

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, OCTOBER 20, 2014

PORTSMOUTH, NH
TIME: 7:00PM

I. CALL TO ORDER [7:00PM]

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 in memory of John Sullivan former member of the Planning Board.

IV. PLEDGE OF ALLEGIANCE

Mayor Lister asked retired Portsmouth teacher Jim Andrews to lead in the Pledge of Allegiance to the Flag.

PROCLAMATION

1. Seacoast Food Pantry – National Hunger Awareness Month – Deb Anthony

Councilor Dwyer read the Proclamation declaring October as National Hunger Awareness Month. Deb Anthony accepted the Proclamation with thanks and appreciation.

PRESENTATION

1. Update on African Burying Ground – Joining Councilor Dwyer in this update will be Anna Nuttal, Visual Arts Teacher at Portsmouth Middle School and African Burying Ground Artist and Sculptor Jerome Meadows

Councilor Dwyer provided an update on the African Burying Ground and the milestones reached in the project thus far. She reported that the Committee has met half of the \$165,000.00 they borrowed from the City in June.

Anna Nuttal reported that 88 eighth graders will be working with Artist and Sculptor Jermone Meadows on designing the tiles that will be used at the site. Mr. Meadow's flight was delayed and he was unable to attend the presentation.

Councilor Dwyer encouraged residents to drop by the site to see the work being done.

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

VI. PUBLIC COMMENT SESSION

Jon Sobel spoke on behalf of Friends of Sheafe Street regarding the petition of 43 signatures requesting the work on the site be moved up and expedited.

City Manager Bohenko stated that the work will be done in the spring of 2015.

Doug Roberts said that PS21 non-profits put on events for citizens and that there will be a work shop held this week at the Portsmouth Middle School on Wednesday, at 6:30 p.m. led by Robin LeBlanc. The discussion will be about the city's future and development. He invited the City Council and residents to attend.

Matt Kanner, Rye, NH, said a new free weekly newspaper will be starting and local government will be covered. The launch party will be held on October 30th at The Press Room and is open to the public.

Jane Zill spoke regarding the limited scope of the Webber/Goodwin investigation. She said that the group has indicated that her questions are not within the scope of the investigation. She said transparency is important and a process should have been put in place.

Delmira Morse provided a petition to the Council with 139 signatures of Atlantic Heights residents regarding truck travel permitted on secondary roads. She said the fuel trucks should be re-routed.

Mark Brighton spoke regarding the parking fees increase recommended by Councilor Spear this evening. He said it will not lower the budget or the tax rate. He said the tax payer will not benefit from any parking fee increases.

Joe Caldarola asked the City Council to reconsider the financial disclosure. He said a \$10,000.00 limit gives the appearance that something is being hidden. He does not feel that a financial disclosure will affect people from serving on Boards and Commissions.

VII. PUBLIC HEARINGS

- A. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, SECTION 10.202, TABLE OF USES – RESIDENTIAL MIXED RESIDENTIAL, BUSINESS AND INDUSTRIAL DISTRICTS, BY CHANGING USE #1.30 (TOWNHOUSE) AND 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.

Planning Director Taintor provided a brief presentation on the Ordinance. He reviewed and outlined the designations under the ordinance and spoke to the different types of townhouses. He stated the potential new developments in GRA are 84 and GRB are 44 for a total of 128.

Paul Burton said his property is directly affected by this change and his residence has been targeted by the Planning Department and staff. He has requested information on the process from Planning Director Taintor and City Attorney Sullivan and has not received a response.

David Underhill said he signed a letter that is in the City Council packet as his property abuts Mr. Burton's property. He said this ordinance protects the residential feel of Broad Street and Pinehurst Road neighborhood.

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

B. ORDINANCE AMENDING CHAPTER 7, ARTICLE II, SECTION 7.213 – FEES AND TERMS FOR MEDALLIONS/LICENSES

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

City Attorney Sullivan said that this ordinance was recommended by the Taxi Commission. He reviewed the ordinance which will change any revocation from 24 hours to 1 day.

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

VIII. APPROVAL OF GRANTS/DONATIONS

(There are no items on under this section of the Agenda)

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First Reading of Proposed Ordinance amending Chapter 1, Article IX, Section 1.901 – Conflict of Interest of the Administrative Code

Councilor Spear moved to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the November 17, 2014 City Council meeting. Seconded by Councilor Thorsen.

