

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, APRIL 21, 2014

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

I. CALL TO ORDER

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

II. ROLL CALL

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

ABSENT: Mayor Lister

III. INVOCATION

Assistant Mayor Splaine asked everyone to join in a moment of silent prayer in memory of the victims last years Boston Marathon Bombings and their families.

IV. PLEDGE OF ALLEGIANCE

Lawrence Cataldo and City Manager Bohenko led in the Pledge of Allegiance to the Flag.

PROCLAMATION

1. Earth Day – April 22, 2014

Assistant Mayor Splaine read the Proclamation declaring April 22, 2014 as Earth Day.

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

Councilor Lown moved to approve and accept the minutes of the January 13, 2014, January 21, 2014 and February 3, 2014 City Council meetings. Seconded by Councilor Kennedy and voted.

PRESENTATION

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

Wendy Lull of the Seacoast Science Center provided a brief presentation on the Marine Mammal Rescue program at the Seacoast Science Center. Ms. Lull indicated the Seacoast Science Center is seeking permission to install two signs one; on Peirce Island and one at the end of Little Harbor Road.

Councilor Spear moved to authorize the City Manager to work with the Seacoast Science Center to install a sign on Peirce Island and a sign at the end of Little Harbor Road. Seconded by Councilor Lown and voted.

VI. PUBLIC COMMENT SESSION

Doug Roberts said the City Council should have a clear plan before proceeding forward with any changes to parking.

Tom Carroll spoke regarding scrap metal pollution in Portsmouth. He is speaking to what is occurring outside the fence area. He stated that the City is responsible for what is taking place outside the fences and the pollution has occurred over a decade.

Erik Anderson spoke regarding derelict properties around the City and feels that an ordinance should be created to deal with these type of properties.

Aaron Garganta provided copies of information on the issue of abandoned and derelict buildings. He listed the properties that are in the status of abandon and derelict and one of the properties sits at the opening of the Sherburne neighborhood. He asked for the assistance from the City Council to deal with the issues in Sherburne neighborhood.

Chris Mulligan, Attorney Bosen & Associates, spoke on behalf of the Shannon Family. He requested the Council to suspend the rules to allow him to address the matter now rather than during the later part of the meeting.

Bob Gibbons spoke in opposition of the expansion of Sea-3 in the Town of Newington. He stated the Newington Planning Board will vote on May 5th to support the expansion of Sea-3 and asked that the City of Portsmouth remind the Town of Newington of the need for a safety study.

Rich DiPentima concurred with Mr. Gibbons comments. He said the City should take legal action if Newington allows this expansion. He said in Boston, MA a similar situation occurred and they were able to get the safety study conducted.

Joan Hamblet spoke in support of doing something regarding abandoned and derelict buildings.

Rick Becksted spoke regarding Form-Based Zoning and that it is a guideline needed in the City. He said at the Historic District Commission meeting last week vinyl siding was allowed to be placed on Portwalk. He also stated buildings in the downtown should not go above 50 feet.

Assistant Mayor Splaine announced he received a message from Mayor Lister to remind the Council that we have a 10:00 p.m. rule for adjournment.

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

Steve Bartlett, School Business Administrator reported that the School has been working with a consultant to come up with an energy savings package to leverage the project at the New Franklin School. He said a RFQ and RFP process was followed to identify energy conservation measurers and the boiler.

Assistant Mayor Splaine read the legal notice, declared the public hearing open and called for speakers. With no speakers, Assistant Mayor Splaine closed the public hearing.

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

Councilor Kennedy moved 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. Seconded by Councilor Lown and voted.

- B. Adoption of Proposed Borrowing Resolution Re: New Franklin School Energy Project.

Councilor Kennedy moved to adopt the 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. Seconded by Councilor Dwyer.

On a unanimous roll call 8-0, voted to adopt the 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.

- 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

Councilor Kennedy moved to suspend the rules to allow for amendments to the proposed ordinance. Seconded by Councilor Lown and voted.

