

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, SEPTEMBER 22, 2014

PORTSMOUTH, NH
TIME: 6:00PM

I. CALL TO ORDER [6:00PM]

Mayor Lister called the meeting to order at 6:00 p.m.

II. ROLL CALL

Present: Mayor Lister, Assistant Mayor Splaine, Councilors Shaheen (6:05 p.m.), Kennedy, Lown, Dwyer (6:05 p.m.), Morgan (6:05 p.m.), Spear and Thorsen

III. ANTICIPATED “NON-PUBLIC” SESSION WITH COUNSEL RE: CONSIDERATION OF ACQUISITION OF REAL PROPERTY – RSA 91-A:3, II (d)

Councilor Spear moved to enter into a Non-Public Session regarding Consideration of Acquisition of Real Property per RSA 91-A:3, II (d). Seconded by Councilor Kennedy.

On a unanimous roll call 6-0, voted to enter into a Non-Public Session regarding Consideration of Acquisition of Real Property per RSA 91-A:3, II (d). Councilors Shaheen, Dwyer and Morgan were not present for this vote.

IV. INVOCATION

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

V. PLEDGE OF ALLEGIANCE

Mayor Lister asked State Representative Laura Pantelakos to lead in the Pledge of Allegiance.

PROCLAMATION

1. Daughters of the American Revolution (DAR) – Constitution Week

Assistant Mayor Splaine read the Proclamation declaring September 17th – September 23rd as Constitution Week in Portsmouth. Andrea Abbott of the Ranger Chapter accepted the Proclamation with thanks and appreciation.

VI. ACCEPTANCE OF MINUTES – JUNE 2, 2014 AND JUNE 9, 2014

Councilor Lown moved to approve and accept the minutes of the June 2, 2014 and June 9, 2014 City Council meetings. Seconded by Councilor Morgan and voted.

VII. PUBLIC COMMENT SESSION

Erik Anderson said the City needs to be more aggressive when dealing with derelict buildings. He said the City Council referred the matter to the City Attorney for report back with recommendation and would like to know how long it would take to have the matter come back before the Council.

Joe Onosko spoke opposed to the City Council revisiting the Webber case. He stated that Ms. Webber had dementia when making a new will.

Representative Laura Pantekalos thanked Mayor Lister for allowing her the honor of leading in the Pledge of Allegiance this evening. She expressed her opposition to parking enforcement on Sunday's and asked the City Council to have no enforcement on Sunday's.

Rich DiPentima said there is no way the City's action would have anything to do with a propane shortage this year. The Sea-3 expansion will take 9 to 10 months.

Jerry Zelin said there has been no vision plan in place but 2 days after his letter the Planning Department announced dates for meetings to deal with that matter. The Planning Departments role is design review.

Barbara DeStefano said there is no noise problem in the City. People are complaining about one helicopter flying over. We live near an airport

Jasmin Hunter of Keep Portsmouth Loud, said what is great about this City is it produces noise. She said the movement is positive we need music, theatre, arts and culture.

Lou Solome said during the previous City Council meeting the Fire Chief spoke at the meeting and said that we could handle Sea-3 expansion despite there is no access. He also said he had no idea how many people will be in the new condos, which are 15 feet from the railroad.

Maureen Conley spoke in support of Jasmin's comments and that the noise ordinance can be used against any business in the City. It will happen hear as well. She asked that the current ordinance be reviewed to grant exemptions to businesses so they are represented fairly and equally.

George Dempsey said a new police station is not needed.

Sara LaChance spoke about vision and quality in respect to noise. She said the Elwyn Park area neighborhood is loud because it is an active neighborhood and she is proud of that. She said that we need to focus on the longer view of the noise issue.

Bob Gibbons thanked the City Council for their continued support in opposing the expansion of Sea-3. He said part of the Sea-3 storage tank is built on land that has been non compliant for the last 18 years.

Peter Somssich thanked the City Council for being level headed on the Sea-3 expansion, noise issues and parking. He urges the City Council not to compromise on the Sea-3 issue. In terms of the Fire Department we need to analyze whether we could handle an accident like the one that took place in Canada.

Jane Zill spoke regarding the Webber case. She said there is a lack of transparency not one member of the problem has supported the case being settled by mediation. She said city employees should not benefit from the Webber case and feels that Sergeant Goodwin should have been put on administrative leave.

