Management (Included Above)		\$ -	\$ -	\$ -	
	Total All Measures		\$ 444,079	\$ 18,683	\$ 48,661	21.2
N/A	Design & Construction Contingency	0%	\$ -	n/a	n/a	n/a
N/A	Measurement and Verification		\$ -	n/a	n/a	n/a
N/A	Owner Investment		\$ (90,000)	n/a	n/a	n/a
	ECM Totals		\$ 354,079	\$ 18,683	\$ 48,661	16.3

Note 1: Rebate amounts are estimated at this point, once Portsmouth approves the project, EEI will lock in the rebate amounts with PSNH/Unitil. Any adjustments in rebate amounts will be brought to the attention of the Business Administrator at time of financing. It should be noted that PSNH is currently reviewing their municipal rebate program and there is a potential for larger electric rebates.

3. Facilities Background

New Franklin School

The New Franklin Elementary School is a 40,000sf, brick structure with un-insulated cement block infill and brick veneer exterior. The school was constructed in three phases. The roofs are rubber with a wood superstructure, rubber membrane covering, and foam insulation (assumed). There is batt-style insulation loosely laid at the ceiling tiles. There is no barrier between the eave soffit of the first floor and the interstitial space between the ceiling tile and 2nd floor deck.



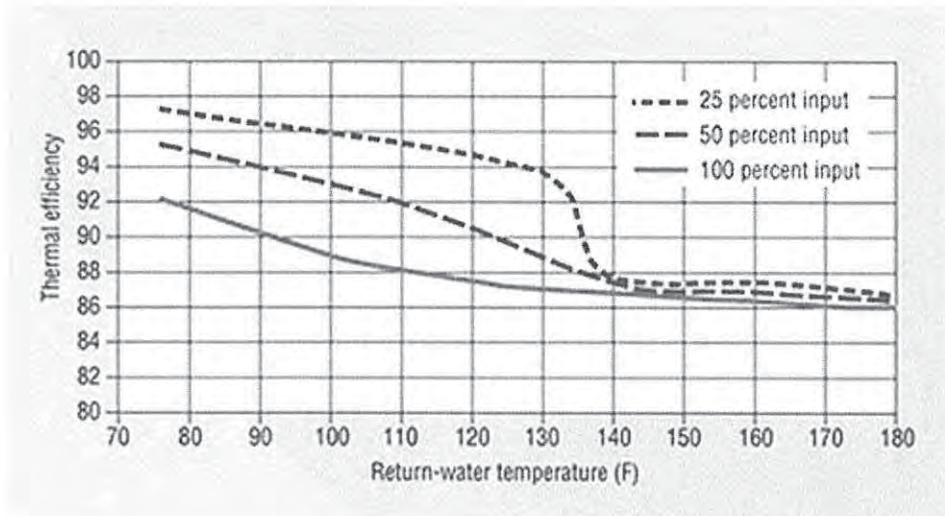
4. Standards of Comfort

In determining the energy savings in your building we needed to make assumptions on use and occupancy. For this location we have assumed a heating set point of 68 degrees during occupied school days and temperature of 60 degrees after 8:00 PM.