Councilor Kennedy stated residents are concerned that we are not following the City Charter.

Councilor Dwyer said she has provided copies of current ordinances that are stronger than this ordinance under the Code of Ethics. She said that the ordinance includes all the boards and commissions and employees.

Councilor Thorsen said he agrees with some parts but disagrees with others. He said the disclosures listed would only be when a conflict arises in session. He feels they are two different things. He indicated he would be bringing back amendments to the ordinance at second reading regarding 1) time frame use on effective date of the ordinance, 2) expend to specific board and commission and vote on them individually, 3) amount of reported funds, 4) disclosure should include property and not just businesses.

Assistant Mayor Splaine said the ordinance should include regular boards. He is not concern with immediate members but 10 years from now and the continued development in the City is a concern.

Councilor Kennedy said part of the concerns with such an ordinance has been that there are not enough people that will want to serve on the boards and commissions. She asked for the number of people waiting in the wings, not names. She said two people have stated they have applied to serve on a board and commission and has not heard back.

Motion passed.

- B. Second Reading of Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.202, Table of Uses – Residential Mixed Residential, Business and Industrial Districts, by changing Use #1.30 (Townhouse) and 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

Councilor Spear moved to pass second reading and schedule third and final reading of the proposed Ordinance at the November 17, 2014 City Council meeting. Seconded by Councilor Kennedy.

Councilor Lister said at the last City Council meeting was there anything Mr. Burton could have done between the last meeting and this meeting to vest his property. City Attorney Sullivan said no. There were no actions he could have taken to exempt him from the process. Councilor Lown said if Mr. Burton submitted a project before first reading passed would that have vested him. City Attorney Sullivan said yes.

Councilor Lown said he met with Mr. Burton and he felt he was treated unfairly. He spoke with Principal Planner Cracknell of the Planning Department and he feels that Mr. Burton was not treated unfairly and he could have presented a project prior to the last meeting and been vested.

Councilor Spear said the City Council has heard over the last year allegations against the City staff and tonight we are seeing an example of City staff protecting the interest of the City and its residents and thanked the staff for looking after the best interest of the City.

Motion passed.

- C. Second Reading of Proposed Ordinance amending Chapter 7, Article II, Section 7.213 – Fees and Terms for Medallions/Licenses

Councilor Kennedy moved to pass second reading and schedule third and final reading of the proposed Ordinance at the November 17, 2014 City Council meeting, as presented. Seconded by Councilor Shaheen.

Assistant Mayor Splaine stated that the owners are in favor of the ordinance amendment.

Motion passed.

X. CONSENT AGENDA

- A. Letter from Emily Christian, National Multiple Sclerosis Society requesting to hold the 2015 Walk MS Portsmouth on Saturday, April 18, 2015 from 10:00 a.m. to 2:00 p.m. ***(Anticipated action – move to refer to the City Manager with power)***
- B. Acceptance of Donation to Art-Speak
- Cathy Sununu - \$100.00
- (Anticipated action – move to approve the accept the donation to Art-Speak, as listed)***
- C. Letter from Lt. Shannon Jones, The Salvation Army, requesting permission to place “Christmas Kettles” in Market Square beginning November 13, 2014 through December 24, 2014 ***(Anticipated action – move to refer to the City Manager with power)***

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

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Jane Zill, Joe Onosko, and Diane Connors regarding citizen concern relative to the Goodwin/Webber estate case

Assistant Mayor Splaine moved to refer the letter and questions to the Police Commission. Seconded by Councilor Kennedy.

Assistant Mayor Splaine said he is stunned in hearing and reading the responses from the panel and the limited scope of the investigation. He said the scope came forward without a public discussion. He felt we would have a professional investigation on this matter.

Councilor Kennedy said she is looking at process and there is a question on this matter. She said the email link is down, calling a meeting within 1 day of the posting. She said the public does not have adequate process.

Councilor Dwyer said this is a good opportunity to pause to see if we have the right process in place. She said we may be better served by engaging outside agencies that has expertise in this matter and area. She would like to go back and have independent counsel that does this type of thing.