Councilor Morgan removed her suggested amendment because it was a duplication of a suggested amendment by Councilor Thorsen. Amendment removed was as follows: Amend Map 10.5A21B – Special Requirements: Specific Building Height Requirement Areas by changing the double asterisk note as follows (deletions from existing language **bolded** and underlined; remaining language unchanged from existing):

**In instances of consolidation of two or more lots that cause the new lot to fall within more than one building height requirement, the lot shall be permitted to use the higher lower height requirement.

Councilor Spear moved to amend Section 10.5A21.21 – Specific Building Height Requirement Areas:

As designated on Map 10/5A21B, assignments for specific building heights require a building to have no more than the designated maximum number of stories or the maximum height in feet and no less than the designated minimum number of stories. Seconded by Councilor Kennedy and voted.

Councilor Kennedy asked if we are overreaching the Historic District Commission requirements to overlook the project in regards to wood siding. Planning Director Taintor said this came from public input during the Charrettes.

Councilor Spear moved to amend Section 10.5A21.22 – Specific Shopfront, Officefront, Step and Frontage Buildout and Special Use Requirement Areas

As designated on Map 10.5A21C:

- (a) Assignments of shopfront, officefront or step frontage require that a building be provided with a shopfront, officefront or step frontage at the sidewalk level along the entire length of its private frontage**
- ~~(b) Designations for frontage building percentage require that a building occupy no more than 50% of the frontage of the lot, wood siding shall be used for the exterior of the building and special uses apply to some properties along the waterfront area~~**
- (b) For designated properties along the waterfront, buildings shall occupy no more than 50% of the frontage of the lot, and shall have a wood-sided appearance**
- (c) Special uses apply to some designated properties along the waterfront area. Seconded by Councilor Kennedy and voted.**

Councilor Kennedy moved to amend Map 10.5A21B – Special Requirements: Specific Building Height Requirement Areas by changing the designations for the lots on Congress Street between the east side of Fleet Street and the west side of High Street / Church Street from 2-4 stories (short 5th) / 60' [magenta] to 2-3 stories (short 4th) / 50' [orange]. Seconded by Councilor Thorsen.

Planning Director Taintor stated that this amendment would treat both sides of the street the same.

Councilor Lown said he would not support the motion and feels that there are beautiful buildings currently in the downtown that are 60 feet. He does not feel we should allow the amendment after the thorough review by the Planning Board.

Councilor Shaheen asked Planning Director Taintor if this should go back to the Planning Board for consideration. Planning Director Taintor said that the Planning Board is comfortable with the change in the interest of moving this ordinance forward. He said maybe we could revisit this at a future date.

Councilor Kennedy said she would support the motion and that the sidewalks are too small in the downtown and the large building will cause a tunnel affect.

Councilor Dwyer said she does not feel it makes sense to change the south side and she would not support the motion because most people feel we have the right height for the south side of the street.

Councilor Kennedy and Councilor Thorsen agreed to amend the motion to add after the word lots on “**north side**”.

Councilor Kennedy moved to amend Map 10.5A21B – Special Requirements: Specific Building Height Requirement Areas by changing the designations for the lots on north side Congress Street between the east side of Fleet Street and the west side of High Street / Church Street from 2-4 stories (short 5th) / 60’ [magenta] to 2-3 stories (short 4th) / 50’ [orange]. Seconded by Councilor Thorsen and voted.

Councilor Thorsen moved to amend Map 10.5A21B – Special Requirements: Specific Building Height Requirement Areas by changing the designations for the lots at the northwest and southwest corners of Congress Street and Fleet Street from 2-4 stories (short 5th) / 60’ [magenta] to 2-3 stories / 45’ [green]. Seconded by Councilor Kennedy.

Councilor Thorsen said he only wants to deal with the Northwest side.

Councilor Lown said he would vote opposed to the amendment and we are only talking about 1 building on the corner of the Northwest side.

Councilor Spear said he would vote against the motion because he feels the Planning Board should review this amendment before voting.