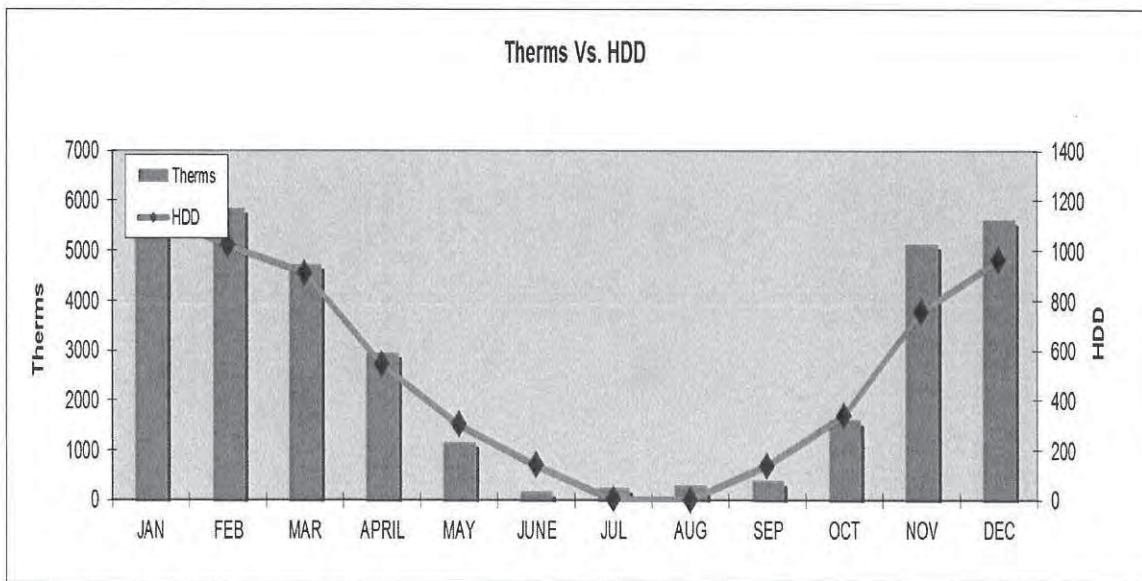
We have assumed 263 students and operating times as shown. These same assumptions and setbacks have been used to calculate the potential energy savings. Changes in these values can affect the results of the energy project. If at any time during the performance period the building use has changes, EEI will update the energy savings to reflect the changes in usage.

5. Utility Data Analysis

The Graph below demonstrates how the efficiency of the condensing boiler increases with colder water:

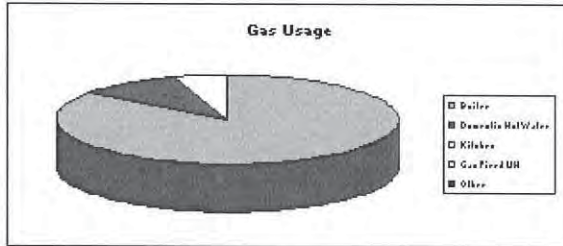


The graph below, heating degree days versus gas usage, indicates there are several months when the school will substantially benefit from condensing technology (months with lower HDD are better for condensing because the boiler can operate at lower temperatures).

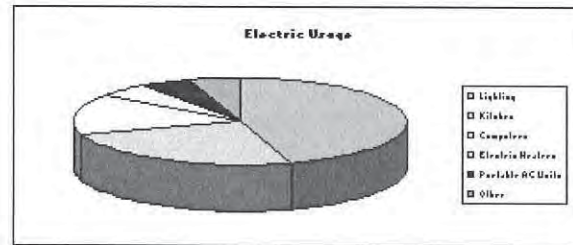


Utility Data

Gas Using Equipment	% Usage
1 Boiler	85%
2 Domestic Hot Water	10%
3 Kitchen	5%
4 Gas Fired UH	0%
5 Other	0%
	100%



kWh Using Equipment	% Usage
1 Lighting	45%
2 Kitchen	25%
3 Computers	15%
4 Electric Heaters	5%
5 Portable AC Units	5%
6 Other	5%
	100%



6. Economic Analysis

Making good economic decisions requires analysis of available information, and understanding the time value of money. A Discounted Life Cycle Cost Analysis (DLCCA) is very useful for this type of analysis when multiple alternatives exist. This is Federal Energy Management Program (FEMP) approved method of analysis and is used to aid in decisions that are based on the most favorable economic outcome.

This project can be funded through a cost neutral loan or lease (the finance vehicle will be selected by the school board). EEI has spoken with the Bank of New Hampshire and the Municipal Leasing Company and both organizations are willing to fund this project. In our analysis, we have excluded fuel escalation and interest costs. It is our belief that current interest rates will be equal to fuel escalation over a 15 year period.

EEI will apply for rebates from PSNH/Unitil Electric, Solar PV recs, and state grants for renewable work.

