

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, APRIL 7, 2014

PORTSMOUTH, NH
TIME: 6:30PM [thereafter]

At 6:00 p.m., an Anticipated “Non-Meeting” with Counsel was held regarding Personnel Matters – RSA: 91-A:2, I (b-c).

PRESENTATION

1. PORTSMOUTH LISTENS STUDY CIRCLES RE: TRANSPORTATION DIALOGUE

At 6:30 p.m., a Presentation by Portsmouth Listens Study Circles was held regarding Transportation Dialogue.

Jeff Cooper provided an overview of Phase 2 of the Sustainable Transportation Studies – “What Has Worked Elsewhere And How Was It Funded?” He acknowledged the peer communities that were looked at in the study. He said it is recommended to look at where people are coming from and where their destination is. He also indicated the Committee supports referring this report to the Planning Department for their review and reference. The issue of Transportation Centers were discussed and reviewed.

Councilor Spear said he is impressed with the thoroughness of the report. He stated that the City Council and Staff are in alignment with what the Committee is discussing. He also spoke to the pilot program for the summer of a downtown shuttle.

Mr. Cooper said the City should consider possibly eliminating free downtown parking as did Newburyport, MA. The City Council may need help in the political process of getting some of the ideas of Portsmouth Listens put in place. He said the Planning Department should review this entire report and provide a comprehensive report back to the City Council.

Councilor Lown thanked everyone who participated. He looked at 14 cities to see what they have for parking garages and most of the cities had more than 1 garage.

Councilor Dwyer asked about on demand senior transportation. Mr. Cooper said you would need to contact some communities to find out about that. Peter Somssich said that Portland, ME has a good on demand senior transportation program.

Councilor Kennedy asked where the public can find this report to review. Mr. Cooper said it was in the paper today. The City Council asked that the report be placed on the City’s website.

Mayor Lister thanked everyone for their work on this report.

At 7:15 p.m., Mayor Lister declared a brief recess.

I. CALL TO ORDER

Mayor Lister called the meeting to order at 7:25 p.m.

II. ROLL CALL

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

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

Harold Whitehouse led in the Pledge of Allegiance to the Flag.

V. ACCEPTANCE OF MINUTES – *There are no minutes on for acceptance.*

VI. PUBLIC COMMENT SESSION

Rich DiPentima requested the City Council vote to oppose Sea-3 as listed under Assistant Mayor Splaine on the agenda. He stated the Town of Newington needs to know that the City of Portsmouth is opposed to the Sea-3.

Gerry Zelin spoke regarding the Conditional Use Permit and asked those that are in favor of the motion to stand and give up their spot to speak at the microphone this evening. He stated after the Master Plan is completed the City can take a vote on the Conditional Use Permit. He does not feel the repeal of the Conditional Use Permit is about HarborCorp. Mr. Zelin stated the list of those that stood will be provided prior to the end of the meeting.

Bob Shouse asked if Councilor Kennedy would have a conflict of interest with the Conditional Use Permit where she serves on the Historic District Commission. He stated she should recuse herself from voting on any of these matters. He also spoke opposed to the elimination of the Conditional Use Permit.

Margaret O'Rourke thanked the City Council for their work. She also thanked Assistant Mayor Splaine for his neighborhood walk and for listening to the Islington Street residents concerns.

Doug Roberts said he attended the Charrette and looked at a picture of the park on Daniel Street under the Formed Based Zoning. He said there is a provision in the Formed-Based Zoning that 2 acres would be required for a park on Daniel Street and the park is under the 2 acre requirement and he would like the City Council to take a look at this matter.

George Carlisle asked the City Council not to repeal the Conditional Use Permit. He said people are pitting one another against the other and the decision this evening will have high ramifications for the future. He said HarborCorp's Chris Thompson has done a tremendous job in reaching out to the community.

Jeff Mountjoy spoke in favor of keeping the Conditional Use Permit in place. He said there are 110 homes and condos on the market. He stated that the HarborCorp project is a win win for everyone. He also stated only several sections will go above the 45 feet to 60 feet.

Sarah LaChance said she feels the Conditional Use Permit is to stifle development in the City. We need to look at negotiations with our development groups and each City Councilor was elected to make the best decision for the City of Portsmouth as a whole.

Lawrence Cataldo spoke in support of the Islington Street development.

