

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, AUGUST 17, 2015

PORTSMOUTH, NH
TIME: 6:00PM

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

At 6:30 p.m. a Work Session was held regarding Prescott Park Arts Festival Proposed Stage.

I. CALL TO ORDER

At 7:25 p.m., Mayor Lister called the regular City Council meeting to order.

II. ROLL CALL

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

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

Isabel and Fay led in the Pledge of Allegiance to the Flag.

PRESENTATION – REVALUATION UPDATE – ROSANN MAURICE LENTZ, CITY ASSESSOR

Assessor Maurice Lentz provided an update on the Revaluation process and reported on the statutory requirements. She advised the City Council that 3 companies were used in the Revaluation process. She announced the residential vs. commercial percentage of total value came in with residential at 54% and commercial at 46% and these could change because the values are not final. She reported that notices will be sent this week to set up informal hearings. Assessor Maurice Lentz explained the 3 appeal processes.

Councilor Kennedy said she was hoping that this was going to be more of a Work Session because she has more questions. She expressed concern with dealing with the contractors first and then you speak with the Assessor.

V. ACCEPTANCE OF MINUTES – JULY 20, 2015 AND AUGUST 3, 2015

Councilor Shaheen moved to approve and accept the minutes of the July 20, 2015 and August 3, 2015 City Council meetings. Seconded by Councilor Lown and voted.

Mayor Lister said speakers will be limited to 2 minutes due to the number of speakers.

Assistant Mayor Splaine moved to keep the public comment session to 3 minutes. Seconded by Councilor Morgan. On a roll call vote 5-4, motion passed. Assistant Mayor Splaine, Councilors Kennedy, Dwyer, Morgan and Thorsen voted in favor. Councilors Shaheen, Lown, Spear and Mayor Lister.

VI. PUBLIC COMMENT SESSION

Beth Margeson said that the Portsmouth Prescott Arts Festival needs a new stage and the current stage is unsafe. In addition, they needed a space for the storage of items. She also indicated her disapproval with placing the stage towards Kittery.

Tom Carroll thanked various individuals for their work on Saving Our Working Port. He said that because of individual's efforts the port is now a better place.

Steve Little spoke in support of short term rentals and would like the City Council to go back to the first draft of the ordinance. He said that this is being done globally and it is a middle class benefit. He said there are over 300 people in the City operating a short term rental.

Rick Horowitz spoke in support of short term rentals and agrees with Mr. Little's comments. He said that people are struggling to make ends meet and this allows them to earn a few extra dollars.

Cathy Baker spoke regarding relocating the Prescott Park stage and that during the recent monitoring of the noise levels the volume has been turned down which is a low cost solution. She said there is a safety issue and the stage should be replaced.

Larry Cataldo urged the City Council to pass the Central Business Zone for the north end. He said that this would be listening to the people and their needs. He suggested that the City Council have the Economic Development Commission strengthen the work force housing requirements.

James Lamond spoke opposed to short term vacation rentals. He said that these should not be permitted in a neighborhood and the City needs to regulate this matter.

Alice Giordano said that short term rentals should not be measured as a simple matter. She said there is a gross need to enforce occupancy levels. She said she has a neighbor letting people live in their garage and rental properties need to be enforced by the City. She said short term rentals are safer than renters.

Rick Becksted spoke on Central Business Zone and said the public wanted to see this but it is not perfect. He said he does not support any amendments to the ordinance and that land acquisitions should have public input for the larger projects. He addressed the revaluation in the City and stated his tax card has no comps listed and there should be comps for him to refer to.

Arthur Clough spoke regarding the Aaron Goodwin/Geraldine Webber case. He expressed his disapproval with the Deputy Police Chief's severance packet. He stated there was no vote by the Police Commission it was just signed off by Commissioner Golumb. He said there needs to be an investigation on this matter.

Jeffrey Cooper spoke regarding short term rentals and that he received a cease and desist order. He would like the City Council to not support the short term rental ordinance. He said proper amendments should be made at the next meeting during second reading. He said the residents should be included in the discussion.

Mark Brighton said who was looking out for the taxpayer with the severance agreement with Deputy Chief MacDonald.

Mary Lou McElwain spoke to the need for the lifeguards at the outdoor pool receiving a raise for what they do. She said they should be making \$12.00 per hour.