15 Year Discounted Life Cycle Cost - @ 3% Discount Factor

Do Nothing					
Cost Items	Base Date Cost	Year of Occurrence	Discount Factor	Factor	Present Value
Capital					
Initial Investment	\$ -	Base			
Utility Rebates ¹	\$ -	Base			
Total Investment	\$ -	Base	Already @ PV		\$ -
Current Capital ³	\$ 5,000.00	0	SPV0	1	\$ 5,000
Year 1 Capital	\$ 16,000	1	SPV1	0.971	\$ 15,536
Year 2 Capital	\$ 16,000	2	SPV2	0.943	\$ 15,088
Year 3 Capital	\$ 16,000	3	SPV3	0.915	\$ 14,640
Year 4 Capital	\$ 16,000	4	SPV4	0.888	\$ 14,208
Year 5 Capital	\$ 16,000	5	SPV5	0.863	\$ 13,808
Year 10 Capital	\$ -	10	SPV10	0.744	\$ -
Utilities					
Oil Cost	\$ -	15	FEMP UPV * 15	12.00	\$ -
Gas Cost	\$ 17,295	15	FEMP UPV * 15	12.16	\$ 210,307
Electrical Cost	\$ 160,362	15	FEMP UPV * 15	11.25	\$ 1,804,073
Gas & Electric Ave	\$ -	15	FEMP UPV * 15	11.705	\$ -
Maintenance²					
OM&R	\$ 10,000	15	UPV15	15	\$ 150,000
Total LCC					\$ 2,242,660

The issues resolved by replacing the equipment would include replacement of 1-2 Compressors per

Full Improvement Package					
Cost Items	Base Date Cost	Year of Occurrence	Discount Factor	Factor	Present Value
Capital					
Initial Investment	\$ 410,511	Base			
Owner Investment	\$ (90,000)	Base			
Utility Rebates ²	\$ (37,955)	Base			
Total Investment	\$ 320,511	Base	Already @ PV		\$ 320,511
Year 5 Capital	\$ 3,500	5	SPV5	0.863	\$ 3,021
Year 10 Capital	\$ 3,500	10	SPV10	0.744	\$ 2,604
Utilities					
Oil Cost	\$ -	15	FEMP UPV * 15	12.00	\$ -
Gas Cost	\$ 17,295	15	FEMP UPV * 15	12.16	\$ 210,307
Electrical Cost	\$ 94,591	15	FEMP UPV * 15	11.25	\$ 1,064,149
Gas & Electric Ave	\$ -	15	FEMP UPV * 15	11.71	\$ -
Maintenance²					
OM&R	\$ 5,000.00	15	UPV15	15	\$ 75,000
Total LCC					\$ 1,675,591

15 Year LCC Savings **\$ 567,068**

Best Value Alternative

Notes:

Note 1: Rebate amounts to be confirmed with and approved by Unitil & PSNH

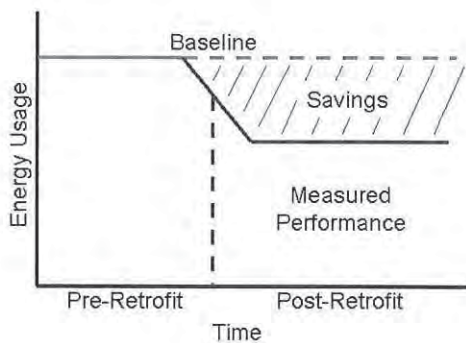
Note 2: Assumed 5,000/year Preventative Maintenance plus past 2 year average repair cost.

Note 3: Add for known VFD repair on Police Unit.

7. Energy Conservation Measures

In this section of the document we will define the Energy Conservation Measures we have evaluated for this project. Then we will define the measures on a building by building basis. Careful consideration was given to each measure and its interaction with the overall building performance.

We have formatted this report so that individuals that are not as familiar with the building will gain an understanding and appreciation for the improvements proposed. The format includes a brief section on existing conditions, followed by a definition of the proposed improvement. The final section defines how we calculated the overall Energy saving and assumptions that were made in our building energy model.



General ECM Descriptions

ECM 1 – Lighting Interior

EXISTING CONDITIONS

The schools currently use a combination of T8 and T12 fluorescent lighting and we will replace existing fixtures with new LED and high performance T8 lighting with higher efficiency. EEI performed a detailed survey of the interior and exterior spaces in order to identify opportunities in which we can improve lighting quality, reduce maintenance costs, and save energy.