VIII. APPROVAL OF GRANTS/DONATIONS

A. Acceptance of Police Department Grant and Donations:

- Acceptance of Grant from Department of Justice for replacement of bullet-proof vests for sworn officers - \$5,898.43
- Acceptance of Donations to defray the cost of producing and airing Public Service Announcements (PSAs) regarding the department's opiate addiction initiative:
 - Mr. Gerald W. Howe and his wife, Ms. Jocelyn Frechette - \$1,000.00
 - Mr. James Frechette - \$500.00
 - Mr. and Mrs. Peter C. Frechette - \$250.00

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

B. Acceptance of Donation to Welfare Department from Unifit in the amount of \$2,500 for the Back to School Drive

Councilor Kennedy moved to accept and approve the donation to the Welfare Department for the Back to School Drive, as presented. Seconded by Councilor Morgan and voted.

C. Acceptance of Grant for Household Hazardous Waste Collection in the amount of \$5,594.00

Councilor Kennedy moved to accept and expend a \$5,594.00 DES grant for the purpose of household hazardous waste collection events and authorize the City Manager to execute any documents which may be necessary for this grant contract. Seconded by Councilor Morgan and voted.

IX. PUBLIC HEARINGS

A. PROPOSED ORDINANCE AMENDMENT TO CHAPTER 7, ARTICLE II, SECTION 7.230 – PROHIBITED CONDUCT BY MEDALLION HOLDERS OR OWNERS

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

Mayor Lister read a letter from Taxi Commissioner Cataldo regarding the ordinance into the record. The letter states that the Commission received many complaints regarding the conduct of taxi owners. The issues related to public safety. This ordinance amendment was unanimously approved by the commission.

After three calls and no speakers, Mayor Lister declared the public hearing closed.

- B. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, SECTION 10.440, TABLE OF USES – RESIDENTIAL, MIXED RESIDENTIAL, BUSINESS AND INDUSTRIAL DISTRICTS, BY CHANGING USE #1.41 (MULTIFAMILY DWELLING, 3 OR 4 DWELLING UNITS) FROM “P” (PERMITTED) TO “S” (SPECIAL EXCEPTION) IN THE GENERAL RESIDENCE A AND B (GRA & GRB) DISTRICTS

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

City Manager Bohenko requested that Principal Planner Nick Cracknell come forward to speak on this matter. He said there will be a motion needed to suspend the rules to allow for an amendment to the ordinance to allow Townhouses.

Principal Planner Cracknell stated that there are over 70 properties that are affected with the zoning amendment and that a 3 plus development would only require a special exception. He stated that this amendment would make sure the development would focus on dwelling unit's density rather than the particular type of dwelling structure with use of a map. He reviewed GRA districts with the City Council and the GRB district. He reported if this does not get amended it could cause a single townhouse to become a multi-unit.

Councilor Spear moved to suspend the rules to allow for an amendment to the ordinance. Seconded by Councilor Thorsen and voted.

City Manager Bohenko outlined the amendment as requested by the Planning Director.

Councilor Kennedy moved that the Ordinance be amended to include the provision requiring a special exception for the Townhouse use as described in the memorandum from the Planning Director addressed to the City Manager dated September 9, 2014. Seconded by Councilor Spear and voted.

Mayor Lister called for speakers to come forward to speak to the ordinance.

Paul Burton spoke in opposition to the ordinance and the amendment and feels the amendment was brought forward by his attempt to exercise his permitted uses. He spoke to a meeting he had with the Planning Director in April on his property.

Mayor Lister stated that the public hearing will remain open until the October 20, 2014 City Council meeting.

Councilor Spear moved to continue to the public hearing and second reading on the amended ordinance to the October 20, 2014 City Council meeting. Seconded by Councilor Kennedy and voted.