George Dempsey spoke opposed to short term rentals and that these businesses should not be run in the City.

Peter Weeks urged the City Council to approve the City Manager's request for land transfers and easements. He spoke in support of the Harborcorp project and that it should move forward.

Senator Martha Fuller Clark – spoke in support of Central Business Zone in the north end. She said the City Council needs to make sure that the height recommendations are part of the zoning recommendations.

Chris Thompson thanked the City Council for support of the project to date. He said the land will be squared off with the land transfers. He reported that the Planning Board decision has been brought to court and the Historic District Commission decision has been appealed as well. He said it is important to know they have the City Council support on the project.

Zoe Stewart asked the City Council to conduct a public hearing before voting on easements for Harborcorp.

Joe Caldarola spoke on the Central Business Zone for the north end and said he has a letter signed by 57 residents to keep the lower heights for this area. Mr. Caldarola presented the letter to City Clerk Barnaby for the file.

Susan Duprey said there is a process to come to the City Council and land use boards and Harborcorp has followed that process. She said the plan has been on file with the City since April, 2014 and in no public hearing has ever anyone raised objections to the plan. She said Harborcorp is asking for the City Council to follow through on what the Planning Board has approved as well as the Parking Traffic & Safety Committee with respect to the intersections.

Dexter Legg asked the City Council to regulate short term vacation rentals. He spoke to issues he has experienced living next to one of these in his neighborhood.

Paul Mannle asked the City Council to postpone action on Harborcorp until all appeals are heard. He spoke to the land availability at the Frank Jones Center, which would better serve the City.

Tanya Clews spoke on short term rentals and asked where do you draw the line. She said people are using home exchange.com where they exchange their home to another party. She spoke to the need for better communication and that she has used Airbnb in other places. She said you need to have respect for all neighbors.

VII. PUBLIC HEARINGS

- A. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO SIX MILLION ONE HUNDRED THOUSAND DOLLARS \$6,100,000 FOR FY16 CITYWIDE BIKE/PEDESTRIAN, STREET, AND SIDEWALK IMPROVEMENTS
- B. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO SIX HUNDRED THOUSAND DOLLARS (\$600,000) FOR FY16 PURCHASE OF FIRE APPARATUS (PAGE 39 OF CIP FY16-21)
- C. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO FIVE HUNDRED THOUSAND DOLLARS (\$500,000) FOR FY16 SCHOOL FACILITIES IMPROVEMENTS (PAGES 50-51 OF CIP FY16-21)
- D. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO FOUR MILLION ONE HUNDRED THOUSAND DOLLARS (\$4,100,000) RELATED TO WATER SYSTEM UPGRADES AND IMPROVEMENTS
- E. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO FOUR MILLION DOLLARS (\$4,000,000) FOR FY16 SEWER SYSTEM UPGRADES

Public Works Director Rice, Superintendent Zadvarec and Fire Chief Achilles provided a brief Presentation on all Resolutions to explain each of the projects.

- A. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO SIX MILLION ONE HUNDRED THOUSAND DOLLARS \$6,100,000 FOR FY16 CITYWIDE BIKE/PEDESTRIAN, STREET, AND SIDEWALK IMPROVEMENTS

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

Rick Becksted thanked the City Council and spoke in support of the Resolution. He said this will install a sidewalk on Islington Street which is much needed. He would like to see a crosswalk installed at the ball field at the intersection at Essex Avenue.

Diane Share said she was walking along Islington Street and was almost hit because the sidewalk is turned up and cars are driving on it. She said it has been torn up since May and is a serious safety concern.

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

B. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO SIX HUNDRED THOUSAND DOLLARS (\$600,000) FOR FY16 PURCHASE OF FIRE APPARATUS (PAGE 39 OF CIP FY16-21)

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

Rick Becksted said this is about public safety and now we are down to 2 vehicles. He said we should look at putting a percentage of the fees collected from ambulance fees towards the replacements of vehicles needed in the Fire Department. He said this is public safety and we need to look at funding safety vehicles.