The existing lighting demand (kW) per fixture, hours of operation, fixture quantities, and recommended retrofits are based on the physical inspection and site visits conducted by EEI in the Fall of 2013. As a result of the survey and analysis, EEI has developed a high efficiency lighting upgrade project that will provide the New Franklin School with new energy efficient lamps, ballasts, and lighting fixtures resulting in guaranteed annual energy savings and a reduction in electrical demand.

To make sure the proposed improvement is a viable solution that meets the needs of the school we installed a sample light in the Café for demonstration purposes.

PROPOSED IMPROVEMENT

EEI proposes retrofitting or replacing existing lighting fixtures with new high efficiency T8 fluorescent lamps and LED fixtures. LED type lighting provides significant illumination and has longer life expectancy and savings in electric consumption. Also, by standardizing all fixtures and lamps it will reduce future maintenance requirements. Therefore new lighting levels will meet or exceed existing light levels while still saving energy.



We have included replacing the GYM lights with LED style fixtures and all spaces that currently have 2x4 lamps shall be replaced with 2x4 LED retrofit kits. Areas that have 2 lamp strip/linear fixtures will be retrofitted with high performance T8 Lamps/ballasts. Exit signs will be replaced with LED exit signs.

It was assumed that classroom fixtures will run on average 1,800 hours per year, hallways & Cafeteria 2,100 hours per year, & Kitchen 2,700 hours per year.

Replace 14 exterior metal halide with LED Rab Slim 26 Wall Pak Fixtures. It is assumed that existing fixtures run dusk to dawn.

ECM 2 – Walk-In Cooler Controls

EXISTING CONDITIONS

The existing walk-in coolers are controlled with original OEM controls. These controls were designed before energy conservation was mandated through code revision.

Currently electric heaters run 24/7 to keep condensate from building up on the doors, however condensation is only an issue when there is humidity in the building.

PROPOSED IMPROVEMENT

E EI recommends refrigeration controllers on walk-in coolers and freezers and installing electronically commutated (EC) motors on evaporator fans. A controller can start/stop the evaporator fans when operation is unnecessary. The EC motors are 30% more efficient than the standard two-pole motors. Energy savings will be realized by reducing the runtime of the compressors and evaporator fans as well as the reduction in power load of the new fans. Each walk-in cooler or freezer will have a new EC fan motor and blade installed as well as a dedicated controller. In addition, controllers will be installed on the freezer to optimize the operation of the electric defroster and door heater. The controller unit senses when refrigerant has ceased flowing through the evaporator coil and controls the fan motors. The cycle time is considered the bare minimum required to provide defrosting and prevent air in the chiller from stratifying into layers of higher and lower temperature. Door and frame heaters are controlled based on dew point, reducing their run time by 95% in chillers and 60% in freezers. The controllers will reduce compressor and evaporator runtime by up to 10%.

ENERGY SAVINGS CALCULATION

Energy savings will result from both reducing the fan power and the efficient control of the evaporator fans and door heaters. In general, EEI uses the following approach to determine savings forth is specific measure:

[Existing kW Cost per kWh
Cost of Existing Equipment
Cost of Proposed Equipment Energy Savings\$

Listed Equipment Amperage x Voltage of Equipment Average Site Data Package \$/kWh
= Existing kW x Cost per kWh x Effective Full Load Hours
= Existing kW x Cost per kWh x Full Load Hours Using Control
= Existing Equipment Costs- Proposed Equipment Costs

It was noted that one of the condensers is water cooled that will be further looked into for a potential water saving measure.

ECM 3 – Condensing Boiler

EXISTING CONDITIONS

Currently there are 2 standard efficiency natural gas boilers that are at end of life. The boilers have an estimated efficiency of 82%.



PROPOSED IMPROVEMENT (SCOPE)

EI proposes to install 3 condensing Lochinvar or Keystone 850 KS boilers. Each boiler has an efficiency of up to 95% and the three boiler layout will provide additional redundancy than the current two boiler layout.



