

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: TUESDAY, SEPTEMBER 8, 2015

PORTSMOUTH, NH
TIME: 6:30PM

I. CALL TO ORDER (6:30PM)

Mayor Lister called the meeting to order at 6:30 p.m. with the following Councilors Present: Mayor Lister, Assistant Mayor Splaine, Councilors Shaheen, Lown, Morgan, Spear and Thorsen.

Councilor Lown proposed to **not** go into a Non-Meeting stating that this issue has been discussed openly before and feels that it can be discussed in public until something prohibitive comes up and it becomes necessary.

Councilor Thorsen moved to go into Non-Meeting, seconded by Councilor Morgan.

Assistant Mayor Splaine stated that it was discussed at the last Council meeting that the Council would meet in non-meeting, specifically the Frank Jones Property, and feels that it should be listed on the Agenda as such so that the subject is traceable. He stated he is willing to go into a non-meeting but would also rather discuss the issue publicly.

Councilor Thorsen stated that the discussion includes possible negotiations and in that circumstance, we should not show our hand in public and should be done in confidential negotiations. He continued that the non-meeting may be very quick and may come to a consensus that no action should be taken, but the discussion needs to start in non-meeting.

Motion to enter into a non-meeting passed on a 5-2 roll call vote. Councilors Lown and Spear voted opposed.

II. ROLL CALL

At 7:00 p.m. Mayor Lister called the Regular Meeting to order.

Present: Mayor Lister, Assistant Mayor Splaine, Councilors Shaheen, Kennedy (*arrived at 8:50 p.m.*), Lown, Morgan, Spear and Thorsen.

Absent: Councilor Dwyer.

III. INVOCATION

IV. PLEDGE OF ALLEGIANCE

Mayor Lister requested audience member John O'Leary lead the Pledge of Allegiance.

PRESENTATION

1. Update of Gateway and Islington Street Project – Nancy Carmer, Economic Development Manager and Peter Rice, Director of Public Works

Economic Development Manager Nancy Carmer gave a brief presentation on the Market Street Gateway Project reviewing the project background, completed construction of Deer

Street to Russell Street and the status of the current project plan elements. She concluded stating the next steps will include final plan approval in the early fall, bidding the project in late fall/winter and 3 phases of construction. The 3 phases are as follows:

1. Phase 1 – Kearsarge to Albacore Way
2. Phase 2 – Traffic Signal at Albacore (partial state funding as part of Sarah Mildred Long Bridge).
3. Phase 3 – Albacore Way to railroad crossing including waterfront parks

Councilor Spear asked about storm water mitigation as this was not addressed in the presentation. City Manager Bohenko stated that he wanted the presentation to be short so didn't request that information.

Public Works Director Rice stated that it is part of the Best Management Practices for all projects and explained the process.

Councilor Spear asked if we will be taking the same approach as on Market Street with the same requirements for nutrient removal etc. as he wants all of our projects to be innovative.

Public Works Director Rice stated that they are doing their best to accomplish these goals with the space available having learned from the State Street project and concluded that storm water treatment is not as definitive as people want you to believe.

Councilor Lown stated that many people's first impression of Portsmouth is when they come off of Interstate 95 and see the concrete median strip and feels that this project will vastly improve that first impression.

Councilor Morgan asked how this has been aligned with the flood plain map. Ms. Carmer stated that the engineering firm took all of that into consideration and had to provide how much impervious surface would be removed but it was negative as more vegetation will be planted.

Public Works Director Peter Rice gave a brief presentation of the Islington Street Improvement Action Plan explaining the phases of the West End, Rte 1 By-pass to Albany Street, Central, Albany Street to Brewster Street and East End, Brewster Street to Congress Street. He concluded by stating that the goal is to minimize inconvenience to businesses and residents and that there will be various opportunities for public input and education throughout the process.

Councilor Spear asked when the Council can weigh in on burying utilities. Public Works Director Rice stated during the preliminary design phase there will be a couple of options presented. He further explained the costs associated and even though it is more aesthetically pleasing, they are working with Eversource and other utilities to mitigate the costs.

V. ACCEPTANCE OF MINUTES *(There were no minutes on for acceptance)*

VI. PUBLIC COMMENT SESSION

Harold Whitehouse – spoke regarding the recent revaluation stating he built his house 52 years ago when no one wanted to live in the area and now it is desirable and his assessment went up \$60,000.00. He stated that he spoke with a representative from KRT and heard the same old, same old. He continued that if the tax rate stays the same, he will need to come up

with \$1,000 more in taxes and cannot afford that. Finally, he requested that the elderly exemption level be raised as he does not qualify at this time and feels that there are other people in his situation that will have to give up their homes.

John O'Leary – spoke regarding the ordinance change to eliminate irrigation meters stating he would have spoke at the public hearing but wasn't aware of the proposal. He feels that the people who have the meters should have been notified stating that it could have been included with the water bills as other messages have been relayed in the past. He stated that the water increase that would result from the elimination of the meters is unacceptable and unfair as water does not go through the sewer collection system. He stated that he would like another public hearing held on this matter after the work session is held.