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

C. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO FIVE HUNDRED THOUSAND DOLLARS (\$500,000) FOR FY16 SCHOOL FACILITIES IMPROVEMENTS (PAGES 50-51 OF CIP FY16-21)

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

D. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO FOUR MILLION ONE HUNDRED THOUSAND DOLLARS (\$4,100,000) RELATED TO WATER SYSTEM UPGRADES AND IMPROVEMENTS

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

Rick Becksted said we need upgrades but he would like to see us find out from the utility companies if they need to do any work to the street to make sure that we are not digging up pavement we just put in place.

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

E. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO FOUR MILLION DOLLARS (\$4,000,000) FOR FY16 SEWER SYSTEM UPGRADES

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

Rick Becksted spoke in support of the Resolution. He said he would like to find out what EPA requirements are for the sewer system upgrades.

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

VIII. APPROVAL OF GRANTS/DONATIONS

(There are no Items under this Section of the Agenda)

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Ordinance amending Chapter 10 as follows:
- (1) Amend Section 10.440, Table of Uses, by adding a new use #10.30 – Short-term vacation rental”, modifying the standards for use #10.50 – “Hotel or motel”, and combining “conference hotel” and “conference center” into a single use;
 - (2) Insert a new Section 10.837.20 – Short-Term Vacation Rentals;
 - (3) Amend Article II – Site Development Standards to establish an off-street parking requirement for short-term vacation rental; and
 - (4) Amend Article 15 – Definitions, by revising the definitions of “Bed and Breakfast” and adding new definitions for “Short-term vacation rental” and “Transient”

Councilor Spear moved to pass first reading and schedule a public hearing and a second reading of the proposed Ordinance, as presented, at the Tuesday, September 8, 2015 City Council meeting. Seconded by Councilor Lown.

Councilor Kennedy expressed concern with the ordinance and she would like to know what happens when there is a problem. She said there is a difference from people living in the home versus someone that leaves the home.

Councilor Thorsen said he agrees with the point made by Councilor Kennedy. He said someone that maintains control of the home at all times should be exempt from the regulations.

Councilor Morgan said she agrees with Councilors Kennedy and Thorsen. She said regulations should be less for people staying within their homes.

Councilor Spear said first reading provided definitions with a framework for discussion. He spoke to the table of uses of the Ordinance.

Councilor Dwyer said the ordinance should be passed along to second reading and amendments would be made at that time.

Councilor Shaheen said she does not want to delay passage of first reading. She said more guidance is needed from the City Attorney and Planning Board on home owners remaining in the home, enforcement on violations and the geographical areas these would be allowed in.

Assistant Mayor Splaine said that this is a complicated system and discussion must be thorough before a public hearing and second reading is held.

On a roll call vote 5-4, motion passed. Councilors Lown, Dwyer, Spear, Thorsen and Mayor Lister voted in favor. Assistant Mayor Splaine, Councilors Shaheen, Kennedy and Morgan voted opposed.

- B. Adoption of Resolution for Borrowing Authorization of up to Six Million One Hundred Thousand Dollars \$6,100,000.00 for FY16 Citywide Bike/Pedestrian, Street and Sidewalk Improvements

Councilor Spear moved to adopt a Bond Resolution for FY16 Citywide Bike/Pedestrian, Street, and Sidewalk Improvements in the amount of up to \$6,100,000.00. Seconded by Councilor Shaheen.

City Manager Bohenko said he would speak with Public Works Director Rice and if some changes need to be made they would be made.

Councilor Morgan said there needs to be more enforcement on Islington Street and suggested that the Police Department have a police officer on a bike in that area to experience the danger.

Councilor Kennedy said there are a number of scooters on the street and that also needs to be considered.

Councilor Spear would like to consider holding a work session on the design of Islington Street to Market Square. City Manager Bohenkosaid it would be more appropriate for a presentation to take place.

Councilor Spear would like consideration given to burying the utility lines.

Motion passed.

- C. Adoption of Resolution for Borrowing Authorization of up to Six Hundred Thousand Dollars (\$600,000) for FY16 purchase of Fire Apparatus (Page 39 of CIP FY16-21)

Councilor Morgan moved to adopt a Bond Resolution for FY16 purchase of Fire Apparatus in the amount of up to \$600,000.00. Seconded by Councilor Lown.

Councilor Kennedy asked if any more discussion has been heard on the fire boat. Chief Achilles said this Resolution is not part of the fire boat and more discussion will be held at the end of the summer. Councilor Kennedy said she would like a presentation prior to the meeting on the fire boat.