Jeff Cooper said the City is focusing too much on height and needs to look at the big picture, design and how it fits. He said a variation of heights is needed.

Doug Bates, Chamber of Commerce, spoke in support of retaining the Conditional Use Permit. The City Council needs to trust the judgment of our land use boards.

Jay McSharry asked the City Council not to repeal the Conditional Use Permit. He said only allowing 45 foot buildings would make for an ugly City and it is more what is built than the height.

David Hill, Durham, NH resident but business owner in Portsmouth, said he is embarrassed what is going on with this City Council. He said if you put the Conditional Use Permit in place and a business came forward and went through the process now you could say you are going to take it away.

Shari Donnermeyer asked the City Council to support the land use boards and the Economic Development Commission to not repeal the Conditional Use Permit. You need to listen to the people you put on the boards.

David LaFevers said something needs to be done with the noise created by motorcycles. He said crosswalks are unsafe and people go through stop signs.

Peter Somssich spoke in support of repealing the Conditional Use Permit. He said people need to see how a conference center would support the residents. He also stated it will cause more congestion downtown.

Peter Weeks, Newcastle, NH, said he is moving back to the City this year. He asked the City not to eliminate the Conditional Use Permit and postpone action on it at this time. He would like the City Attorney to come back in 60 days with what it means to be vested and what the significant changes are. If the City loses the HarborCorp project it would be a sorry time for the City of Portsmouth.

Shari Young, partner with HarborCorp, said HarborCorp has made a concerted effort to reach out to residents and businesses. She said residents have expressed positive comments. The project will bring in \$754,000.00 in tax revenues and would bring 465 new jobs to the City. She said the opposition has been from the Portsmouth Now group.

Chris Thompson with the use of a tape measure, demonstrated what 15 feet would mean. He said the project is in jeopardy and could be killed if they are limited to 45 feet and the Conditional Use Permit is repealed. He asked the City Council not to kill this project.

Ralph DiBernardo asked the City Council to eliminate the Conditional Use Permit. He said 60 foot buildings are not just about the HarborCorp project. He stated some residents have lost faith in our land use boards.

Harold Whitehouse said a building moratorium should be put in place. We can't keep sending more sewerage through our system.

Michael Frandzel spoke in favor of repealing the Conditional Use Permit because we need a rest from development in the City.

Nancy Vawter spoke to the process that the City Council put in place not that long ago and when you pull the plug on the process you are destroying the faith of the people in the City. She said a conference center is needed and the Council needs to do the right thing and make a hard decision.

Barbara Ward expressed support to repeal the Conditional Use Permit and feels the ordinance puts the land use boards in a difficult position. She stated there are flaws with the ordinance and we need to put a real plan in place for the north end and do it right.

Catherine DiPentima spoke opposed to Sea-3 coming to the Town of Newington. She said the Town of Newington Planning Board will not do a study on the project. She asked the City Council to go on record to not support the project and to look seriously for an alternate route around these populated areas.

John Lyons said there is an overwhelming current with us against them with the Conditional Use Permit. He said if you are in favor of keeping the Conditional Use Permit you give the City Manager the tools to maintain the tax rate. He said a vote to repeal the Conditional Use Permit means you are opposed to development.

Bob Gibbons said he has no vested interest in the Conditional Use Permit and feels that HarborCorp has presented a worthwhile project for the downtown. He also addressed the Sea-3 matter in the Town of Newington. He would like the City of Portsmouth to oppose Sea-3 by attending the meetings at the Town of Newington.

Pat Ford spoke regarding rerouting the train route for the Sea-3 through the Tradeport. She said hazardous cargos needs to be kept from neighborhoods and downtown Portsmouth. She referred to Map 1 to realign the route and asked to get the Pease Development Authority involved.

Joe Almeida said the current and past Historic District Commission has made mistakes. He said the Historic District Commission is working very hard for the City. He stated the Historic District Commission is committed to improving where ever they can. Mr. Almeida said he does not know why anyone would vote to eliminate the Conditional Use Permit and that there is a lack of discussion from the City Council with the Historic District Commission. Mr. Almeida said there needs to be more collaboration and communication with the Council and the Historic District Commission.

Jennifer Almeida said the repealing of the Conditional Use Permit has been a negative reaction. She has opened a small landscaping business and said they lost their view with 100 Market Street and the City has changed over the years. She urged the Council to not eliminate the Conditional Use Permit.