Arthur Clough – spoke regarding transparency stating that it is more than just a word as is the word ethics. He continued that if it weren't for a group of residents who were looking out for their friend and neighbor, then the lack of credibility in the Police Department would still be unknown. He concluded by inviting to come together as a group and gave his contact information.

George Dempsey – distributed and read a statement regarding Geraldine Webber, John and Diane Connors apologies and request to rescind the gag order on Mr. Connors.

VII. PUBLIC HEARING

A. 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”

Mayor Lister read the public hearing notice and declared the public hearing open:

Planning Director Rick Taintor reviewed the history of the ordinance to date and the several amendments made.

Steve Little – began by stating that City Attorney Sullivan should be commended with his handling of the recent Brewster Street Boarding House issue. Secondly, he stated that the areas that are going to allow Short-term rentals are not areas that people are going to want to stay.

Betsey Blaisdell – owns residence on Newcastle Avenue and has invested hundreds of thousands of dollars in her home and short-term rentals allows her family to afford the rising taxes, new baby etc. She continued that her experiences have been all positive and that she has a contract signed by the guests.

Ellen Legg – stated she supports the revised version of the ordinance and urged passage of the second reading. She continued that she lives next door to a short-term rental property and the people who stay there have no vested interest in the neighborhood and bring in more noise and more traffic. She listed other communities that have prohibited short-term commercial rentals stating this isn't a right.

Bert Russell – stated he has been a guest at short-term rental locations but in resort areas. He stated when he comes home to his residence he wants to be in his home in his residential neighborhood and not next to a hotel.

James Leonard – spoke to the letter he had submitted regarding short-term rentals stating he supports the ordinance in its current version and that these should not be allowed in residential areas. He continued that people shouldn't have to react to conduct thrust upon them in their own neighborhoods by calling an already strapped police force. He concluded that there is a social contract through our zoning laws that protect the values and characteristics of residential neighborhoods.

Sarah Cullen – stated she supports the ordinance as revised and agrees that short-term rentals should not be allowed in residential neighborhoods.

James Beal – stated he owns a 3 unit residence and uses it for short-term rentals. He stated that the focus has been on downtown development and mega structures and that this ordinance change was abrupt. He stated that with the rising taxes people have to be able to make money to stay in their homes. He continued that the renters of short-term units are screened and the money goes back into the property and the community. He stated it is unfair that people living in downtown, million-dollar condos can rent out their units, but the people in the shadows can't do the same. He concluded that with the technology available and the fact that people don't want to always stay in corporate hotels, times are changing.

Catherine Keenan – stated she has seen a lot of change in the last 8 years and lots of growth and feels that this decision should be made slowly and is willing to help.

Judy Matthews – stated she is an AirBnB user as she is a nurse who works in Nashua and often times doesn't want to drive home. She stated she feels she adds to the economy of Nashua and is getting to know the city and feels that it works the same for the people who visit and use the short-term rentals here in Portsmouth.

Ralph DiBernardo – stated he is opposed to the concept of Short-term rentals and being in single-family residential neighborhoods. He stated that they won't be single-family neighborhoods any longer and the fact the home-owners aren't on premise, means there is no one except the police to contact if there is a problem. He continued that neighbors have consideration of each other and their property, but doesn't feel that short-term residents have the same.

David Witham – stated as a member of the Zoning Board of Adjustment, the board must ask “what is the public benefit” when considering a variance. He continued that this is a national debate i.e., transient accommodations, and feels it is not meant to be anything against the people using or renting out the homes, but there is a financial gain to the property owner or they wouldn’t be doing it. He continued that it isn’t the job of the ZBA to help people pay their taxes and feels the battle needs to be solved in Concord and not through zoning. He continued that there are 2 buzz words that have been talked about in association with zoning; workforce housing and micro apartments. He stated that short-term vacation rentals hurts that type of housing because it is more profitable to landlords to rent as short-term vacation rentals and then businesses have trouble finding housing for their employees. He concluded that the terms of AirBnB, Bed and Breakfast, Short-term vacation rentals etc. need to be clearly defined and should not be able to go through the special exception process.

George Dempsey – stated that if people can’t afford to live here then they shouldn’t live here. He stated it is illegal to have the short-term vacation rentals in residential areas. He then distributed and read 2 articles regarding the issue and highlighting the various problems occurring in other municipalities.

Tammy Gewehr – stated she lives in her home and rents out a room to travelers and finds it to be a delightful opportunity for her and her children to meet other people. She stated it is helpful to her to have the income and she has spoken to her neighbors about it and they didn’t know she was participating until she told them because there had been no issues. She concluded that the world is changing and feels that this should be left up to the homeowner.

Jeffrey Cooper – stated he is glad that the process is moving forward and feels that it is important to hear the locations where home-sharing is allowed and are local locations. He stated that Portsmouth shouldn’t be the only place that free enterprise by private individuals isn’t allowed. He continued that he agrees with some of Mr. Withams’ comments and that enforcement is an issue as the City would have to become a network of neighborhood spies. He concluded by discussing the various definitions and the ambiguities and confusion. He concluded that it is a fallacy that long-term renters are better than short-term and feels that a compromise needs to be reached.