C. ORDINANCE AMENDING THAT THE FOLLOWING LOTS BE REZONED FROM INDUSTRIAL (I), OFFICE RESEARCH (OR) OR MUNICIPAL (M) TO CHARACTER DISTRICT 4 (CD4):

- ASSESSORS MAP 163, LOTS 33, 34 AND 37;
- ASSESSORS MAP 165, LOTS 1, 2 AND 14
- ASSESSORS MAP 172, LOTS 1 AND 2;
- ASSESSORS MAP 173, LOTS 2 AND 10

AND INCLUDING CATE STREET BETWEEN HODGSON'S BROOK AND BARTLETT STREET, AS SHOWN ON THE ATTACHED EXHIBITS TITLE "AREAS PROPOSED TO BE REZONED TO CHARACTER DISTRICT 4 (CD4)", AND FURTHER THAT THE ZONING MAP REFERENCED IN CHAPTER 10, ARTICLE 4, SECTION 10.420 (DISTRICT LOCATION AND BOUNDARIES) OF THE ORDINANCES OF THE CITY OF PORTSMOUTH BE REVISED ACCORDINGLY

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

Deputy City Manager Allen said this issue was brought forward on June 2nd to the City Council and relates to the Frank Jones Property. He indicated the property originally was proposed to go to a CD4. He stated that the Planning Board held a public hearing on this matter at the August 21st meeting where there were 2 speakers and representatives of developers and suggested uses were brought forward on design elements, heights and set backs. The Planning Board voted to not recommend the CD4 but as a gateway district.

City Manager Bohenko requested after the public hearing is held not to close the public hearing but to continue it and refer the ordinance back to the Planning Board for a report back and refer the letter from Mr. Pelech for report back as well.

Discussion followed among the City Council regarding the ordinance and recommendations of the Planning Board.

Mayor Lister called speakers forward to speak to the Ordinance.

Attorney Pelech said he client owns 20 acres and he did not initiate the zoning change request. He said he spoke in opposition of the ordinance for CD4 at the Planning Board public hearing and the areas that included. Attorney Pelech stated that CD4 would require HDC approval. He indicated he would like to move forward and continue to work with the Planning Board on this matter and provide incentives for workforce housing.

Rick Becksted stated he found out about this ordinance when the City Council packet came out last Friday. He said meetings take place with owners of properties but where are the notices of these changes to residents. He said the owners of U-Haul were looking to expand their property and the zoning amendment would affect the property. He further indicated he feels this is spot zoning.

Dave Gross expressed concerns regarding height. He said the City needs to take a good look at the property and there is a need to make the connector road.

Mike Teel said that the proposed zoning amendment is being done without any notification to the abutters.

Councilor Thorsen moved to continue the public hearing and second reading of the ordinance until a response is received from the Planning Board to the letter addressed to Honorable Mayor Robert Lister from Attorney Bernard Pelech dated September 15, 2014 regarding this rezoning. Seconded by Councilor Shaheen.

City Manager Bohenko stated that this had a public process and the Planning Board chose to slow the matter down.

Councilor Kennedy requested that when the matter goes to the Planning Board that there is an explanation of gateway.

Motion passed.

- D. RESOLUTION AUTHORIZING A BOND ISSUE AND/OR NOTES OF UP TO THREE MILLION FOUR HUNDRED SEVENTY FIVE THOUSAND DOLLARS (\$3,475,000.00) FOR COSTS RELATED TO FISCAL YEAR 2015 CITYWIDE SEAWALL, STREET, AND SIDEWALK IMPROVEMENTS

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

Public Works Director Rice reviewed the projects with the City Council.

With no speakers, Mayor Lister closed the public hearing.

- E. RESOLUTION AUTHORIZING A BOND ISSUE AND/OR NOTES OF UP TO SEVEN HUNDRED FIFTY THOUSAND DOLLARS (\$750,000.00) FOR COSTS RELATED TO FISCAL YEAR 2015 SCHOOL FACILITIES IMPROVEMENTS

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

Superintendent McDonough spoke to the project to replace the lighting at the High School athletic fields. He indicated the difficulty in finding replacement parts due to the age of the lights.

With no speakers, Mayor Lister declared the public hearing closed.

- F RESOLUTION AUTHORIZING A BOND ISSUE AND/OR NOTES OF THE CITY UNDER THE MUNICIPAL FINANCE ACT AND/OR PARTICIPATION IN THE STATE REVOLVING FUND (SRF) LOAN OF UP TO FOUR MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$4,800,000.00) RELATED TO GREENLAND WELL UPGRADES, MAPLEWOOD AVENUE WATERLINE REPLACEMENT AND WATER SYSTEM PRESSURE-STORAGE IMPROVEMENTS

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

Deputy Public Works Director Goetz spoke to the Water System Bond Resolutions and that these have been recommended through past master plans.