Councilor Thorsen said if we vote to send this back to the Planning Board, it could be done after passage of the ordinance. He feels we need to move forward with the ordinance.

Councilor Lown said the Council should not pass an ordinance that makes a building non-conforming use.

Councilor Shaheen said all the amendments seem to put the City Council as a land use board or a super Planning Board and she does not feel comfortable doing this without the Planning Board coming back with a recommendation after reviewing this matter.

Councilor Thorsen said he agrees and would support the Planning Board to take a look at the amendment. He said he would be willing to go with orange.

Councilor Thorsen further amended the motion to amend Map 10.5A21B – Special Requirements: Specific Building Height Requirement Areas by changing the designation for the lot at the northwest corner of Congress Street and Fleet Street from 2-4 stories (short 5th) / 60' [magenta] to 2-3 stories / 50' [orange]. Seconded by Councilor Kennedy and voted. Councilor Lown voted opposed.

Councilor Kennedy moved to amend Map 10.5A21B – Special Requirements: Specific Building Height Requirement Areas by changing the double asterisk note as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded and underlined; remaining language unchanged from existing):**

**** In instances of consolidation of two or more lots that cause the new lot to fall within ~~When a lot is assigned to more than one building~~ Height Requirement Area, the lot shall be permitted to ~~may~~ use the assigned height requirements as shown on the map or may use the higher ~~lower~~ height requirement for all portions of the lot, except that a through lot shall be required to meet the assigned building height requirements on each street frontage**

Seconded by Councilor Morgan.

Planning Director Taintor said using the lower height requirement is not needed when a lot is assigned to lower than one height requirement. He said that this happens mainly on Sheafe Street and State Street.

Councilor Lown asked about the lots on Sheafe Street and State Street and how are they affected. Planning Director Taintor said Sheafe Street would be limited to a lower height and State Street could go to a higher height.

Planning Director Taintor reported that there are no set backs with the Character Districts.

Councilor Dwyer clarified that on one side would be 30 feet and the other side 50 feet. Planning Director Taintor said that is correct.

Motion passed.

Councilor Lown moved to pass third and final reading of the proposed Ordinance, as amended. Seconded by Councilor Dwyer.

On a unanimous roll call 8-0, voted 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

Councilor Kennedy moved to pass third and final reading of the proposed ordinance, as presented. Seconded by Councilor Morgan and voted.

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***)

Councilor Spear moved to adopt the Consent Agenda. Seconded by Councilor Shaheen and voted.

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

1. Interim Senior Programming Space

City Manager Bohenko said City staff has worked with the Mark Wentworth Home and Foundation for Seacoast Health on this matter. He said the Recreation Department would provide an interim senior programming space at the Community Campus with a soft opening on May 6th.

Councilor Lown moved to authorize the City Manager to enter into an agreement with the Mark Wentworth Home and the Foundation for Seacoast Health for an interim senior programming space at the Community Campus. Seconded by Councilor Shaheen.

Councilor Shaheen said that this is a fantastic opportunity to provide interim services and we are still working on getting the Doble Center to use as a senior center. City Manager Bohenko said that is correct.

Brinn Chute, Senior Services Coordinator reported that the City would support the transportation element and get people to the space. She said COAST services the Community Campus as well. She also addressed the many amenities at the campus site and we are gathering data on them.

Councilor Shaheen asked how people will find out about the services. Ms. Chute said senior lunches already take place at the campus and they will help spread the word. She also stated that we put out a senior newsletter monthly.

Motion passed.