Councilor Morgan said she is in agreement with Councilors Kennedy and Dwyer’s and would vote in favor of the motion. She feels we should have an outside agency investigate the matter.

Councilor Shaheen said we need to consider if we are addressing the matter. She feels the most important outcome is confidence in the findings whether or not we agree with the questions. The City Council and the Police Commission need to ensure that they have the utmost confidence on how the investigation is running.

Councilor Lown said we are hearing people accusing the City Council and City staff, hiding things, land use boards are in the back pockets of developers the concern with the conflict of interest ordinance. He said you need evidence before making accusations.

Councilor Spear said the motion does not accomplish anything. He said when he read the charge he thought it was good but now he feels that the charge does not list process and procedures and that creates a gap. He said the City Council should make a statement this evening and state the scope of work.

Assistant Mayor Splaine withdrew his motion and Councilor Kennedy her second to the motion.

Councilor Lown moved that Mayor Lister and Assistant Mayor Splaine meet with the Police Commission to review the scope of the investigation and address the questions in the letter and any other questions brought forward. Seconded by Councilor Thorsen.

Councilor Kennedy said that we need to include the public in the motion to have them as part of the process.

Councilor Kennedy moved to amend the motion that a public hearing on this case be heard with the City Council and Police Commission. Seconded by Councilor Morgan.

Councilor Thorsen said he trusts the process but needs to see the verification of how it is going. He stated in the letter many of the questions exceed the scope of the investigation and we need to trust the process.

Councilor Shaheen asked City Attorney Sullivan who is technical responsible for the charge in the investigation. City Attorney Sullivan stated the Police Commission. Councilor Shaheen asked if the Council is in charge to request that the scope be expanded. City Attorney Sullivan said it would be appropriate to invite the Police Commission to hold a public hearing.

Councilor Spear said it would be helpful for the Committee to come forward with a recommendation.

Councilor Dwyer said the Attorney General's office already looked at this matter. She said the public needs to understand the scope of the Attorney General's office when they looked at this. She said the Attorney General's office is the highest level of investigation in State government.

Councilor Shaheen moved that Mayor Lister and Assistance Mayor Splaine meet with the Police Commission to review the scope of the Webber/Goodwin Investigation, how that scope was defined, the potential for expanding the scope and that the City Council would like the Police Commission to hold a Public Hearing following that meeting. This motion was accepted by Councilor Lown and Councilor Kennedy as part of their motions and agreed upon by Councilor Thorsen and Councilor Morgan who seconded the motions.

Motion passed as follows:

Moved that Mayor Lister and Assistance Mayor Splaine meet with the Police Commission to review the scope of the Webber/Goodwin Investigation, how that scope was defined, the potential for expanding the scope and that the City.

- B. Letter and Petition from Friends of Sheafe Street Neighborhood Association requesting that the Sheafe Street repair project be definitively scheduled

Councilor Kennedy moved to send a letter to Andrea Heitker, Valerie Sobel, Marie Bodi and Thomas Bertrand, Officers of the Sheafe Street area Neighborhood Association stating the project will be done in the spring of 2015. Seconded by Councilor Shaheen and voted.

- C. Letter from 22 Owners/Residents of Broad Street and Pinehurst Road regarding Ordinance Amending Chapter 10 – Zoning Ordinance, Section 10.440, Table of Uses Residential Mixed Residential, Business and Industrial Districts, by changing Use #1.30 (Townhouse) and Use #1.41 (Multifamily Dwelling, 3 or 4 Dwelling Units) from “P” (Permitted) to “S”0 (Special Exception) in the General Residence A and B (GRA & GRB) Districts

Councilor Spear moved to accept and place the letter on file. Seconded by Councilor Shaheen and voted.

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

- 1. Request for Approval of Amendment to Wright Avenue LLC License Agreement (Tabled from the October 6, 2014 City Council meeting)

City Manager Bohenko reported that this matter was tabled from the October 6, 2014 City Council meeting. Greg Annis Project Manager said he is here to answer any questions the City Council may have. City Manager Bohenko said the City Council wanted to know why there is a need for an extension. Mr. Annis spoke to the project time frame and said Public Service of New Hampshire advised them that the pole would provide adequate power but later Public Service advised us that the current pole could not handle the capacity for the electrical service needed for the project. He stated that this required a 3 to 4 month delay.