With no speakers, Mayor Lister declared the public hearing closed.

- G. RESOLUTION AUTHORIZING A BOND ISSUE AND/OR NOTES OF THE CITY UNDER THE MUNICIPAL FINANCE ACT AND/OR PARTICIPATION IN THE STATE REVOLVING FUND (SRF) LOAN OF UP TO ONE MILLION DOLLARS (\$1,000,000.00) FOR COSTS RELATED TO THE PEASE WASTE WATER TREATMENT PLANT UPGRADES

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

Rick Becksted suggested that the City use the \$3.2 million bond premium received rather than bonding for this project.

City Manager Bohenko requested Finance Director Belanger speak on the regulations for bond premiums and their uses. Finance Director Belanger explained the regulations and said they will be coming forward with a recommendation for projects.

Rick spoke to the City's debt figure of \$107,000.00 in October 2013 which did not include the Middle School or the Wastewater Treatment Plant. He expressed concern with an increase in taxes for residents.

With no further speakers, Mayor Lister declared the public hearing closed.

X. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First Reading of Proposed Ordinance amending Chapter 1, Article VIII, Section 1.807 by the creation of a new provision identified as 1.807 Bequests or Gifts to City Employees

Councilor Spear moved to postpone first reading until we hear back from the Committee investigating the Webber issue. Seconded by Councilor Thorsen.

Councilor Spear said the inquiry into the affairs might have a recommendation for an ordinance language to fashion a better ordinance down the line.

Councilor Kennedy said she is concerned that there is no ordinance currently in place.

Councilor Lown said he appreciates the spirit of the motion but there is no link with this ordinance and the Webber case. This ordinance is not intended to prevent any one from giving or receiving a gift.

Assistant Mayor Splaine said we need an ordinance in place from preventing this from happening again and suggested moving forward on this matter.

Councilor Shaheen said that as a City Councilors we should be wrestling with this. She feels the urgencies to have an ordinance in place to protect someone. She said she would support Councilor Spear's motion.

Councilor Morgan would like to keep the discussion open until another meeting.

On a roll call 6-3, voted to postpone first reading until an independent investigation into the Webber Estate is completed. Councilors Shaheen, Dwyer, Morgan, Spear, Thorsen and Mayor Lister voted in favor. Assistant Mayor Splaine, Councilors Kennedy and Lown voted opposed.

- B. Second Reading of Proposed Ordinance Amendment to Chapter 7, Article II, Section 7.230 – Prohibited Conduct by Medallion Holders or Owners

Councilor Kennedy moved to pass second reading and schedule a third and final reading on the proposed Ordinance amendment, as presented, at the October 6, 2014 City Council meeting. Seconded by Councilor Dwyer and voted.

- E. Adoption of Resolution Authorizing a Bond Issue and/or Notes of up to Three Million Four Hundred Seventy Five Thousand Dollars (\$3,475,000.00) for Costs related to Fiscal Year 2015 Citywide Seawall, Street, and Sidewalk Improvements

Councilor Kennedy moved to adopt the Bond Resolution for City Improvements in the amount of \$3,475,000.00. Seconded by Councilor Shaheen and voted.

- F. Adoption of Resolution Authorizing a Bond Issue and/or Notes of up to Seven Hundred Fifty Thousand Dollars (\$750,000.00) for Costs related to Fiscal Year 2015 School Facilities Improvements

Councilor Kennedy moved to adopt the Bond Resolution for School Facilities Improvements in the amount of up to \$750,000.00. Seconded by Councilor Morgan and voted.

- G. Adoption of Resolution Authorizing a Bond Issue and/or Notes of the City Under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of up to Four Million Eight Hundred Thousand Dollars (\$4,800,000.00) related to Greenland Well Upgrades, Maplewood Avenue Waterline Replacement and Water System Pressure-Storage Improvements

Councilor Shaheen moved to adopt the Bond Resolution for Water System Upgrades and Improvements in the amount of up to \$4,800,000.00. Seconded by Councilor Dwyer and voted.

