

TO: JOHN P. BOHENKO, CITY MANAGER

FROM: KELLI L. BARNABY, CITY CLERK

RE: ACTIONS TAKEN BY THE PORTSMOUTH CITY COUNCIL MEETING HELD ON MONDAY, APRIL 21, 2014, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, MUNICIPAL COMPLEX, ONE JUNKINS AVENUE, PORTSMOUTH, NEW HAMPSHIRE

PRESENT: ASSISTANT MAYOR SPLAINE, COUNCILORS SHAHEEN, KENNEDY, LOWN, DWYER, MORGAN, SPEAR AND THORSEN

ABSENT: MAYOR LISTER

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1. Proclamation - Earth Day – April 22, 2014 – Assistant Mayor Splaine read the Proclamation declaring April 22, 2014 as Earth Day.
 2. Acceptance of Minutes – January 13, 2014; January 21, 2014 and February 3, 2014 – **Voted** to approve and accept the minutes of the January 13, 2014; January 21, 2014 and February 3, 2014 City Council meetings.
 3. Presentation - Seacoast Science Center – Marine Mammal Rescue by Wendy Lull – Wendy Lull of the Seacoast Science Center provided a brief presentation on the Marine Mammal Rescue program at the Seacoast Science Center. Ms. Lull indicated the Seacoast Science Center is seeking permission to install two signs one on Peirce Island and one at the end of Little Harbor Road.

Voted to authorize the City Manager to work with the Seacoast Science Center to install a sign on Peirce Island and a sign at the end of Little Harbor Road.
 4. Public Comment Session – There were 9 speakers: Doug Roberts (Parking); Tom Carroll (Scrap Metal Pollution in Portsmouth); Erik Anderson, Aaron Garganta, Joan Hamblet (Abandoned/Derelict Buildings); Chris Mulligan (Attorney for 194 Wibird Street); Bob Gibbons, Rick DiPentima (Sea-3) and Rick Becksted (Form-Based Zoning).
 5. Public Hearing - Borrowing Resolution in an Amount of up to Four Hundred Thousand Dollars (\$400,000.00) for the New Franklin School Boiler Replacement and other Identified Energy Conservation Measures – Held a Public Hearing. On a unanimous roll call 8-0, **voted** to adopt the borrowing Resolution in an amount of up to Four Hundred Thousand Dollars (\$400,000.00) for the New Franklin School Boiler Replacement and Other Identified Energy Conservation Measures, as presented.
 6. First Reading of Proposed Amendment to Chapter 7, Article I, Section 7.103 – Parking and Traffic Safety Committee by the addition of one (1) alternate Committee Member – **Voted** to pass first reading of the proposed Ordinance amendment, as presented, and schedule a public hearing and second reading at the May 5, 2014 City Council meeting.

7. Third and Final Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Inserting a New Article 5A – Character Districts (aka Form-Based Zoning) and further to Adopt the Zoning Map for the Character Districts for the Maps referenced in Section 10.5A14.10 of Article 5A – Voted to suspend the rules to allow for amendments to the proposed ordinance.

Please Note: *(deletions from existing language ~~stricken~~; additions to existing language **bolded** and underlined; remaining language unchanged from existing ordinance.*

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

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

- **Voted** to amend Section 10.5A21.21 – Specific Building Height Requirement Areas:

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

- **Voted** to amend Section 10.5A21.22 – Specific Shopfront, Officefront, Step and Frontage Buildout and Special Use Requirement Areas

As designated on Map 10.5A21C:

(a) Assignments of shopfront, officefront or step frontage require that a building be provided with a shopfront, officefront or step frontage at the sidewalk level along the entire length of its private frontage

~~(b) Designations for frontage building percentage require that a building occupy no more than 50% of the frontage of the lot, wood siding shall be used for the exterior of the building and special uses apply to some properties along the waterfront area~~

(b) For designated properties along the waterfront, buildings shall occupy no more than 50% of the frontage of the lot, and shall have a wood-sided appearance

(c) Special uses apply to some **designated** properties along the waterfront area

- **Voted** to amend Map 10.5A21B – Special Requirements: Specific Building Height Requirement Areas by changing the designations for the lots on north side Congress Street between the east side of Fleet Street and the west side of High Street / Church Street from 2-4 stories (short 5th) / 60' [magenta] to 2-3 stories (short 4th) / 50' [orange]
- **Voted** to amend Map 10.5A21B – Special Requirements: Specific Building Height Requirement Areas by changing the designation for the lot at the northwest corner of Congress Street and Fleet Street from 2-4 stories (short 5th) / 60' [magenta] to 2-3 stories / 50' [orange]. Councilor Lown voted opposed.
- **Voted** to amend Map 10.5A21B – Special Requirements: Specific Building Height Requirement Areas by changing the double asterisk note as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded** and underlined; remaining language unchanged from existing):
- ** ~~In instances of consolidation of two or more lots that cause the new lot to fall within~~ **When a lot is assigned to** more than one building-Height Requirement **Area**, the lot shall be permitted to ~~may~~ use **the assigned height requirements as shown on the map or may use the** higher **lower** height requirement **for all portions of the lot, except that a through lot shall be required to meet the assigned building height requirements on each street frontage**

On a unanimous roll call 8-0, **voted** to pass third and final reading of the proposed Ordinance, as amended.