Nancy Brown spoke in support of repealing the Conditional Use Permit. We need open discussion to represent all the people in the City and smart balanced growth.

Duncan MacCallum said he does not feel the City needs a Whole Foods store and believes it would destroy the City. He supports the repeal of the Conditional Use Permit and said he does not have faith in the land use boards.

George Dempsey said the 3 minute rules are not being followed with the public comment session this evening. He said he has no faith in the land use boards.

Paul Mannle asked the City Council to protect Congress Street and add an amendment to the Conditional Use Permit.

Rick Becksted said he met with Mr. Cracknell this morning and the Conditional Use Permit has nothing to do with 60 feet. He said Mr. Cracknell supports 50 feet and feels it would work.

David Adams feels repealing the Conditional Use Permit now is like using a blunt tool when you have a sharp tool in the back room with Form-Based Zoning. He said vote now to repeal the Conditional Use Permit.

Drew Schulthess said residents are not listening to the young people of the City. He said they are looking for a Whole Foods Store and parking. The Conditional Use Permit should not be repealed and feels it is a step back to vote to repeal it.

Jeff Kisiel spoke in favor of the Conditional Use Permit and the land use boards. He said the land use board members are volunteers and to vote to repeal this is showing a lack of trust and faith in them and what they do.

Colby Gamester said he is invested in this City and the elimination of the Conditional Use Permit will not affect height, it would affect quality. He said the Planning Board came to an amazing compromise and the City now has a great tool and it is all about give and take. He said by voting to pass the third reading, think about what you our accomplishing.

Andrew Bagley spoke in support of repealing the Conditional Use Permit. We need to have a better developer and said he does not see a need for Whole Foods. He does not feel that the new jobs reported are really new jobs.

Chuck Raye requested the City not repeal the Conditional Use Permit. He does not feel the City should eliminate a tool that provides options.

Ned Raynolds stated the City Council has the fundamental requirement to resist rush judgment. He feels to eliminate the Conditional Use Permit is the wrong decision and urged the Council to demonstrate judgment.

Lee Roberts spoke in support of retaining the Conditional Use Permit. She thanked all that have worked on the boards/commissions and City staff.

At 9:25 p.m., Mayor Lister called a brief recess. At 9:35 p.m., Mayor Lister called the meeting back to order.

VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Asset Management Planning Grant from the New Hampshire Department of Environmental Services

Councilor Spear moved to accept and expend an Asset Management Planning Grant from the New Hampshire Department of Environmental Services in an amount up to \$15,000. Seconded by Councilor Shaheen and voted.

- B. Acceptance of Community Development Block Grant Funds

Councilor Kennedy moved to accept and expend a Community Development Block Grant (CDBG) in the amount of \$507,379 from the U.S. Department of Housing and Urban Development. Seconded by Councilor Morgan and voted.

City Manager Bohenko announced on April 17th a Public Hearing will be held on the Community Development Block Grant.

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First Reading of Proposed Borrowing Resolution Re: New Franklin School Energy Project.

Councilor Lown moved to pass first reading and authorize the City Manager to bring back for public hearing and second reading a borrowing Resolution in an amount of up to Four Hundred Thousand Dollars (\$400,000) for the New Franklin School Boiler Replacement and Other Identified Energy Conservation Measures, at the April 21, 2014 City Council meeting, as presented. Seconded by Councilor Kennedy and voted.

- B. Third and Final Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.535 – Exceptions to Dimensional Standards in the Central Business District, which would eliminate a Conditional Use Permit under Section 10.535.13

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

Councilor Lown moved suspend the rules in order to allow for an amendment to the ordinance. Seconded by Councilor Spear.

Councilor Lown said the amendment would be to exempt the HarborCorp from the Conditional Use Permit repeal.

Councilor Spear spoke on the Conditional Use Permit. He said in September 1998 the City voted on an historic study and the Economic Development Commission held several public meetings. There was public engagement on what we want our northern tier to look like. He said the downtown group voted the northern tier study. He said HarborCorp needs to have the building at 60 feet. Councilor Spear spoke to the public hearing at the time where there were 30 speakers to increase the height to 60 feet. He said residents voted for 60 feet and a conference center. It is not a lack of vision and now the City Council is in danger of high jacking the vision. He spoke in favor of suspending the rules and passing the amendment.