Councilor Spear moved to authorize the City Manager to negotiate and enter into an Amendment to the License Agreement for Wright Avenue, LLC originally dated March 11, 2014 and approved by vote of the City Council on February 14, 2014. Seconded by Councilor Dwyer.

Councilor Kennedy said she is concerned with compliance of ADA requirements. She stated that she feels there will still be compliant issues later and would not support the motion for that reason.

Councilor Dwyer asked if there is a reason why the spaces could not be placed closer to State Street or Daniel Street. She said the placement seems adequate.

Public Works Director Rice said the reason was it provided access to the ramps to get people onto the sidewalks.

Councilor Kennedy said she has been down to the area and the space near Rosa's is not close enough. She said people that have disabilities are not going to walk that far.

City Manager Bohenko said Public Works Director Rice has stated what the correct spaces are and he is suggesting making one space on one side and another space on the other closer. He said he would look at that with staff. If there is requirement for temporary access the owner will be responsible for that cost.

Motion passed with Councilor Kennedy voting opposed.

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

Human Resources Director Fogarty presented the Two-Year Agreement with Supervisory Management Association with a 10-year rolling COLA and other areas of the Agreement to the Council.

Councilor Spear moved to accept the proposed contract with the Supervisory Management Alliance to expire on June 30, 2016. Seconded by Councilor Shaheen.

Councilor Lown said that the City has done a good job but he is looking to get all employees to consumer driven healthcare. Councilor Thorsen agreed with Councilor Lown.

On a roll call 7-2, voted to accept the proposed contract with the Supervisory Management Alliance to expire on June 30, 2016. Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Dwyer, Morgan, Spear and Mayor Lister voted in favor. Councilors Lown and Thorsen voted opposed.

3. Proposed Request to Proceed with Life Cycle Cost Estimates for Pease Wastewater Treatment Facility Alternative

City Manager Bohenko stated that we are looking at whether Pease would be a possibly location for a Wastewater Treatment Plant.

Deputy City Attorney Woodland said staff is prepared to proceed with the plan to go forward with Peirce Island for the Wastewater Treatment Plant. She said there is a change in conditions and felt that the City Council needs to be made aware.

Councilor Shaheen asked if the analysis led the City Council to look at Pease and would it be acceptable if the time table would allow us to change the location.

Deputy City Attorney Woodland said the EPA and DES have been supportive of looking at an extension to get compliances with Peirce Island. She said we would have until November 2018. She said if we move forward with Pease the final completion would be beyond 2018 and we would need to look at how much of the flow could be brought back and we would need to negotiate it.

Councilor Kennedy asked if there have been any changes since the work session two weeks ago. Deputy City Attorney Woodland said EPA is saying they are not concern with the blend issue.

Water and Sewer Engineer Desmarais stated the scope of work is at a 60% design level and we need to get it to what the new site plans would look like.

Councilor Dwyer asked about costs and life cycle costs. Water and Sewer Engineer Desmarais said there are a number of studies outside communities have done on their own.

Councilor Dwyer asked to get to the 10% design is that a step in the \$300,000.00 cost. Water and Sewer Engineer Desmarais said we can do the site plan and we need to look at how we get the wastewater to the area for the new site plan.

Councilor Dwyer said we need a reasonable estimate if Pease would work at all. Water and Sewer Engineer Desmarais said it would be at the beginning of the scope which would be Phase I. City Manager Bohenko asked what Engineer Desmarais thought the cost would be. Engineer Desmarais said maybe 1/3rd of the project. City Manager Bohenko said we have come up with going to Phase II and Phase III if we are able to get past Phase I. Engineer Desmarais said it is important to note that we can stop the process at any time.

Councilor Thorsen said the difference is the City does not control Pease but we do Peirce Island. He asked if we need acceptances by the PDA and have we had any discussions with them on this matter. City Manager Bohenko said we have talked with PDA all along about Wastewater Treatment Plant at Pease. He said discussions with PDA on this were held in Non Public Session regarding negotiations. He said we would need to speak with the FAA as well. He further stated we would need to open up our Municipal Services Agreement with the PDA. He stated the cost for the Wastewater Treatment Plant is at \$80,000,000.00. He said the last City Council to make a decision on this issue was in 1956.