2. Proposed Additional Areas to Implement Character-Based Zoning (Form-Based Zoning)

City Manager Bohenko stated the Planning Board has recommended 3 areas to extend the Central Business Zone. They're as follows:

- The “Northern Tier” area between the railroad tracks and North Mill Pond, currently zone CBA, containing about 15 acres and 15 existing parcels;
- A small area on the opposite side of the Maplewood Avenue bridge, currently zoned Mixed Residence Office, containing about 3 acres and 16 parcels; and
- A corridor along Islington Street with expanded areas at the north end (Hanover and Hill Streets) and the south end (Brewery Lane, Chevrolet Ave., Plaza 800 and the Button Factory area), with various Business, Mixed Residential and Residential zoning designations. This area encompasses about 73 acres and contains 140 parcels

He stated that TPUDC has proposed to complete the planning and zoning services for these three areas for a fee of approximately \$100,000.00 including expenses. He recommended to expend \$50,000.00 from contingency and \$50,000.00 from the Urban Development Action Grant.

Councilor Kennedy expressed concern that Deer and Russell Streets are not included in the CBZ and also feels that Market Street Extension should be part of it as well if we are doing the Islington Street corridor we should include McDonough Street.

Councilor Spear moved to authorize the City Manager to expend \$50,000.00 from contingency and \$50,000.00 from the Urban Development Action Grant for the program. Seconded by Councilor Shaheen.

Discussion followed regarding the three areas. Planning Director Taintor explained that this is Phase II and not the final Phase and he would like this limited to commercial and Phase III we look at residential areas. Councilor Shaheen said the Council needs to consider a phased approach. Planning Director Taintor stated that we will be using the Charrette process with our session planning and it would be a more regulated approach. Councilor Dwyer spoke in support of the session plan.

Motion passed.

3. Involuntarily Merged Lots Re: 194 Wibird Street

City Attorney Sullivan explained the law for Involuntarily Merged Lots.

Councilor Spear moved to suspend the rules to allow Attorney Mulligan to speak to this matter. Seconded by Councilor Lown and voted.

Attorney Mulligan spoke to the State Statute which requires the City to restore the lots to their previous state. He reviewed the history of the property and reported that lots 19 and 20 were consistently taxes as separate lots with one being a vacant lot and the other having a house on it. He stated that Planning Director Taintor is recommending restoring the lots to 3 separate lots.

Councilor Lown moved that the City Council restore three involuntarily merged lots to their premerger status, pursuant under RSA 674:39-aa. Seconded by Councilor Thorsen and voted.

City Manager's Informational Items

1. Presentation and Discussion with Cynthia Scarano, Executive Vice President of Pan Am Railways

City Manager Bohenko reported that Cynthia Scarano is unable to attend the May 5th City Council meeting but could attend the May 19th meeting.

2. Reminder Re: FY15 Budget Schedule

City Manager Bohenko announced he would deliver the budget on May 1st and on May 10th the City Council will have the Super Saturday Budget Work Session at the Library in the Levenson Room. He also reported the Public Hearing on the budget would be held on May 12th with a goal of adopting the budget on June 2nd but the City Council has until June 30th to adopt the budget.

4. Update on Isles of Shoals Employee Parking Program

City Manager Bohenko stated that this was a successful program.

5. Strategic Marketing Plan for Downtown Parking Shuttle

City Manager Bohenko said we developed a successful marketing plan for the downtown parking shuttle.

Councilor Kennedy said she would like to attend the Town of Newington meeting on the vote regarding Sea-3. City Manager Bohenko stated that a staff member will be attending the meeting.

Councilor Spear asked if the City could look into leasing the Port scrap metal lot for parking. He said he would like the City Council to think about this.

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

Councilor Spear moved to reappoint Barbara McMillan to the Conservation Commission until April 1, 2017; appointment of Kimberly Meuse as an Alternate to the Conservation Commission until April 1, 2016. Ms Meuse is filling the unexpired term of Shelley Saunders. Appointment of Samuel “Wes” Tator to the Sustainable Practices Blue Ribbon Committee; appointments of Lawrence Cataldo and Stephen Dunfey to the Taxi Commission until December 31, 2015. Seconded by Councilor Dwyer and voted.