Councilor Lown said the City Attorney has publicly stated the HarborCorp project is vested and the Planning Board feels the HarborCrop is vested as well. By suspending the rules, it says it is vested now.

On a roll call vote 5-4, motion to suspend the rules in order to allow for an amendment to the ordinance failed to pass. Councilor Shaheen, Lown, Dwyer, Spear and Thorsen voted in favor. Assistant Mayor Splaine, Councilors Kennedy, Morgan and Mayor Lister voted opposed. (Six votes required for a suspension of the rules).

Councilor Dwyer said if we had Form-Based Zoning we would not be here this evening.

Councilor Dwyer moved to postpone third reading of the ordinance until we have the results of Form-Based Zoning in the expanded study areas which include the Northern Tier, Maplewood Avenue MRO and the Islington Street corridor area. Seconded by Councilor Spear.

Councilor Shaheen feels the motion does not go far enough. She stated we could not get two-thirds of the City Council to vote to debate amendments to the ordinance. She said she would have postponed an amendment and feels that Form-Based Zoning is the answer and that it is not about height.

City Attorney Sullivan said a motion to suspend the rules on a different amendment could be made.

Councilor Dwyer withdrew her motion and Councilor Spear withdrew his second to the motion.

Councilor Shaheen moved to suspend the rules that the Conditional Use Permit would remain in effect for the CBB District with a more stringent criteria that has been recommended to the City Council by the Planning Board and to sunset as soon as Form-Based Zoning is implemented for the Northern Tier. Seconded by Councilor Spear.

At 10:00 p.m., Mayor Lister declared a brief recess. At 10:10 p.m., Mayor Lister called the meeting back to order.

Assistant Mayor Splaine said he would vote against the suspension of the rules because he would ask for reconsideration of the original motion to suspend the rules to leave out HarborCorp from the Conditional Use Permit. He said there is a question on vesting. He stated he feels HarborCorp is vested.

Councilor Shaheen withdrew her motion and Councilor Spear withdrew his second to the motion.

City Attorney Sullivan advised the City Council that a motion to reconsider requires 5 votes.

Councilor Thorsen said according to Roberts Rules he does not believe we can bring back Councilor Shaheen's motion.

City Attorney Sullivan said it is a different suspension of the rules for a different reason.

Assistant Mayor Splaine moved to reconsider the suspension of the rules to deal with considering a motion to add HarborCorp to the exemptions under the repeal. Seconded by Councilor Lown.

Councilor Kennedy said she is confused and uncomfortable with spot zoning. City Attorney Sullivan provided a definition of spot zoning. He stated he feels the project is vested and this could support the motion and it is not spot zoning.

On a unanimous roll call 9-0, voted to reconsider the suspension of the rules to deal with considering a motion to add HarborCorp to the exemptions under the repeal.

Councilor Lown moved to "carve out" the HarborCorp lot from any repeal of the Conditional Use Permit. Seconded by Councilor Spear.

Councilor Spear said there is a value to do this and carve out HarborCrop.

Councilor Dwyer said we need to talk through the implications of the motion. She said by carving out HarborCrop they would still need to make a Conditional Use case.

Councilor Shaheen said she supports the motion and the heart of the debate is the trust in the process.

Councilor Morgan said we did not bring HarborCorp into the discussion of the Conditional Use Permit because they are vested. She said this community needs a vision for the north end and does not feel uncomfortable carving out a property.

Discussion followed.

Mayor Lister passed the gavel to Assistant Mayor Splaine.

Mayor Lister acknowledged those that volunteer for the boards and commissions. He said we need to remember this is a work in process. He supports a Master Plan for the Northern Tier and Form-Based Zoning which will get rid of the Conditional Use Permit. He said he feels badly that this has divided the community and we should not come to meetings and decide which side of the room you're going to sit on. Mayor Lister said we all vote what we feel is best for the City.

Assistant Mayor Splaine returned the gavel to Mayor Lister.

On a unanimous roll call 9-0, voted to "carve out" the HarborCorp lot from any repeal of the Conditional Use Permit.

Councilor Dwyer moved to postpone third reading for the rest of the area until we have the results of Form-Based Zoning. Seconded by Councilor Spear.

On a roll call vote 3-6, motion to postpone third reading for the rest of the area until we have the results of Form-Based Zoning failed to pass. Councilors Lown, Dwyer and Spear voted in favor. Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Morgan, Thorsen and Mayor Lister voted opposed.