Councilor Thorsen asked when we could make this type of decision because he would like to go forward with Pease.

City Manager Bohenko said he is as concern as the City Council. He said the finish line keeps moving further away from us. He spoke to secondary treatment and the nitrate issue, only 4% of our flow goes up to the Bay. He said 96% of the flow goes away. He said we wanted the Wastewater Treatment Plant at Peirce Island to stay within the fence line. City Manager Bohenko said now there is a blending issue. He said if that requires us to do the blending we would need to encroach over the fence line which is at the control of the EPA.

Councilor Lown said this is the biggest issue the City has faced in 40 years. In the context of that \$300,000.00 is a small amount to explore our options.

City Manager Bohenko said we have had internal discussions on this and the staff feels it is important to bring the issue forward. He said the real issue is the time line. We are trying to get the life cycle costs in 4 ½ months. The big question is once the layout is done will the PDA approve it. He said does the City Council want us to stay at Peirce Island and stay in the fence line. If we need to add more tanks and move outside the fence line we would need to go to the courts. City Manager Bohenko asked the City Council do you want us to break the study into three phases.

Councilor Morgan said in 4 ½ months we are occurring costs, we have certain things defined and now if we could get solid information earlier on in the study what would be the impact. City Manager Bohenko said he does not have a problem going forward with Peirce Island.

Councilor Kennedy moved to authorize the City Manager to proceed with expending up to \$300,000.00 from the Pease bond proceeds for the Pease Wastewater Treatment alternative as described in the City Manager's memorandum dated October 16, 2014 and that a report back be made to the City Council following Phase I. Seconded by Councilor Dwyer.

Councilor Kennedy said we looked at pricing this out and we looked at Pease and it was \$20,000,000.00 more. She stated if we expand Peirce Island for Wastewater Treatment Plant we would lose our rights and views of the water.

Councilor Kennedy said we have been going back and forth and it is time to cut our losses and move the Wastewater Treatment Plant out to Pease. Councilor Kennedy said we could share our costs for upkeep with other communities and then we would only have one treatment plant and keep our access to the ocean at Peirce Island.

Assistant Mayor Splaine said he supports the motion.

Councilor Shaheen asked if there is a way to be engaged in Phase I as a City Council before we expend the entire \$300,000.00.

Councilor Kennedy agreed to have a report back to the City Council after Phase I.

Councilor Dwyer said we are voting to see what the feasibility is to move the Wastewater Treatment Plant to Pease.

City Manager Bohenko stated that Phase I would only do a site layout, the entire life cycle would need to be done at the cost of \$300,000.00. He said the PDA would want to know the layout and what odor controls we would have in place.

Mayor Lister passed the gavel to Assistant Mayor Splaine.

Mayor Lister said he supports the motion and would like a general sense of what it means' going out to Pease in terms of roads, construction and traffic impact. He would like staff to answer Councilor Lown's questions on how the staff feels on the matter.

Assistant Mayor Splaine returned the gavel to Mayor Lister.

City Manager Bohenko said staff feels we should do this, and he does not and has concerns. Public Works Director Rice said he recommended to the City Manager to proceed in this manner.

Motion passed.

Mayor Lister requested a brief recess and that we adjourn no later than 11:00 p.m. At 10:00 p.m. Mayor Lister called the meeting back to order.

B. MAYOR LISTER

1. 2015 Draft Schedule of City Council Meetings and Work Sessions

Mayor Lister presented the City Council schedule of meetings and work sessions for 2015. He stated he added 5 weeks that gives the Council 35 meetings in 2015. He also intended he would like all Council meetings to end by 10:30 p.m.

Councilor Dwyer said we may have additional work sessions associated with other regular City Council meetings which are not listed in the calendar of meetings.

Councilor Spear said this is a good starting point. He said we don't always know what the many issues might come forward.

Councilor Kennedy said she would like Mayor Lister to designate the work sessions. She would like to see a Master Plan, Form Based Zoning, Water/Sewer matters, Small Businesses, Senior Support and Doble Center. She said we have water/sewer work sessions 3 times a year.

Mayor Lister said he is willing to take information on work session topics but not to add them at this point.