- H. Adoption of Resolution Authorizing a Bond Issue and/or Notes of the City Under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of up to One Million Dollars (\$1,000,000.00) for Costs related to the Pease Waste Water Treatment Plant Upgrades

Councilor Dwyer moved to adopt the Bond Resolution for Pease Water Treatment Plant Upgrade in the amount of up to \$1,000,000.00. Seconded by Councilor Shaheen and voted.

- I. Third and Final Reading of Ordinance amending Chapter 7, Vehicles, Traffic and Parking Omnibus Ordinance

Councilor Spear moved to pass third and final reading of the proposed ordinance amendments to be incorporated into Chapter 7, Vehicle, Traffic and Parking Ordinance, as presented. Seconded by Councilor Dwyer.

Councilor Kennedy asked what is the difference between a designated parking spot and a spot. Director of Parking and Transportation Mark Nelson a define space is outlined in our ordinances or marked on the ground. He said a spot is not defined.

Councilor Kennedy asked how many undefined spaces do we have in the City. Director Nelson stated he would get that number out to the City Council.

Councilor Kennedy said she would not support the ordinance because she needs to know how many spaces we are losing with the ordinance.

City Manager Bohenko indicated that overall we will gain 2 new spaces. He said we have answered the questions that we are plus 2 with parking spaces.

Motion passed. Councilor Kennedy voted opposed.

Mayor Lister requested a brief recess at 9:55 p.m. At 10:05 p.m., Mayor Lister called the meeting back to order.

XI. CONSENT AGENDA

- A. Acceptance of Donations to Art-Speak:

- Debbie Needleman \$ 25.00
- Nicole Bodoh Jacobson \$ 75.00
- Duncan Craig \$100.00

(Anticipated action – move to approve and accept the donations to Art-Speak, as listed)

- B. Acceptance of Membership Dues to Art-Speak

- NH Institute of Art \$150.00

(Anticipated action – move to approve and accept the membership dues to the Piscataqua Arts & Cultural Alliance, a program of Art-Speak, as listed)

- C. Acceptance of Donations to the Coalition Legal Fund:
- Town of Grantham, NH \$1,000.00
 - Town of Moultonborough, NH \$6,500.00
- (Anticipated action – move to approve and accept the donations as listed, to be placed in the Coalition Legal Fund)***
- D. Letter from Laurie A. Mantegari, Scarecrows of the Port, requesting permission to place scarecrows in designated locations throughout the Portsmouth Downtown Area from October 9th through November 1st, 2014 ***(Anticipated action – move to refer to the City Manager with power)***
- E. Letter from Carolyn Ostrom, NH Community Relations Specialist, Susan G. Komen for the Cure requesting permission to conduct the Susan G. Komen Race for the Cure 5K on May 9, 2015 at Strawberry Banke ***(Anticipated action – move to refer to the City Manager with power)***
- F. Letter from Jay Diener, Co-race Director, Seacoast Half Marathon, requesting permission to hold the 9th Annual Seacoast Half Marathon on Sunday, November 19, 2014 ***(Anticipated action – move to refer to the City Manager with power)***
- G. Letter from Barbara Massar, Pro Portsmouth, requesting permission to hold the following 2015 Events:
- First Night Portsmouth 2015 – Tuesday, December 31, 2014
 - Children’s Day 2015 – Sunday, May 3, 2015 from Noon – 4:00 p.m.
 - 38th Annual Market Square Day Festival & 10K Road Race – Saturday, June 13, 2015 from 9:00 a.m. – 4:00 p.m.
 - 13th Annual Summer in the Street – Saturday evenings – June 27, July 5, July 11, July 18, July 25, August 1, 2015
- (Anticipated action – move to refer to the City Manager with power)***
- H. Letter from Caitlyn Hassett and Amanda Beaulieu, Event Coordinators, Portsmouth Chamber of Commerce, requesting permission to use Hanover Street/Market Street parking lot for an ice sculpting demonstration on Sunday, February 15, 2015 as part of the 2nd Annual Fire and Ice Festival ***(Anticipated action – move to refer to the City Manager with power)***
- I. Letter from Zhana Morris, Production Manager, The Music Hall, regarding Parking Meter Permit Requests for the Music Hall’s 2014-2015 Season ***(Anticipated action – move to refer to the City Manager with power)***
- J. Request for Approval of Pole License to install 1,070’ of underground conduit located on Raynes Avenue and Vaughn Street to provide underground power to various developments in the 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)***

- K. Letter from Trevor Bartlett, Portsmouth Halloween Parade, requesting permission to hold the 20th Annual Halloween Parade on Friday, October 31, 2014 (*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.