Mayor Lister passed the gavel to Assistant Mayor Splaine.

Fire Chief Achilles said that this is for a fire pumper at Station 3.

Mayor Lister said the fire rescue truck was taken off the table. Chief Achilles said that is correct for Fy15.

Assistant Mayor Splaine returned the gavel to Mayor Lister.

Motion passed.

- D. Adoption of Resolution for Borrowing Authorization of up to Five Hundred Thousand Dollars (\$500,000) for FY16 School Facilities Improvements (Pages 50-51 of CIP FY16-21)

Councilor Shaheen moved to adopt a Bond Resolution for FY16 School Facilities Improvements in the amount of up to \$500,000.00. Seconded by Councilor Morgan and voted.

- E. Adoption of Resolution for Borrowing Authorization of up to Four Million One Hundred Thousand Dollars (\$4,100,000) related to Water System Upgrades and Improvements

Councilor Dwyer moved to adopt a Bond Resolution for Water System Upgrades and Improvements in the amount of up to \$4,100,000.00. Seconded by Councilor Lown.

City Manager Bohenko said we work with Unitil on the digging of the streets for utility work. Public Works Director Rice said he meets with them and works with them to make sure that our roads are not dug up after new pavement is put in place. Director Rice said they have to go into pavement if there is an emergency. He said he works with them closely on these matters.

Motion passed.

- F. Adoption of Resolution for Borrowing Authorization of up to Four Million Dollars (\$4,000,000.00) for FY16 Sewer System Upgrades

Councilor Shaheen moved to adopt a Bond Resolution for FY16 Sewer System Upgrades in the amount of up to \$4,000,000.00. Seconded by Councilor Lown and voted.

- G. Third and Final reading of Ordinance amending Chapter 7, Article I, Section 7.1 – Parking Meters, Section 7.102 Parking Meter Zones (A) Downtown High Occupancy Zone – Parking Rate shall be one dollars and seventy-five cents (\$1.75) per hour and (B) Parking in all other parking meter zones shall be at the rate of one dollars twenty-five cents (\$1.25) per hour and EasyPark Resident Discount

Councilor Spear moved to pass third and final reading of the proposed Ordinance. Seconded by Councilor Lown.

Assistant Mayor Splaine said he would vote opposed and feels that a resident discount should be given at a rate of 50%.

Councilor Morgan said she would not support the ordinance for the same reason.

On a roll call vote 7-2, motion passed. Councilors Shaheen, Kennedy, Lown, Dwyer, Spear, Thorsen and Mayor Lister voted in favor. Assistant Mayor Splaine and Councilor Morgan voted opposed.

- H. Third and Final reading of Ordinance amending Chapter 10 – Zoning Ordinance by the addition of Character-Based Zoning North End as follows:
- (1) Delete the existing Article 5A – Character Districts in its entirety and insert in its place the new Article 5A – Character Districts as amended at second reading”;
 - (2) Amend Articles 4, 5, 11, 12 & 15 of the Zoning Ordinance as set forth in the document titled “Conforming Amendments to Zoning Ordinance” as amended at second reading; and
 - (3) Amend the Zoning Map as set forth in the following maps as amended at second reading:
 - a. Map 10.5A21A – Character Districts and Civic Districts;
 - b. Map 10.5A21B – Building Height Standards;
 - c. Map 10.5A21C – Special Requirements for Façade Types, Front Lot Line Buildout & Uses

Assistant Mayor Splaine moved to pass third and final reading of the Proposed Ordinance, as presented. Seconded by Councilor Morgan.

Councilor Kennedy asked what was amended at second reading.

Planning Director Taintor spoke to the amendments made at second reading. He said a new document was submitted for Article 5A from some typos and there was a matrix that listed all the changes from the original version to current version in front of the Council this evening. There were some changes to conforming uses and maps.

Councilor Shaheen said she supports the ordinance and she is concern with taking actions on theses items during this time of year with so many people away on vacations.

Motion passed.