Councilor Morgan said she supports Councilor Kennedy's work session topics. She would like to see work sessions on small businesses. She said November 5th is not a regular meeting. She would like to keep two regular meetings in November.

Councilor Dwyer would like to know if we could try November 5th as a Special meeting.

Assistant Mayor Splaine said Mayor Lister has come forward with a good way to facilitate meetings going forward.

Assistant Mayor Splaine moved to approve the 2015 Schedule of City Council meetings and Work Sessions, as presented. Seconded by Councilor Shaheen and voted.

2. Draft Letter to be sent to the Regional Working Group Re: Helicopter Regulation:
 - Greenland
 - Stratham
 - Newington
 - Rye
 - New Castle
 - Durham
 - Kittery

Mayor Lister said he has a draft letter to send to the above referenced communities and have a gathering to move forward with the helicopter issue.

3. Establishment of Joint Budget Committee

Assistant Mayor Splaine moved to approve the establishment of a Joint Budget Committee. Seconded by Councilor Dwyer.

Joint Budget Committee

The Joint Budget Committee is established for the purposes of advising the City Manager and the City Council on issues pertaining to the development of the Annual Budget.

7 Voting Members:

- *Chair, Mayor Robert J. Lister*
- *(2) City Councilors, to be appointed by the Mayor (Mayor Lister appointed Councilors Spear and Thorsen to serve as the City Council Representatives)*
- *(2) School Board Members, to be appointed by the School Board Chair*
- *Fire Commission member, to be appointed by the Commission Chair*
- *Police Commission member, to be appointed by the Commission Chair*

5 Non-voting Ex-officio Members

- *City Manager John P. Bohenko*
- *Finance Director Judie Belanger*
- *Superintendent of Schools Ed McDonough*
- *Fire Chief Steven Achilles*
- *Police Chief Stephen Dubois*

Charge of the JBC

- *The JBC shall advise the City Manager and City Council on the adoption of guidelines for the preparation of the proposed FY16 budget by January 15th*

- *City Staff will provide information to the Committee on factors impacting the development of the municipal budget*
 - *Health Insurance rates*
 - *Retirement rates*
 - *Contractual Obligation impacts*
 - *Any and all other costs which would impact the Operating Budget*
- *JBC Agenda Format*
 - *Anticipated to have one meeting a month from September through March*
 - *Agenda to be put together by the Mayor and City Manager with input from various departments and elected officials*
 - *At the beginning of each meeting, opportunity for any elected official to bring up a topic and speak to it*
 - *At the end of each meeting, opportunity for citizens to speak*
- *The Committee shall not assume responsibilities of the City Manager or the City Council as outlined in the City Charter*

Councilor Morgan thanked Mayor Lister for putting this together but stated she would like discussion held with all City Councilor's involved in moving forward with a JBC. She said we need guidelines for agenda postings, agenda topics and presentations. She also said all meetings on the budget should be televised for departments throughout the City. Councilor Morgan said she would like the budget work session video taped and the presentations be posted.

City Manager Bohenko said we will talk to the departments about having a producer to tape the meetings.

Councilor Kennedy said that the JBC should be televised at all times. She said that this is the number one item we are responsible for as a City Council. Councilor Kennedy stated residents want each City Councilor to deal with the budget. She expressed concern that the JBC would come back with a recommendation and it would be a done deal.

Councilor Shaheen said that this is a public meeting. The meeting will be noticed, people can come and minutes will be public. She said there is a lot of talk this evening that applies to a lack of transparency. She commended Mayor Lister for coming forward with this which adds another step in the budget process.

Councilor Thorsen said he understands the concerns with people coming to a JBC meeting. He said any City Councilor can come to the meeting as long as the meeting is noticed. He does not see a problem with as many City Councilors participating as possible.

Councilor Dwyer said the charge of the JBC is not to create the budget. She said the committee advises on the guidelines for the budget. She said JBC is not preparing the budget.

Councilor Morgan said she would like all materials available to everyone and that the meetings are televised or taped.

Mayor Lister said the meetings will be posted and people are able to attend.

Assistant Mayor Splaine said sometimes you need to have faith in good people. He has confidence in Mayor Lister and those involved in the JBC to communicate and provide information.

Motion passed with Councilor Kennedy voting opposed.