XII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Michelle F. Harper, Logistics Director, The Charity Defense March, requesting the closure of Chestnut Street on Thursday, June 25, 2015, between the hours of 10:00 a.m. to 7:00 p.m. for a gathering area for participants of the registration day at the Music Hall

Councilor Dwyer moved to refer to the City Manager with power. Seconded by Councilor Kennedy and voted.

- B. Letter from Attorney Bernard Pelech, regarding Rezoning Request – Cate Street/Route 1 Bypass area

Councilor Spear moved to refer to the Planning Board for report back. Seconded by Councilor Kennedy and voted.

XIII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

- 1. Request for Approval of a Proposed Two-Year Agreement between the City of Portsmouth and the Professional Management Association

Human Resources Director Fogarty discussed the salient points of the two-year Agreement between the City and the Professional Management Association.

Councilor Spear moved to accept the proposed contract with the Professional Management Association to expire on June 30, 2016. Seconded by Councilor Morgan.

Councilor Lown stated he would vote against the motion because PMA is not changing their health insurance.

Motion passed. Councilor Lown voted opposed.

- 2. Request for Approval of a Three-Year Non-Supervisory Cafeteria Personnel Proposed Agreement

Human Resources Director Fogarty advised the City Council that this is a three year contract and reviewed the salient points within the agreement.

Councilor Spear moved to accept the proposed contract with the Non-Supervisory Cafeteria Personnel to expire on June 30, 2017. Seconded by Councilor Lown and voted.

3. Report Back Re: Proposed Easement at 7 Andrew Jarvis Drive

City Manager Bohenko reported to the City Council that Public Works Director Rice has been working to get an easement at 7 Andrew Jarvis Drive. The deed was prepared by the Legal Department and recommended moving forward.

Councilor Lown moved to authorize the City Manager to accept a permanent easement from D. R. Lemieux Builders, Inc. at the intersection of Andrew Jarvis Drive and Lafayette Road, as presented. Seconded by Councilor Spear.

Councilor Kennedy asked if the Portsmouth High School sign would be going back up. Public Works Director Rice indicated that the sign was located on private property and part of the plan is to find a letter location for the sign and it will be part of the project.

Motion passed.

4. Request to Establish a Work Session for Monday, September 29, 2014 at 6:30 p.m. in the Eileen Dondero Foley Council Chambers regarding Wastewater Treatment Plant Update

Councilor Kennedy moved to establish a Work Session for Monday, September 29, 2014 at 6:30 p.m., in the Eileen Dondero Foley Council Chambers, regarding an update on the Peirce Island Wastewater Treatment Facility project. Seconded by Councilor Shaheen.

Councilor Morgan asked if there are any materials for the meeting that they are sent to the City Council ahead of time for review. City Manager Bohenko said we would try. He also indicated much of the information will be accompanied by a presentation.

Motion passed.

5. Polling Hours for November 4, 2014 State General Election

Councilor Lown moved to set the polling hours from 8:00 a.m. to 7:00 p.m. for the State General Election on November 4, 2014. Seconded by Councilor Kennedy.

Councilor Shaheen stated she understands historically the polls close at 7:00 p.m. and asked if it would be possible to extend the hours to 8:00 p.m. City Clerk Barnaby explained that the polling hours are extended to 8:00 p.m. during a Presidential General Election. She also indicated the difficulty in finding poll workers and that the majority of the workers are elderly and it makes for a very long day.

Motion passed.

6. Update on Middens at Peirce Island

City Manager Bohenko said Deputy Public Works Director Goetz and Community Development Director Moore meet with the Peirce Island Committee on this matter and discussed the proposed plan described in his memorandum dated September 18, 2014.

Councilor Kennedy moved to authorize the City Manager to move forward with the proposed plan of action and schedule as described in the City Manager's memorandum dated September 18, 2014. Seconded by Councilor Morgan.

Councilor Lown stated he would like to see the City apply for some grants for this project.

Motion passed.