X. CONSENT AGENDA

- A. Letter from Melissa Walden, American Lung Association, requesting permission to hold the 7th annual American Lung Association Cycle the Seacoast ride on Sunday, May 1, 2016 (***Anticipated action – move to refer to the City Manager with power***)
- B. Letter from Carolyn Ostrom, Susan G. Komen, requesting permission to hold the Susan G. Komen New Hampshire Race for the Cure on Saturday, May 7, 2016 at 9:00 a.m. (***Anticipated action – move to refer to the City Manager with power***)

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

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Rabbi David Ross Senter, Temple Israel, requesting permission to hold a public 9/11 ceremony at the African Burying Ground with a walk to the Veteran's Park

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

- B. Letter from Attorney Bernard Pelech regarding Restoration of Involuntarily Merged Lots – RSA 674:39aa property located at 65 Mendum Avenue

Councilor Spear moved to refer to the Planning Department for report back. Seconded by Councilor Lown and voted.

- C. Letter from Gerald Zelin regarding Character-Based Zoning for the North End

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. "North End Portsmouth" Development – Proposed Land Transfers, Easements and License

Planning Director Taintor spoke regarding the land transfers, easements and licenses that are necessary to implement the development project that has been approved by the land use boards. He said the City accepts four parcels of land to implement roadway improvements on Market, Russell, Green and Deer Streets, and two easements for utility and access purposes. He further stated the City will grant a number of easements around the periphery of the site to accommodate foundations, roof overhangs, stairs, ramps, grease traps and related items. Planning Director Taintor said the City will allow for three important roadway improvements in the vicinity of the project, including realigning the Russell/Deer intersection to a "T" configuration, widening and realigning Green Street between Russell Street and a railroad crossing and, most significantly, converting the Market/Russell intersection to a modern roundabout as an extension of the Market Street Gateway project.

Councilor Spear moved to accept the land transfers substantially as shown on the Land Transfer Plan, subject to any minor adjustments that may be needed to accommodate the construction of a roundabout at the intersection of Market Street and Russell Street; to accept the Utility Easement and the Access Easement as shown on the Easement Plan; to approve the Foundation Easements, Roof Canopy Easements, Roof Overhang Easements, Door Opening Easements, Easements for Stairs, Wall, and Ramps, and Utility Easements for Grease Traps, substantially as shown on the Easement Plan, and to authorize the City Manager to execute the necessary instruments for such easements; to approve the requested licenses substantially as shown on the License Plan, and to authorize the City Manager to execute the necessary instrument. Seconded by Councilor Dwyer.

Councilor Morgan said a public hearing would open the process to allow for the public to speak on the project.

Councilor Lown said we should honor the work that has been done over the months.

Assistant Mayor Splaine said the Council should hold a public hearing on this matter.

Councilor Shaheen asked if we ever hold a public hearing on transfers and easements. City Attorney Sullivan said the City Council has never held a public hearing on this type of request before.

Councilor Morgan moved to amend and postpone action on the main motion to allow for a public hearing on accepting the land transfers. Seconded by Councilor Kennedy.

Councilor Kennedy said she likes to listen to the public and that this portion of the project only went to the Planning Board and not the Historic District Commission. City Attorney Sullivan said the time frame does not change with a public hearing.

On a roll call vote 3-6, motion to amend failed to pass. Assistant Mayor Splaine, Councilors Kennedy and Morgan voted in favor. Councilors Shaheen, Lown, Dwyer, Spear, Thorsen and Mayor Lister voted opposed.

On a roll call 6-3, voted to pass main motion. Councilors Shaheen, Lown, Dwyer, Spear, Thorsen and Mayor Lister voted in favor. Assistant Mayor Splaine, Councilors Kennedy and Morgan voted opposed.

At 10:25 p.m., Mayor Lister declared a brief recess. At 10:40 p.m., Mayor Lister called the meeting back to order.

2. Annual Omnibus Ordinance Change, Parking and Traffic

City Manager Bohenko stated that this is the annual omnibus from the Parking Traffic and Safety Committee for the Council to review and will be brought back for first reading at the next City Council meeting.

Councilor Spear moved to authorize the City Manager to bring back for first reading the outlined Ordinance, as presented, at the Tuesday, September 8, 2015 City Council meeting. Seconded by Councilor Lown.

Councilor Kennedy requested a report back on the number of new parking spaces created and lost by the new Omnibus Ordinance for the September 8, 2015 City Council meeting.

Motion passed.