4. Letter from John F. Golumb, Chairman of Portsmouth Police Commission Re: Public Allegations on Police Morale

Mayor Lister said the City Council has a copy of a letter from Police Commissioner John Golumb.

Councilor Morgan said the City Council had discussed having a work session with the Police Commission. She has questions on enforcements and would like to get a dialogue started with the police and the City Council. She said the City Council can meet with the Police Chief and ask questions.

Councilor Spear said if Mayor Lister feels it warrants a work session it is at the call of the Mayor. He said he would need to know the agenda before voting on establishing a work session.

Councilor Dwyer said there is a paragraph that the Police Commission is inviting them to there work session on October 22nd and feels the time is difficult. She asked if the City Council should have a liaison to the Police Commission, Fire Commission and School Board in order to keep updated on issues.

Councilor Kennedy said she had a conversation with the Chief on one of her issues but she would like to know what is our procedure when something happens with school aged children that happens off school grounds with bullying someone. She asked what the protocol is to give data to the public.

Councilor Shaheen said she appreciates the context but it sounds like the role as individual City Councilors. She feels the issue could be addressed with the Police Chief as a City Councilor.

Councilor Dwyer said they are good examples of questions and the Police Department could address them on there website. She said they are general public questions.

Assistant Mayor Splaine said the items by Councilor Kennedy are good questions that the general public would like to know. He sees the value of an open work session with the Police Commission.

Councilor Morgan moved to request a work session with the Police Commission, Police Chief and City Council to address enforcement and other issues brought forward by Councilor Kennedy. Seconded by Councilor Kennedy.

On a roll call 4-5, motion to request a work session with the Police Commission, Police Chief and City Council to address enforcement and other issues brought forward by Councilor Kennedy *failed* to pass. Assistant Mayor Splaine, Councilors Kennedy, Morgan and Thorsen voted in favor. Councilors Shaheen, Lown, Dwyer, Spear and Mayor Lister voted opposed.

C. ASSISTANT MAYOR SPLAINE

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

Assistant Mayor Splaine said that this was discussed at length at the last City Council meeting.

Assistant Mayor Splaine moved that the Portsmouth City Council agrees “non-meetings” will be held only when absolutely necessary in order to discuss ‘strategy or negotiations with respect to collective bargaining’ or ‘consultation with legal counsel,’ and that when they are held the purpose of the non-meeting will be publicly disclosed, discussion will be limited to that topic, there will be a public roll-call vote, and a record will be kept of when the non-meeting begins, ends, and who is in attendance. Seconded by Councilor Spear.

Assistant Mayor Splaine said this would upgrade on how we respond to non-meetings like Non Public Session on a voluntary basis. We would announce what the non-meeting is for and keep track of that.

Councilor Dwyer said we do not take votes in non-meetings. She said there may be times that you do not specify details of what the discussion is about and that would be what is intended. Assistant Mayor Splaine said correct.

Councilor Thorsen said we did not eliminate non-meetings entirely because non-meetings are allowed for the two items listed in the RSA. He asked if going into non-meetings the vote would require us to do this in front of the camera because he feels it would be awkward.

On a unanimous roll call 9-0, voted that the Portsmouth City Council agrees “non-meetings” will be held only when absolutely necessary in order to discuss ‘strategy or negotiations with respect to collective bargaining’ or ‘consultation with legal counsel,’ and that when they are held the purpose of the non-meeting will be publicly disclosed, discussion will be limited to that topic, there will be a public roll-call vote, and a record will be kept of when the non-meeting begins, ends, and who is in attendance.

D. COUNCILOR SHAHEEN

1. Maintenance Planning

Councilor Shaheen said she would like to refer this for report back as she has heard there are issues with up keeping of parks and public spaces. She said it is onerous to require Public Works Department to care for these new public spaces. She asked if Trees and Greenery is the proper place or is there another committee this should be referred to.

Councilor Shaheen requested that City Manager Bohenko work with staff on developing a maintenance plan for parks and public spaces.

E. COUNCILOR MORGAN

1. City Ordinance for Helicopters

Councilor Morgan said she would like to create an ordinance on helipads.