City Manager's Informational Items

- *Update Re: Worth Lot Maintenance, Paving and Lighting Upgrades*

Assistant Mayor Splaine asked for an overview of the work that will be done on the Worth Lot. Public Works Director Rice reported on the project and outlined what will be done with paving, new electrical conduit, installation of a raised median in the center of the lot, the installation of trees, etc. He also indicated the work on the lot will begin next week.

Councilor Dwyer asked if a loading zone was considered as part of the project. Public Works Director Rice stated that was not considered but he would look into it.

- *City Council Retreat Draft Agenda*

Councilor Morgan suggested that the agenda for the Retreat be limited in terms of presentations by the staff. She would like more time for the City Council to have discussion on items versus listening to staff making presentations. City Manager Bohenko stated he would adjust times for presentations and ensure that the City Council has ample time to have discussion among themselves regarding items of interest.

B. MAYOR LISTER

1. Appointment to be Considered:

- Amy Burns – appointment to the Cable Television and Communication Commission
- John Pratt – reappointment to the Economic Development Commission
- John Crist – reappointment to the Library Board of Trustees
- Stephanie Hausman – appointment to the Library Board of Trustees
- Shaula Balomenos Levenson – appointment to the Library Board of Trustees
- Donald Margeson – appointment to the Library Board of Trustees
- Rick Becksted Jr. – appointment to the Recreation Board

The City Council considered the above referenced appointments which will be voted on at the October 6, 2014 City Council meeting.

2. Establish a public forum regarding noise issue on October 2, 2014 from 6:30 – 8:30 p.m. in the Eileen Dondero Foley Council Chambers

Councilor Shaheen said she is concerned with the broad issue of noise. She would like to see the Council focus on the Prescott Park Arts Festival which maybe more constructive to hear the concerns centered on that at this time. Mayor Lister said people want to advocate hearing their own noise issues. He further stated the reason for the forum is to have people come forward with solutions.

Councilor Kennedy stated a concern at Prescott Park is the use of amplification. She said she would like to hear people address the ordinance and make suggestions for changes.

Assistant Mayor Splaine said we need to look for solution and the issue is about quality of life.

Councilor Dwyer suggested setting ground rules. Councilor Morgan suggested keeping comments to 2 minutes and after 8:30 p.m. open up to more comment to 9:00 p.m. Councilor Dwyer said that residents should be allowed to speak first. Councilor Kennedy agreed with Councilor Dwyer.

Mayor Lister announced that a public forum regarding noise issue will take place on Thursday, October 2, 2014 from 6:30 p.m. – 8:30 p.m. in the Eileen Dondero Foley Council Chambers.

3. Establish a date in late October regarding Federal Aviation Administration

City Manager Bohenko reported that he received word from Dave Mullen of the PDA indicating the FAA has refused to meet with the City Council in a public meeting.

4. Letter from Susan and Fred Lewis regarding picnic for the “Adopt the Spot” participants

No action required. Councilor Kennedy announced that there are 40 more Adopt-A-Spots available.

C. ASSISTANT MAYOR SPLAINE

1. “Non-Meetings” vs. “Non-Public Sessions:”

Assistant Mayor Splaine withdrew this item until the October 6, 2014 City Council meeting due to the lateness of the hour.

Councilor Spear moved to suspend the rules in order to take up Item XIII. E.2. – Recommendation of the Fire Department Study Committee. Seconded by Councilor Morgan and voted.

E. COUNCILOR LOWN

2. Recommendation of the Fire Department Study Committee

Councilor Lown thanked all those that work on this Committee. He said a consultant will conduct an independent study on the Fire Department.

Councilor Lown moved to direct the City Manager to work with the Fire Department to enter contract negotiations with Public Safety Strategies Group to conduct an independent study of the Fire Department with the funding for the study to come from contingency in the amount up to \$39,000.00. Seconded by Councilor Spear.

City Manager Bohenko stated that the money can be taken from the Contingency Fund and he would work with the Fire Department on this.

Assistant Mayor Splaine said it is important to have efficient survey in the City across the board. He does not understand why we feel that we have to always go towards using a consultant and he would like to see the Council more innovated and get residents involved and use their talents. He stated he would vote oppose to the motion because he feels there are better ways to do this.

Councilor Dwyer stated that the Committee spent a year and read the reports done by other communities and the technologies that are now in place in those communities.

Councilor Kennedy said the Police Department did their own report.