On a roll call 6-3, voted to pass third and final reading of the proposed ordinance, as amended which "carved out" the Harborcorp lot from any repeal of the Conditional Use Permit. Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Morgan, Thorsen and Mayor Lister voted in favor. Councilors Lown, Dwyer and Spear voted opposed.

- C. Third and Final Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Inserting a New Article 5A – Character Districts (aka Form-Based Zoning) and further to Adopt the Zoning Map for the Character Districts for the Maps reference in Section 10.5A14.10 of Article 5A

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

Councilor Spear moved to suspend the rules to allow for amendments outlined in the City Manager's memorandum. *Councilor Spear withdrew his motion and Councilor Shaheen withdrew her second to the motion.*

Councilor Spear moved to postpone third reading of the ordinance until the April 21, 2014 City Council meeting. Seconded by Councilor Kennedy and voted.

- D. Third and Final Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Miscellaneous Conforming Amendments to Implement Character-Based Zoning

Councilor Spear moved to postpone third reading of the ordinance until the April 21, 2014 City Council meeting. Seconded by Councilor Dwyer and voted.

IX. CONSENT AGENDA

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

- A. Request for Approval of Pole License to install 2 poles off of Rock Street to provide street lighting to the new Rock Street parking lot. ***(Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes)***
- B. Letter from Ken La Valley, Chair, Portsmouth Chapter of the AFSP Out of the Darkness Walk, requesting permission to conduct the annual Out of the Darkness Community Walk on Saturday, September 27, 2014 10.00 a.m. – 12:00 noon ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Ben Anderson, Executive Director Prescott Park Arts Festival, requesting permission to close the Prescott Park North parking lot (corner of State Street and Marcy Street) during the 30th Annual WOKQ Chowder Festival being held Saturday, June 7, 2014. ***(Anticipated action – move to refer to the City Manager with power)***
- D. Letter from Chris Vlangas, Development Director Northern New England Chapter of the Cystic Fibrosis Foundation, requesting permission to travel through the City of Portsmouth in conjunction with the 2014 Cycle for Life Event being held Saturday, July 19, 2014 and Sunday July 20, 2014. ***(Anticipated action – move to refer to the City Manager with power)***
- E. Letter from Ryan Fleming, Events Manager, Redhook Brewery, requesting permission to conduct 17th annual Redhook/Runner's Alley 5k on Pease Tradeport to support the Krempel's Center for Brain Injury on Sunday, May 25, 2014. ***(Anticipated action – move to refer to the City Manager with power)***
- F. Request for License from Susan, Calina and Paul Hood, owners of Studio on 90 Fleet for property located at 90 Fleet Street for a projecting sign on an existing bracket ***(Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Susan, Calina and Paul Hood, owners of Studio on 90 Fleet for a projecting sign at property located at 90 Fleet Street and, further, authorize the City Manager to execute License Agreements for this request)***

Planning Director's Stipulations:

- ***The license shall be approved by the Legal Department as to content and form;***

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

- G. Request for License from Andre Van Oss, owner of Buff & File Nail Bar for property located at 92 Pleasant Street for a projecting sign on a new bracket (**Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Andre Van Oss, owner of Buff & File Nail Bar for a projecting sign at property located at 92 Pleasant Street and, further, authorize the City Manager to execute License Agreements for this request**)

Planning Director's Stipulations:

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

- H. Request for License from Richard Cyr, owner of Federal Cigar for property located at 36 Market Street for a projecting sign on an existing bracket (**Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Richard Cyr, owner of Federal Cigar for a projecting sign at property located at 36 Market Street and, further, authorize the City Manager to execute License Agreements for this request**)

Planning Director's Stipulations:

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

X. PRESENTATION AND CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Christopher P. Mulligan, Attorney, Bosen & Associates, regarding Request for Restoration of Involuntarily Merged Lots Pursuant to RSA 674:39-aa (194 Wibird Street/Tax Map 148, Lot 1)

Councilor Lown moved to refer to City staff for review and report back at April 21, 2014 City Council meeting. Seconded by Councilor Kennedy and voted.

- B. Letter from Sandra Yarne, Tax Day Coordinator, Seacoast Peace Response, requesting permission to utilize a plywood structure in conjunction with annual Penny Poll in Market Square on Tuesday, April 15, 2014.