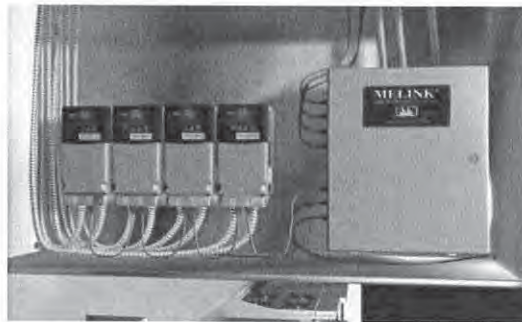
ECM 4 – Kitchen Hood Controls

EXISTING CONDITIONS

EI found that currently the kitchen exhaust hood is being left on 24/7 during the school year because the kitchen gets very hot overnight. EI proposes to install the Captive Air automated kitchen hood control system which will modulate the exhaust duct based upon outside air temperature. A variable speed exhaust fan will wrap the exhaust CFM up and down passed upon heat sensors located in the hood. This measure will save electricity from reducing fan run hours and gas through reducing heated air exhausted through hood.

PROPOSED IMPROVEMENT (SCOPE)

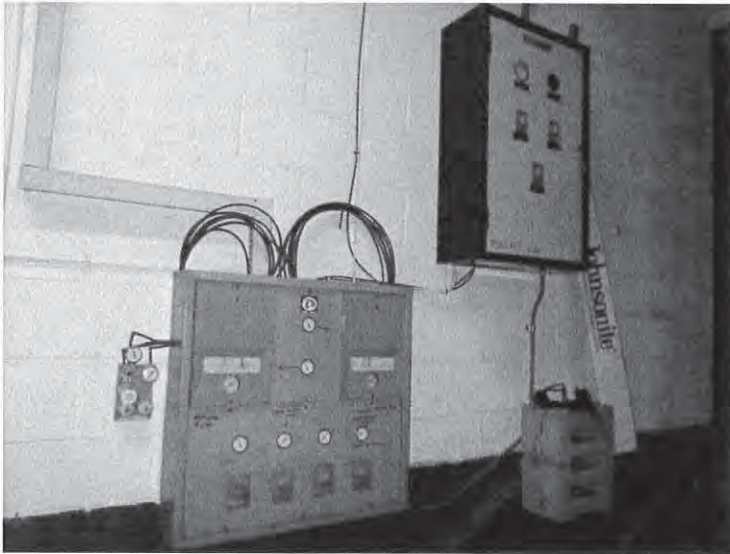
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ECM 5A & 5B – Digital Controls

EXISTING CONDITIONS

The current building controls system consists of pneumatic controls which is an obsolete technology that is very expensive for the school to maintain. Pneumatic controls utilize compressed air to open or close valves throughout the school. The 2002 wing of the building currently has a digital control system. The existing controls are not very functionally and there are numerous complaints about inability to adjust space temperature.



PROPOSED IMPROVEMENT (SCOPE)

EEI proposes to convert schools existing pneumatic control system to a digital controls system which will allow for better set back management, reduced maintenance cost and building start up optimization.

Option 5A is for Cypress Digital Pneumatic controls, these controls utilizing the existing pneumatic valves but have digital addressable wireless pneumatic thermostats that will be added to the buildings existing front end. This Option was not selected.

Option 5B is for an expansion of the existing CTI controls system to include all classrooms and air handlers in the building. Only the pumps would remain on the pneumatic controls with this upgrade and those can be changed out over time as they fail. This has a higher upfront cost but would transition the building away from pneumatic systems.



ECM 6 – Solar PV Systems

EXISTING CONDITIONS

No existing solar system. The Sloped EPDM Roof was installed Circa 2000 and the newest section of roof was installed Circa 2002.

PROPOSED IMPROVEMENT (SCOPE)

Electricity generated from electricity-producing solar photovoltaic (PV) panels will reduce the quantity of power purchased from the local utility. Many factors affect the size of the solar PV installation, including on site load, available and suitable roof space, and available governmental incentives.

Solar electrical energy is generated when the sun's energy strikes the solar photovoltaic (PV) panel. A series of PV panels are combined in a PV array. Electrical energy, in Direct Current (DC), is sent from the array to an inverter, which converts the electricity to Alternating Current (AC) power. The AC electrical output from the inverter is integrated into the building's electrical system. Good practice and typical utility company requirements include the use of a disconnect switch between the inverter output and the tie-in point into the building's electrical system.