City Manager's Informational Items

6. Report Back Re: Land Acquisition (Frank Jones Center Property)

City Manager Bohenko said he is looking for some feedback on this matter from the City Council.

Councilor Morgan moved to authorize the City Manager to continue with negotiation and the staff to look at uses for the parcel with a report back at the September 21, 2015 City Council meeting. Seconded by Councilor Kennedy.

Councilor Thorsen said he is not sure the Council should act on the proposed motion and that discussion on this matter should be held in a Non-Meeting with Counsel regarding negotiations.

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

Councilor Thorsen moved to hold a "Non-Meeting" with Counsel on the matter of negotiations regarding land acquisition for the Frank Jones Center property. Seconded by Councilor Kennedy.

Councilor Spear said we have not decided we want to build a Police Department and the purchase price is high. He said the property could be purchased privately.

Councilor Morgan said the west end of the City would expand with the City purchasing this land.

Councilor Kennedy said she supported the motion to discuss negotiations in a "Non-Meeting". She feels we need to be proactive on this matter.

Assistant Mayor Splaine said we do not know when and if a connector road will be built and we need to continue the dialogue.

Mayor Lister passed the gavel to Assistant Mayor Splaine.

Mayor Lister said he would not support the motion and we have enough on our plate.

Assistant Mayor Splaine returned the gavel to Mayor Lister.

On a roll call vote 6-3, motion passed. Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Dwyer, Morgan and Thorsen voted in favor. Councilors Lown, Spear and Mayor Lister voted opposed.

4. *Report Back Re: Payment of Severance to former Deputy Police Chief Corey MacDonald*

City Attorney Sullivan explained the process he used in looking into this matter. He provided a list of facts to the City Council as outlined in his memorandum. He said the most significant fact is clear that there is no record in any file of a severance agreement being on an agenda or a vote taken in a meeting. He said based on the facts if the City Council wants further legal work it maybe best to initiate separate legal counsel.

Assistant Mayor Splaine thanked City Attorney Sullivan for the report. He said this is about process and policies and the need for an independent review.

Councilor Spear asked if City Attorney Sullivan is recommending an investigation. He does not feel we can leave the item hanging. He feels much was said about the wrongness of Deputy Chief Corey MacDonald getting a severance and is in the purview of the Commission. Councilor Spear said he is concerned with process and proper voting.

Councilor Dwyer said what type of action at this point is right. The procedure for putting things on an agenda, it may have been a mistake. She said that the Commission must have made a judgment call to create such an agreement. She said the question is whether the severance is reversible and that answer may lie with our negotiator Tom Clossun.

Councilor Lown said he agrees with Councilors Spear and Dwyer. If the facts in the newspaper are accurate all 3 Commissioners approved of the contract and had the authority to do so. The City Council has no power to reverse that agreement. He said no one has raised the issue of how much money this would cost and he is reluctant to spend any money on this matter.

Councilor Thorsen said he does not see the City getting the money back from Deputy MacDonald. He said the liability might lie with the Commission that granted the agreement.

City Attorney Sullivan said questions as such should be referred to Attorney Clossun. Councilor Thorsen requested that his questions be answered by Attorney Clossun.

Councilor Shaheen moved to request that Attorney Thomas Clossun review this matter much like Attorney Robert Sullivan did in terms of the severance package. Seconded by Assistant Mayor Splaine and voted.

Assistant Mayor Splaine moved to have City Manager Bohenko make a recommendation at the September 8, 2015 City Council meeting for a process of reviewing the severance given on February 9, 2015. Seconded by Councilor Morgan.

On a roll call vote 7-2, motion passed. Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Dwyer, Morgan, Thorsen and Mayor Lister voted in favor. Councilors Lown and Spear voted opposed.

Councilor Dwyer moved to add City Manager or his designee and Mayor or his designee site in on all Police Commission meetings as non-voting members. Seconded by Assistant Mayor Splaine. On a unanimous roll call vote 9-0, motion passed.

5. *Report Back RE: Analysis Polling Hours*

Councilor Spear requested to look at adding professional staff to assist in the polling process.

B. MAYOR SPLAINE

1. Appointments to be Considered: ***(Postponed from August 3, 2015 City Council meeting)***

- Kathleen Bergeron to the Citywide Neighborhood Steering Committee

The City Council considered the appointed listed above and will take action on that appointment at the September 8, 2015 City Council meeting.