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

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Request for First Reading for Proposed Amendment to Chapter 7, Article I of the Ordinances Re: Parking and Traffic Safety Committee

City Manager Bohenko said that this would add an alternate member to the Parking and Traffic Safety Committee.

Councilor Lown moved to schedule a first reading of the proposed Ordinance amendment, as presented, at the April 21, 2014 City Council meeting. Seconded by Councilor Shaheen and voted.

2. Applications for Sidewalk Cafés Providing Alcohol Service – city-owned sidewalks:
- a) Popovers on the Square
 - b) Ri Ra Portsmouth
 - c) State Street Saloon
 - d) Surf
 - e) The District

Deputy City Manager Allen said that these are renewals for Sidewalk Cafes' providing alcohol service. He stated that these are the same set up as last year.

Councilor Shaheen moved to authorize the City Manager to enter into an Area Service Agreements with Popovers on the Square, Ri Ra Portsmouth, State Street Saloon, Surf and The District for outdoor Alcohol service on City land for the 2014 season subject to City Council Policy No. 2012-02 regarding use of City property for sidewalk cafes providing alcohol service. Seconded by Councilor Lown.

Councilor Kennedy said she would not support the motion because she feels the charge for State Street Saloon is not appropriate for the amount of sidewalk they are using.

City Manager Bohenko said we have a Fee Committee and it could be referred to them next year for review.

Motion passed with Councilor Kennedy voting opposed.

3. Applications for Sidewalk Cafes providing Alcohol Service – private sidewalks
 - a) British Beer Company
 - b) The BRGR Bar

City Manager Bohenko stated that these are cafes on private sidewalks.

Councilor Spear moved to authorize the City Manager to enter into an Area Service Agreements with British Beer Company and The BRGR Company for outdoor Alcohol service for the 2014 season subject to City Council Policy No. 2012-02. Seconded by Councilor Shaheen and voted.

4. Utility and Sidewalk Easements at 129 Aldrich Road, 185 Cottage Street and 65-67 Mark Street

City Manager Bohenko outlined the request for utility and sidewalk easements.

Councilor Kennedy moved to authorize the City Manager to accept the easements, as presented. Seconded by Councilor Lown and voted.

5. Establish a Work Session Re: Peirce Island Wastewater Treatment Facility

City Manager Bohenko said there would be a work session on April 14th at 7:00 p.m. and there will be a “Non-Meeting” prior at 6:30 p.m. regarding Negotiations.

Councilor Spear moved to establish a Work Session on Monday, April 14, 2014 at 7:00 p.m. regarding the Peirce Island Wastewater Treatment Facility. Seconded by Assistant Mayor Splaine.

Councilor Morgan requested that the City Council receive the Presentation two days prior to the Work Session for review.

Motion passed.

Informational Items

2. Information Memorandum from Robert Sullivan, City Attorney Re: Portwalk
3. Architectural Services Associated with Review of the Portwalk Project

City Attorney Sullivan advised the City Council that we have an agreement with Portwalk and the architect stating they will comply with whatever the Historic District Commission requires them to do.

Councilor Morgan asked if Portwalk has submitted their final review plan and certified plans. Planning Director Taintor said the Site Review plan has been reviewed by the Technical Advisory Committee but not yet by the Planning Board

4. Pilot Program Re: Parking Shuttle

City Manager Bohenko spoke to the pilot program for the Parking Shuttle. The shuttle will start on May 2nd and run through August 31st.

Councilor Kennedy asked if anyone will be working with the small downtown businesses on this. She also stated she would like to see the shuttle run through 2:30 a.m.

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

City Manager Bohenko said there was a proposal to expand Form-Based Zoning and he provided a map on this matter. He said we estimate \$100,000.00 for the project.

Councilor Kennedy said she would like to have a work session on this matter and discuss some areas that are not included.

City Manager Bohenko said lets get CBZ passed and set up a work session when we can get to it.

Councilor Dwyer said she does not know if we need to get CBZ passed.

City Manager Bohenko said he would do what the City Council wants him to do. He would come back on April 21st to request an appropriation to use \$100,000.00 and the funding source.

6. Report Back Presentation from Cynthia Scarano, Executive Vice President, Pan Am Railways Re: Sea-3 Project

City Manager Bohenko reported that he contacted Cynthia Scarano and she would be available on May 5th. He said no matter what the Planning Board in the Town of Newington does we need to bring her forward May 5th for a presentation.