Monitoring of electrical output from the PV system can typically be viewed on most inverters. To ensure proper accounting of system output as well as to facilitate that potential revenue can be gained by selling the renewable energy attributes or credits (RECs) (versus the electricity) from the PV system, the system needs a revenue-grade electrical meter to measure AC kilowatt-hour production.

To determine the best location for a potential PV system, EEI surveyed all roof areas, and associated interior areas, to determine which areas may be best suited for such a system. While there are various roof areas that receive significant amounts of direct solar radiation, some roofs present greater challenges in distance from electrical panels. EEI believes that the best potential location are on the 2002 flat EPDM Roof at the addition or on one of the sloped EPDM roofs.

Savings assumption based on average solar days City of Portsmouth from PV Watts Energy Model.

ECM 7 – Water Conservation

EXISTING CONDITIONS

The New Franklin School has the highest water per student ratio in the district this is due to the high water consuming bathroom fixtures and the water cooled condenser for the walk in cooler.

With the exception of the 2002 addition the bathrooms were found to have toilets with 3.0 GPF, sinks with 2.2 GPM aerators and urinals with 1.0 GPF valves.

PROPOSED IMPROVEMENT (SCOPE)

Domestic low flow devices will be installed to reduce the amount of water that is used by the New Franklin School. Locations for low flow device installation include restrooms, kitchens, and staff lounges. Reducing the amount of water with high quality low flow devices can save significant energy and water.

EEI proposes to eliminate the existing water cooled condenser and install a roof mounted electrical unit.

EEI has completed a detailed survey of the building to determine water consumption for the school. This ECM is designed to reduce water consumption, wastewater production and hot water energy usage through the installation of highly efficient plumbing products and controls. Low Flow Devices are important because they provide durable, long-term use with minimal maintenance, improved hygiene, and energy efficiency.

The installation of this type of equipment will:

- Lower operating costs by reducing the amount of water being used per toilet/urinal flush or sink use
- Improve appearance of older fixtures by replacing with new, high efficiency ones
- Lower maintenance costs associated with plumbing leaks, clogs and breakage by replacing older fixtures with new, high efficiency ones

EEI proposes to change out older, high flow fixtures in order to meet or exceed the Energy Act of 1992 which requires that toilet water use is limited to 1.6 gallons per flush, showerheads are limited to 2.5 gallons per minute, and faucets deliver less than 2.0 gallons per minute.

The upgrades will include:

Staff and Public Restroom Faucets: Installation of 0.5 gallons per minute (GPM) aerator flow restrictors on faucets that currently have 2.0+ GPM aerator flow restrictors. The current faucets will also be repaired and/or replaced as necessary to eliminate leaks. The new aerator flow restrictors will be tamper proof so that users cannot remove them. The maintenance department will be supplied with special keys that can be used to remove the aerator flow restrictors for any necessary maintenance.

Water Closet: Installation of 1.28 gallons per flush (GPF) water closet and flush valve in place of existing equipment that currently consumes 3.5+ GPF. These new fixtures and flush

valves will provide flushing performance that meets or exceeds ASME and ANSI performance standards for low-consumption toilets. These toilets are designed with large trapways which keep the waste moving and minimizes blockages.

Tank Toilet: Installation of 1.6 gallons per flush (GPF) tank toilets in place of existing equipment that currently consumes 3.5+ GPF. A typical toilet and flush valve retrofit includes:

- 1.28 GPF replacement with new retrofit kit or flushometer valves if needed
- New outlet seals and new toilet seats with stainless steel hardware
- Installation of new toilet floor flanges or repair to existing flanges
- No architectural patching or painting is included in the scope of work
- No repair to wall carriers are included in the scope of work

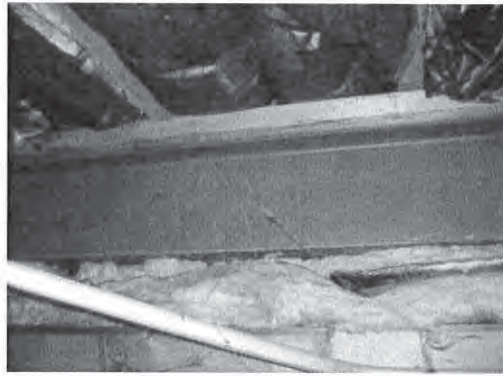
Urinal: Installation of 0.5 - 1.0 GPF flush valve (depending on urinal type). Urinals that receive this retrofit are currently consuming 1.5+ GPF. The new flush valves will reduce the schools' consumption in half and still provide ample water for flushing. A typical urinal flush valve retrofit or replacement includes:

- Installation of a new 1.0 GPF retrofit kit
- Installation of a new 1.0 GPF flushometer valve

ECM 8 – Weatherization

EXISTING CONDITIONS

The Roof to wall joint and several locations lacks insulation as shown in the photo below. EEI proposes to install foam insulation in these gap areas. Many of the building's exterior doors also has significant gaps and penetrations that will be improved with high grade weather stripping renovations.



PROPOSED SCOPE OF WORK

- 2 Single Commercial Doors to be weather-stripped
- 2 Single Commercial Doors to be weather-stripped (sweeps only)
- 6 Double Commercial Doors to be weather-stripped
- 2 Double Commercial Doors to be weather-stripped (sweeps and astragals only)
- 18 Roof Top Ventilators to be opened, dampers lubed, perimeters sealed, 116 linear feet
- 996' Roof/Wall Joint and Soffit Joint to be sealed using 2-part closed cell fire rated foam
- 360 Square feet of 1" polyisocyanurate rigid insulation to be installed to interior gable end walls above drop tile ceiling in rooms 1,2,3,6,7,8, all seams to be sealed using 2-part closed cell fire rated foam

ECM 9 - Computer Management System

EEI proposes to install computer management software (CMS) that will enable computers to run when users need them and power down computers when they are inactive. This will prevent computers from using power by powering them down when users do not turn them off and they would otherwise remain on during times of no use. The CMS software can be installed on the main school server and can be pushed into every school PC via the WAN. The key features of this software include:

- Intelligent Configuration Settings
- Inactivity definitions can be based on multiple criteria
- Notify users before Power Save takes action
- Automatically save open documents, spreadsheets, presentations, and email drafts prior to powering down
- Option to logoff user prior to computer powering down
- Stay awake option allows users to temporarily disable CMS

Calculations

EEI uses the following approach to determine savings for this specific measure:

Total Usage (kWh/Yr) = # of Computers x (Monitor Usage per unit + CPU Usage per unit),
where:

$$\text{Monitor/CPU Usage} = \frac{(\text{Active Watts} \times \text{Hrs Computer On and Used}) + (\text{Standby Watts} \times \text{Hrs Computer on Standby}) + (\text{Passive Watts} \times \text{Hrs Computer Off})}{1000}$$

ORDINANCE #
THE CITY OF PORTSMOUTH ORDAINS

That Chapter 7, Article I of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

Section 7.103 PARKING AND TRAFFIC SAFETY COMMITTEE

There is hereby created a Parking and Traffic Safety Committee under the terms and conditions described herein:

- A. The Parking and Traffic Safety Committee ("Committee") shall consist of nine (9) **regular** members **and one (1) alternate** appointed by the Mayor and City Council. The composition of the Committee shall be the City Manager, Police Chief, Fire Chief, Public Works Director or their respective designees as well as a member of the City Council and **five (5) ~~four (4)~~** residents of the City (**4 regular members and one alternate**). The City Manager, Police Chief, Fire Chief and Public Works Director (or their respective designees) shall serve during their terms of employment with the City. The City Council member shall serve co-terminus with his/her as a member of the Council. Each of the **five (5) ~~four (4)~~** resident members of the Committee shall serve a term of three (3) years from the date of appointment. The Committee shall take office upon completed appointment of the **five (5) ~~four (4)~~** resident members. In the first instance the City Council member of the Committee shall serve as Chairperson until the first meeting of the subsequent calendar year. Thereafter, at its first meeting of any calendar year the Committee shall select a Chair who shall serve until another member is selected Chair at the first meeting of the subsequent calendar year.

The City Clerk shall properly alphabetize and/or re-number the ordinance as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

Robert Lister, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

h:\ordinances\7.103 -# of alternate