Fire Chief Achilles said the Commission and Department feels that this is a valuable process. The City Council needs to commit that if changes are required to save money the department is committed to that and if changes are needed they will cost money and the Council needs to be committee to that as well. He spoke to staffing levels being the same as they were 15 years ago and the demand for services by the department have increased and continue to increase. He spoke to the department moving forward with bench marks and initiatives.

Councilor Lown withdrew his motion and Councilor Spear the second to the motion.

Councilor Lown requested to postpone voting on this matter and that the City Council is provided with the summary of questions asked of each consultant and a copy of the RFQ.

D. COUNCILOR KENNEDY

1. Taking Care of Recycling Bins on Market Square and Vaughan Mall

Councilor Kennedy requested that City Manager Bohenko have the recycling bins in Market Square and Vaughan Mall repaired.

Councilor Lown moved to suspend the rules in order to take up Item XIII. E.1. – Webber Estate Settlement. Seconded by Councilor Spear and voted.

E. COUNCILOR LOWN

1. Webber Estate Settlement

Councilor Lown said that the investigation will be transparent and more so than a trial the investigation will interview whoever needs to be. He further stated that justice means many different things and a judge will decide that. He also stated there is nothing dirty about a settlement. Councilor Lown said it is about being fair to the taxpayers.

Councilor Lown moved to have the City approve the Settlement. Seconded by Councilor Thorsen.

Councilor Thorsen said the issue is what the best position for the City is. He said there is a risk reward here and that this is a probate proceeding with narrow decisions.

Assistant Mayor Splaine said he is surprised and stunned that there continues to be an effort to short circuit the court approach. He said that this was not a personnel issue, this was a process issue.

Councilor Morgan states she supports this going to court and does not support a settlement.

Councilor Dwyer said we want transparency and would like to hear what the investigation will look at and understand it.

Councilor Shaheen said she concurs with Councilor Dwyer and she would not support the motion. She stated what matters are the public trust and moving forward.

Mayor Lister passed the gavel to Assistant Mayor Splaine.

Mayor Lister said he would not support the motion and feels we need to have an independent evaluation.

Assistant Mayor Splaine returned the gavel to Mayor Lister.

On a roll call vote 1-8, motion to have the City approve the Settlement failed to pass. Councilor Lown voted in favor. Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Dwyer, Morgan, Spear, Thorsen and Mayor Lister voted opposed.

Councilor Lown moved that City Attorney Sullivan approach counsel's for the other parties to stay the proceedings in Probate Court until the investigation is concluded and the Council revisit the previous motion to approve the Settlement at that time. Seconded by Councilor Spear.

Discussion followed on this matter.

On a roll call vote 2-7, motion that City Attorney Sullivan approach counsel's for the other parties to stay the proceedings in Probate Court until the investigation is concluded and the Council revisit the previous motion to approve the Settlement at that time failed to pass. Councilors Lown and Spear voted in favor. Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Dwyer, Morgan, Thorsen and Mayor Lister voted opposed.

3. Parking & Traffic Safety Committee Action Sheet and Minutes of the August 14, 2014 meeting

Councilor Spear moved to approve and accept the action sheet and minutes of the August 14, 2014 Parking & Traffic Safety Committee meeting. Seconded by Councilor Shaheen and voted. Councilor Kennedy voted opposed.

D. COUNCILOR KENNEDY

3. *Free Parking on Sunday during the winter

Councilor Kennedy requested City Manager Bohenko look at 20 Sunday's starting November 1st as free parking during the winter.

F. COUNCILOR DWYER

2. Formal request to PDA for transition plan from Grimmel Re: Scrap

Postponed until the October 6, 2014 City Council meeting.

G. COUNCILOR MORGAN

1. City Ordinance for Helicopters

Postponed until the October 6, 2014 City Council meeting.

2. EDC – Updating the composition of the Economic Development Committee

Postponed until the October 6, 2014 City Council meeting.

3. North End Visioning process

Postponed until the October 6, 2014 City Council meeting.

XIV. MISCELLANEOUS/UNFINISHED BUSINESS

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

At 12:45 p.m., Councilor Spear moved to adjourn. Seconded by Councilor Lown and voted.

A handwritten signature in black ink that reads "Kelli L. Barnaby". The signature is written in a cursive, flowing style.

Kelli L. Barnaby, CMC/CNHMC
City Clerk