2. Resignation – Nate Alger from the Sustainable Practices Blue Ribbon Committee

Councilor Lown moved to accept with regret the resignation of Nate Alger from the Sustainable Practices Blue Ribbon Committee and to send a letter of thanks for his service to the City. Seconded by Councilor Kennedy and voted.

Assistant Mayor Splaine passed the gavel to Councilor Shaheen.

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)

Assistant Mayor Splaine requested the City Attorney come back to the Council in a reasonable amount of time with a concept for a penalty guideline.

Councilor Morgan requested the City Attorney to address irregularities that have been reported on projects such as Pleasant Street as part of his report back to the Council.

2. Status of Abandoned or Derelict Buildings *(Postponed from the April 7th City Council meeting)*

City Attorney Sullivan will review State Law and make a proposal to the City Council for moving forward with this matter.

Assistant Mayor Splaine moved to suspend the rules in order to continue the meeting beyond 10:00 p.m. Seconded by Councilor Morgan and voted.

Councilor Shaheen called for a brief recess at 10:00 p.m. At 10:10 p.m., Councilor Shaheen called the meeting back to order.

Councilor Shaheen returned the gavel to Assistant Mayor Splaine.

Councilor Kennedy expressed concerns with this issue in the Sherburne neighborhood and on Maplewood Avenue.

Councilor Lown said the City needs to be cautious because we are dealing with private property.

Discussion followed regarding this matter.

D. COUNCILOR KENNEDY

1. Transportation Center (*Postponed from the April 7th City Council meeting*)

Councilor Kennedy pulled this item from the agenda and will bring it back for the May 5, 2014 City Council meeting.

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

Councilor Kennedy pulled this item from the agenda and will bring it back for the May 5, 2014 City Council meeting.

E. COUNCILOR LOWN

1. Parking & Traffic Safety Committee Minutes of the March 13, 2014 meeting (*Postponed from the April 7th City Council meeting*)

Councilor Lown moved to approve and accept the minutes of the March 13, 2014 Parking & Traffic Safety Committee meeting. Seconded by Councilor Spear and voted. Councilor Kennedy voted opposed.

F. COUNCILOR MORGAN

1. Master Plan – Update of our Master Plan’s Implementation Plan section, in anticipation of the 2015 Master Plan Review (*Postponed from the April 7th City Council meeting*)

Councilor Morgan requested that the City Manager coordinate with staff the update of the Implementation Plan in our current Master Plan, to be made available to the public and the City Council by the end of June 2014. In addition, a report back of what has and has not been implemented and what has been placed on the website.

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*)

Councilor Morgan stated she brought this matter forward a month ago and discussion was held on the matter. She stated with Form-Based Zoning we have added a new layer. She spoke to penalties and how important they are. She stated developers should be held accountable.

City Attorney Sullivan said Portwalk received a building permit and that it would be built with Historic District Commission approval and Site Review process. He explained during the winter they had covered the building and no one could see what was being built.

The inspections were done by a contractor and they did not look at windows, and that was not their charge. City Attorney Sullivan stated that Portwalk built a number of things that were not in conformance with Planning Board and Historic District Commission approvals. Portwalk came forward and said they made minor changes and in 48 hours we brought the Portwalk individuals into City Hall and discussed in frank terms that these changes were not minor. The options were to shut the project down and a variety of other issues, the staff decided what would be appropriate and we did not want to put 200 people out of work. Portwalk said they had every intention of doing everything the City wanted them to do and the staff entered into an agreement that they would do whatever the Historic District Commission wanted them to do and they would not appeal. City Attorney Sullivan also reported that the City required Portwalk to get a bond in the amount of \$2.5 million dollars to ensure that they follow through with all items as directed by the land use boards.

Councilor Dwyer said the building in the downtown overlay district should have additional fees because it requires much more staff time.

Councilor Kennedy addressed the length of time being taken up during Historic District Commission meetings with the various Portwalk issues. She stated many projects have to wait because Portwalk comes up under old business and that is handled before new business is done.