Councilor Morgan moved to request the City Attorney to draft a Zoning Ordinance regulating Helipads, restricting its use to medical emergency transfers and to emergency public safety operations by credentialed governmental authorities, local, state and/or federal. The ordinance should include language to specify storage, maintenance and fueling of helicopters are permitted at Pease International Airport only. Seconded by Councilor Kennedy.

Councilor Spear asked City Manager Bohenko if the staff can speak about what zones currently allow for helicopters.

City Manager Bohenko asked Planning Director Taintor to speak to the matter. Planning Director Taintor said the current zoning ordinance allows helipads. He said it is currently for the hospital as an accessory use. He said we cannot address what happens at Pease. He further stated it is always by special exemption by the Board of Adjustment. He said there are special criteria to be met with a public hearing required.

Councilor Shaheen said with the current zoning ordinance the current operation is beyond our jurisdiction because they are flying in and out of Pease. Planning Director Taintor said the zoning ordinance does not define and would require a special exemption and site plan approval.

Councilor Morgan asked about the specific areas. Planning Director Taintor said it is in the zoning ordinance in the Table of Uses, in Residential, Mixed Residential, Business and Industrial Districts, Special Exemption for Office Research, Industrial and Waterfront Industrial areas.

Councilor Dwyer said she would like to continue the notation of special exemption. She said we should continue with special exemption and not give blanket approval.

Councilor Thorsen agreed with Councilor Dwyer's comments.

Councilor Kennedy asked Councilor Morgan who she went to for guidance for the ordinance. Councilor Morgan said she did not go to any staff. She presented it to the City Attorney to review and craft an ordinance. Councilor Kennedy would like Councilor Morgan to amend the motion to have the City Attorney and Planning Director look at any lope holes that might allow helicopters. She said we need to make sure we are covering all bases.

Councilor Morgan withdrew her motion and Councilor Kennedy the second to the motion.

Councilor Morgan moved to refer to the City Manager for report back on the Zoning Ordinance Section 10.440 Table of Uses – Residential, Mixed Residential, Business and Industrial Districts – 15.20 Heliport – Special Exemption for Office Research, Industrial and Waterfront Industrial. Seconded by Councilor Shaheen and voted.

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

There was no discussion or action on this item.

3. Request for Additional Council Meeting in November

There was no discussion or action on this item.

F. COUNCILOR SPEAR

1. Parking Revenue Options

Councilor Spear said he brought up the issue of looking at parking revenues when we get the budget in May. He said he would like to know if the City Council would give JBC guidelines to look at this matter.

Councilor Spear moved the Council asks that the JBC consider the Parking Revenue options presented at the retreat. Seconded by Councilor Lown.

Councilor Thorsen said he supports discussing parking revenues.

Councilor Morgan said along with this if we are going to talk about revenues she does not agree with installing meters on Parrott Avenue. She said there should be parking breaks for residents. She would like to see suggestions for cost savings.

Councilor Dwyer said in looking at the charge of the JBC the adoption of guidelines is preparation for the budget. She said she wonders if JBC would be making guidelines for the Fee Committee. She said we may need more discussion on this.

Councilor Kennedy said Parking, Traffic & Safety Committee should have a look at this as well. She said this is an example of why people want to be involved. She would like to look at Sunday parking during the winter months and maybe we should have a work session on parking.

Councilor Shaheen said given you framed this as revenue she wants to know where the starting point is for a parking enterprise fund. She feels we need a broader discussion on this matter.

Assistant Mayor Splaine said if this is coming up at the JBC and the Parking, Traffic & Safety Committee we should not expand ticketing or metering Parrott Avenue.

Councilor Spear said he feels that this is a matter that needs to be discussed and now because of the budget. He said Parking, Traffic & Safety Committee is geared towards safety the Fee Committee has only two City Councilors and don't have the broad support as others.

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

Councilor Spear stated he would be discussing this matter further with Mayor Lister and Councilor Thorsen.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

Mayor Lister said for future Council meetings he would like Councilors to put one item on the agenda and make a presentation if needed and the Council would then discuss the item at the following City Council meeting. This will allow everyone to address something at a meeting.

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

At 11:20 p.m., Councilor Lown moved to adjourn. Seconded by Councilor Spear and voted.



Kelli L. Barnaby, CMC/CNHMC
City Clerk