2. Appointments to be Voted: ***(Postponed from August 3, 2015 City Council meeting)***

- Marie Kelleher to the Citywide Neighborhood Steering Committee
- Sylvia Olson to the Peirce Island Committee
- William Townsend to the Peirce Island Committee

Councilor Shaheen voted to appoint Marie Kelleher to the Citywide Neighborhood Steering Committee until April 1, 2018; appointment of Sylvia Olson and William Townsend to the Peirce Island Committee until December 31, 2015. Seconded by Councilor Morgan and voted.

- Richard Shea to the Historic District Commission

Councilor Shaheen moved to reappoint Richard Shea to the Historic District Commission. Seconded by Councilor Spear and voted. Councilor Kennedy abstained from voting on this appointment.

3. City Manager's Evaluation ***(Postponed from August 3, 2015 City Council meeting)***

Mayor Lister announced that he appointed Councilor Spear, Chair, Councilors Lown, Thorsen and Dwyer to the City Manager's Evaluation Committee.

4. Appointment of Police Commissioner Citizen Review Panel

Mayor Lister said he would be creating a Citizen Review Panel on the appointment of a Police Commissioner. He said that the session would be televised on Channel 22 and the Review Panel will consist of Tom Ferrini, Chair; Mike Magnant, Ruth Griffin, Reverend Rob Stevens and John Akar.

Councilor Lown moved to appoint a Police Commissioners Citizen Review Panel. Mayor Lister announced he appointed Tom Ferrini, Chair; Mike Magnant, Ruth Griffin, Reverend Rob Stevens and John Akar to the Police Commissioners Citizen Review Panel. Seconded by Councilor Spear.

Councilor Morgan asked for a time line on the process. She would like to have a special meeting on August 31, 2015 for the City Council to decide on the person to fill the vacancy.

Mayor Lister said the Committee is ready to pull everyone together in a meeting next week and the Council will wait for the Committee to bring forward two names for the City Council to vote on. He said he would be meeting with Tom Ferrini to discuss the process further.

Assistant Mayor Splaine said that every week counts that there is not a full Police Commission. He said he wants to verify that the appointment will be until the November 3rd election.

City Attorney Sullivan said we have a Charter in place that creates a Police Commission and then a Portsmouth Herald reporter called the Secretary of State without receiving any information from the City. The Secretary of State offered his opinion. He spoke with the Secretary of State the next day and asked for time from Attorney General's Office and received the opinion before you. He said this has created a Charter Crisis in the City. City Attorney Sullivan said now we have to follow the statute that governs town's with Police Commissions.

Motion passed.

C. ASSISTANT MAYOR SPLAINE

1. Proposal for An Elected Charter Commission (***Postponed from August 3, 2015 City Council meeting***)

Assistant Mayor Splaine will bring this matter forward at the September 8, 2015 City Council meeting.

3. Mayors for Peace – Presentation

Assistant Mayor Splaine will bring this matter forward at the September 8, 2015 City Council meeting.

D. COUNCILOR KENNEDY

1. Charter Commission (*Postponed from August 3, 2015 City Council meeting*)

Councilor Kennedy requested to hold a meeting with the City Attorney on how to establish a Charter Commission.

2. Supporting Small Business in Portsmouth (*Postponed from August 3, 2015 City Council meeting*)

Councilor Kennedy requested to hold a Work Session on this matter.

E. COUNCILOR LOWN

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the July 9, 2015 meeting (*Postponed from August 3, 2015 City Council meeting*)

Councilor Lown said he would postpone action on this matter until September 8, 2015 City Council meeting.

F. COUNCILOR SPEAR

1. Peirce Island Non-Resident Fee Reconsideration (*Postponed from August 3, 2015 City Council meeting*)

Councilor Spear moved to refer his letter to the Peirce Island Committee for review. Seconded by Councilor Lown and voted.

G. COUNCILOR THORSEN

1. Irrigation Meters

Councilor Thorsen said this is for informational purposes and would be discussed at the October 5, 2015 City Council meeting.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

XIV. ADJOURNMENT

At 12:15 a.m., Councilor Shaheen moved to adjourn. Seconded by Councilor Spear and voted.



Kelli L. Barnaby, MMC, CMC, CNHMC
City Clerk