8. Third and Final Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Miscellaneous Conforming Amendments to Implement Character-Based Zoning – **Voted** to pass third and final reading of the proposed ordinance, as presented.
9. Consent Agenda – **Voted** to adopt the Consent Agenda.
 - A. Request for Approval of Pole License to install 1 pole on Spinney Road set in conjunction with the Sanderson Field Subdivision (***Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes***)
 - B. Request for Approval of Pole License to install 1 pole and 90 feet of underground conduit on Vaughan Street and 330 feet of underground conduit on Green Street (***Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes***)

- C. Letter from Doug Bates, Greater Portsmouth Chamber of Commerce requesting permission to use property owned by the City located behind Portsmouth High School for an athletic event for the Portsmouth Challenge on Saturday, June 28, 2014 from 9:00 a.m. – Noon (**Anticipated action – move to refer to the City Manager with power**)
 - D. Letter from David Hallowell, Portsmouth Maritime Folk Festival, requesting permission to hold the Annual Portsmouth Maritime Folk Festival on Saturday, September 27, 2014 and Sunday, September 28, 2014 and further the closure of 3 parking spaces immediately in front of the RiRa Pub and Breaking New Grounds from 12:00 a.m. until 6:00 p.m. on September 28, 2014 (**Anticipated action – move to refer to the City Manager with power**)
 - E. Letter from Josh Pierce, Seacoast Area Bicycle Routes, requesting permission to allow SABR to host a commuter breakfast from 7:00 a.m. – 10:00 a.m. on Friday, May 16, 2014 at Popovers in Market Square and further request that the City Council recognize May 16th as Bike/Walk to Work Day in Portsmouth (**Anticipated action – move to refer to the City Manager with power**)
 - F. 2014 Second Omnibus Sidewalk Obstruction Renewals (**Anticipated action – move to refer to the City Manager with power**)
10. Interim Senior Programming Space – **Voted** to authorize the City Manager to enter into an agreement with the Mark Wentworth Home and the Foundation for Seacoast Health for an interim senior programming space at the Community Campus.
 11. Proposed Additional Areas to Implement Character-Based Zoning (Form-Based Zoning) – **Voted** to authorize the City Manager to expend \$50,000.00 from contingency and \$50,000.00 from the Urban Development Action Grant for the program.
 12. Involuntarily Merged Lots Re: 194 Wibird Street – **Voted** to suspend the rules to allow Attorney Mulligan and property owner Mr. Shannon to speak to this matter.

Voted that the City Council restore three involuntarily merged lots to their premerger status, pursuant under RSA 674:39-aa.
 13. Appointments to be Voted – **Voted** to reappoint Barbara McMillan to the Conservation Commission until April 1, 2017; appointment of Kimberly Meuse as an Alternate to the Conservation Commission until April 1, 2016. Ms Meuse is filling the unexpired term of Shelley Saunders. Appointment of Samuel “Wes” Tator to the Sustainable Practices Blue Ribbon Committee; appointments of Lawrence Cataldo and Stephen Dunfey to the Taxi Commission until December 31, 2015.
 14. Resignation – Nate Alger from the Sustainable Practices Blue Ribbon Committee – **Voted** to accept with regret the resignation of Nate Alger from the Sustainable Practices Blue Ribbon Committee and to send a letter of thanks for his service to the City.

15. Creating a Fee Penalty Guideline for Violations of Land Use Board Approvals – Assistant Mayor Splaine passed the gavel to Councilor Shaheen.

No action taken.

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

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

16. Status of Abandoned or Derelict Buildings – No action required. City Attorney Sullivan will review State Law and make a proposal to the City Council for moving forward with this matter.

Councilor Shaheen returned the gavel to Assistant Mayor Splaine.

17. Voted to suspend the rules in order to continue the meeting beyond 10:00 p.m. Councilor Shaheen called for a brief recess at 10:00 p.m. At 10:10 p.m., Councilor Shaheen called the meeting back to order.

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

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

20. Parking & Traffic Safety Committee Minutes of the March 13, 2014 meeting – **Voted** to approve and accept the minutes of the March 13, 2014 Parking & Traffic Safety Committee meeting. Councilor Kennedy voted opposed.

21. Master Plan – Update of our Master Plan’s Implementation Plan section, in anticipation of the 2015 Master Plan Review – Councilor Morgan requested that the City Manager coordinate with staff the update of the Implementation Plan in our current Master Plan, to be made available to the public and the City Council by the end of June 2014. In addition, a report back of what has and has not been implemented and what has been placed on the website.

22. Portwalk – Request for Work Session to review – *No action required.*

- 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

23. Civility by City Officials – *No action required.*

24. Metering of Parrott Avenue Parking Lot - On a roll call 5-3, **voted** to refer to the Parking & Traffic Safety Committee the utilization of Parrott Avenue Lot as a resource. Councilors Shaheen, Lown, Dwyer, Spear and Thorsen voted in favor. Councilors Kennedy, Morgan and Assistant Mayor Splaine voted opposed.
25. Legal Analysis regarding Financial Disclosures received from NHMA and suggested amendment language to Administrative Code – *No action required.*
26. New Ordinance – Prohibit the establishment of commercial gambling operations within the City of Portsmouth – Councilor Thorsen said no motion will be taken this evening; it is for the City Council to be thinking about this matter.
27. Adjournment – At 11:45 p.m., voted to adjourn.

Respectfully submitted by:

Kelli L. Barnaby, CMC/CNHMC
City Clerk