3. Civility by City Officials (*Postponed from the April 7th City Council meeting*)

Councilor Morgan said she added this item on the agenda after a Historic District Commission meeting because there is a pattern of commissioners taking a non-respectful attitude of the public coming forward to speak. She said the role of the commissioner is to address the matter and not pass judgment on public speakers.

Councilor Dwyer said she agrees there are civility issues but some of it is caused by people talking about the matter outside of the meetings. She feels an educational session would be worthwhile for the board.

G. COUNCILOR SPEAR

1. Metering of Parrott Avenue Parking Lot

Councilor Spear moved to refer to the Fee Committee for a Report Back. Seconded by Councilor Thorsen.

Councilor Dwyer asked why the Parking and Traffic Safety Committee is not reviewing such a fee. City Manager Bohenko said this has been before the Parking and Traffic Safety Committee two or three times.

Councilor Kennedy said she could not approve this without it going to the Parking and Traffic Safety Committee for review. She said this may push people into the neighborhoods and the shuttle is only running Friday's – Sunday's but feels it should be 7 days a week and it should go to 2:00 a.m. for people working downtown. She said the Parrott Avenue lot is used by employees working in the downtown because owners said that is the only way employees can afford to work in the City.

Councilor Spear reframed motion to refer to the Parking & Traffic Safety Committee the utilization of Parrott Avenue Lot as a resource. Seconded by Councilor Thorsen.

On a roll call 5-3, voted to refer to the Parking & Traffic Safety Committee the utilization of Parrott Avenue Lot as a resource. Councilors Shaheen, Lown, Dwyer, Spear and Thorsen voted in favor. Councilors Kennedy, Morgan and Assistant Mayor Splaine voted opposed.

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*)

Councilor Thorsen spoke to a meeting held at the NHMA and received a report back on Financial Disclosures which has been provided to the City Council. He stated there are elements in the report that are suggestive but we may not want to take up. He said the City Council will need to review and at the minimum we have a duty to make the Charter comply with the Ordinances. In order to do this he suggested holding a work session which he has asked Mayor Lister to set up.

Councilor Kennedy said we took an oath to uphold the Charter and we are not following the oath we took in her mind. She said the work session should be sooner than later. She would like a response back from our City Attorney on this matter and if other things should be discussed.

Councilor Spear said when this was first discussed Mayor Lister and Councilor Thorsen agreed with setting a work session up some time in May or June. He said we will get to this in due course but we have other things that are of great importance that we need to discuss.

Councilor Morgan move to request Mayor Lister to set a date for a work session on Financial Disclosures and the Charter. Seconded by Councilor Kennedy. Councilor Morgan withdrew her motion and Councilor Kennedy her second to the motion.

Councilor Kennedy said we need to schedule a work session on this matter.

Councilor Shaheen questioned whether we need a work session on this matter.

City Manager Bohenko said City Attorney Sullivan needs to deal within the complex of his 39 years of service as the City Attorney. He said it is an opinion of NHMA not our City Attorney. City Attorney Sullivan said he will discuss this in a work session.

2. New Ordinance – Prohibit the establishment of commercial gambling operations within the City of Portsmouth

Councilor Thorsen said he is focusing on certain types of gambling. He has no interest in private or charitable gambling that comes up sometimes. He said we have not talked about this issue much. He is against gambling establishments in the City but would like to know how residents feel. He stated we have no jurisdiction of putting a gambling site at Pease Tradeport.

Councilor Dwyer asked if the legislature would need to pass enabling legislation to allow this.

Councilor Shaheen said she appreciates Councilor Thorsen's efforts to be proactive but there is no gambling proposal issue coming forward.

Councilor Thorsen said no motion will be taken this evening; it is for the City Council to be thinking about this matter.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Assistant Mayor Splaine said on Saturday he threw out the first pitch for the Little League game with the help of Councilor Shaheen.

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

At 11:45 p.m., Councilor Thorsen moved to adjourn. Seconded by Councilor Shaheen and voted.



Kelli L. Barnaby, CMC/CNHMC
City Clerk