Councilor Kennedy moved to suspend the rules in order to take up Item XI. C.1. – Sea-3 Propane Proposal Update. Seconded by Councilor Morgan and voted.

C. ASSISTANT MAYOR SPLAINE

Sea-3 Propane Proposal Update

Assistant Mayor Splaine moved that the City Council opposes the Sea-3 expansion project currently before the Newington Planning Board; that we reiterate to the Newington Planning Board our support for the Mayor's request that appropriate comprehensive safety and environmental studies be conducted prior to approval of the Sea-3 proposal; and that we encourage the Pease Development Authority to examine the building of a track route for the trains through Pease. Seconded by Councilor Morgan.

City Manager Bohenko said he would work with the Planning Department staff to put language in and will ask for Rick DiPentima's assistance.

Motion passed.

B. MAYOR LISTER

1. Appointments to be Considered:

- Barbara McMillan reappointment to the Conservation Commission
- Kimberly Meuse appointment to the Conservation Commission (alternate)
- Samuel "Wes" Tator appointment to the Sustainable Practices Blue Ribbon Committee
- Lawrence Cataldo appointment to the Taxi Commission
- Stephen Dunfey appointment to the Taxi Commission

The City Council considered the appointments listed above which will be voted on at the April 21, 2014 City Council meeting.

2. Appointments to be Voted:

- Judith Bunnell appointed to the Citizens Advisory Committee
- Steve Miller reappointment to the Conservation Commission
- Elissa Hill Stone reappointment to the Conservation Commission
- Allison Tanner reappointment to the Conservation Commission
- Stephen Philp reappointment to the Peirce Island Committee
- John Simon reappointment to the Peirce Island Committee
- Jackie Cali-Pitts reappointment to the Recreation Board
- Kathryn Lynch appointment to the Recreation Board

Councilor Spear moved to appoint Judith Bunnell to the Citizens Advisory Committee; reappointments of Steve Miller, Elissa Hill Stone, and Allison Tanner to the Conservation Commission until April 1, 2017; reappointments of Stephen Philp and John Simon to the Peirce Island Committee until December 31, 2015; reappointment of Jackie Cali-Pitts to the Recreation Board until April 1, 2017; and appointment of Kathryn Lynch to the Recreation Board until April 1, 2015. Ms. Lynch is filling the unexpired term of Ed DelValle. Seconded by Councilor Kennedy and voted.

Councilor Kennedy moved the reappointment of Amy Schwartz to the Portsmouth Housing Authority until April 1, 2019. Seconded by Councilor Spear and voted. Councilor Shaheen abstained from voting on this matter.

3. Resignation:

- John Palreiro from Taxi Commission

Assistant Mayor Splaine moved to accept with regret the resignation of John Palreiro from the Taxi Commission with a letter of thanks for his service to the City. Seconded by Councilor Kennedy and voted.

At 12:15 a.m., Councilor Spear moved to suspend the rules in order to continue the meeting beyond 10:00 p.m. Seconded by Assistant Mayor Splaine and voted.

Mayor Lister stated that this motion should have been made at 10:00 p.m. and the Council should not be conducting business at midnight.

The following items were postponed until the April 21, 2014 City Council meeting:

Assistant Mayor Splaine:

- Creating A Fee Penalty Guideline for Violations of Land Use Board Approvals
- Status of Abandoned or Derelict Buildings

Councilor Kennedy:

- Transportation Center
- Establish Transportation Committee (Discussion Purposes Only)

Councilor Lown:

- Parking & Traffic Safety Committee Minutes of the March 13, 2014 meeting

Councilor Morgan:

- Master Plan – Update of our Master Plan's Implementation Plan section, in anticipation of the 2015 Master Plan Review
- Portwalk – Request for Work Session to review:
 - a) Enforcement
 - b) Penalties
 - c) Process and path forward: how we got here and what is the plan/process to prevent this from happening again
- Civility of City Officials

Councilor Thorsen

- Legal Analysis regarding Financial Disclosures received from NHMA and suggested amendment language to Administrative Code

XII. MISCELLANEOUS/UNFINISHED BUSINESS

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

At 12:25 a.m., Assistant Mayor Splaine moved to adjourn. Seconded by Councilor Spear 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, CNHMC/CMC
City Clerk