Elizabeth Moreau – stated she is opposed to short-term vacation rentals and feels that if people need to rent out rooms to make money they can get roommates which is allowed as are exchange students, hospital patients etc. She stated that short-term vacationers are not vested in neighborhoods.

Shawn Eckler – spoke against the AirBnB and Short-term vacation rental stating that this means a loss of property value to neighborhoods. He stated its also becomes a safety issue for kids who are walking and riding bicycles in the neighborhoods to parks and schools when there are strangers temporarily living in random houses.

Barabara Destefano – stated that these uses are excluded from homeowners insurances and are not allowed and feels that this should be a part of the ordinance that this non-standard policy must be provided.

Jerry Zelin – referred to his letter on the agenda stating that he would like to see an addition to this ordinance to close a loop-hole in the existing ordinance regarding “recreational facilities” and ensuring that the definition excludes gambling of any kind, including charitable, etc. in hotels and motels as he is afraid that developers will exploit the loophole in the future.

Clyde Logue – stated that we should think carefully when limiting the uses of people’s homes and feels there should be some middle ground on this issue.

Mayor Lister asked for speakers for a 2nd round:

Judy Matthews – feels that we should be careful with categorizing the types of people who use the services and that data should be collected and compared.

Betsey Blaisdell – stated she does have the correct insurance and it does cost more and feels that more research should be done to make sure the concerns are legitimate and not hypothetical.

George Dempsey – stated the issues being stated are not hypothetical and we are only hearing from the people who let one or two at a time and not 16 or so.

James Beal – urged the Council to consider their own travel experiences and if they have used any short-term rental services and having the experience be more like being in a home instead of a generic hotel room.

Mayor Lister closed the public hearing.

Mayor Lister called for a recess at 9:10 p.m. Meeting reconvened at 9:20 p.m.

VIII. APPROVAL OF GRANTS/DONATIONS

A. Acceptance of Grant for Household Hazardous Waste Collection

Councilor Kennedy moved to accept and expend a \$5,801.00 DES grant for the purpose of household hazardous waste collection events and authorize the City Manager to execute any documents which may be necessary for this grant contract. Seconded by Councilor Morgan and voted.

Councilor Lown moved to suspend the rules to bring forward City Manager Item #2 and Written Communications Item D for Council action. Seconded by Councilor Thorsen and voted.

2. Report Back Re: Request from Patricia L. Russell and Burton J. Russell for Restoration of Involuntarily Merged Lots at 65 Mendum Avenue under RSA 674:39-aa
- D. Letter from Attorney Bernard Pelech regarding Restoration of involuntarily merged lots – RSA 674:39aa – 65 Mendum Avenue

Rick Taintor reviewed the request and the statutory requirements regarding the unmerger of lots or parcels that were involuntarily merged. He continued that there never existed 2 lots extending from the current front lot line to the current rear lot line, and therefore it is impossible to split the lot into two lots through the unmerger process, and therefore, if the City Council

determines that the existing parcel must be restored to premerger status, the action will have to result in four lots and not two. He concluded by stating that following the restoration to four lots, it is likely the owner would voluntarily merge the small rear pieces to the larger front lots, which would reduce, but not eliminate, the zoning nonconformities which the unmerger will create.

Councilor Kennedy asked if Planning Director Taintor feels this should happen. Mr. Taintor stated it is not for him to determine as it is spelled out in the State law. Councilor Kennedy stated this is going from 1 lot to 4 and asked what notice did the abutters receive. Mr. Taintor stated they did not receive any notice, nor is a public hearing required. Councilor Kennedy asked if the Planning Board can review these requests. Mr. Taintor stated yes, but they have no role in the process. City Attorney Sullivan concurred stating they can serve in an advisory capacity at most. Councilor Kennedy stated she would like the neighbors to have a chance to comment on these requests and feels that the Planning Board would allow for that process.

Councilor Thorsen stated that the State law is mechanical and therefore the action tonight is unmerging the lots from 1 to 4, but what happens after that when they go from 4 to 2 lots, would they have to meet the current requirements for building. Mr. Taintor stated it would create a non-conformity to today's zoning law and would require a variance. He stated there is no grandfathering of zoning law.

Councilor Lown moved to suspend the rules to allow Attorney Pelech to address the Council. Seconded by Councilor Shaheen and voted.

Attorney Pelech reiterated the request and the RSA as previously explained by Planning Director Taintor. He stated that neither the Planning Board nor abutters are involved. He concluded that this will be occurring more and more.

Councilor Lown moved to approve the unmerger of 4 lots, seconded by Assistant Mayor Splaine.

Councilor Lown stated we are required to do this as the body that makes the decisions and are constrained by the evidence. He stated there is no evidence to the contrary of the request.

Councilor Kennedy stated that because of a prior situation that occurred with the neighbors not being notified, she feels sending the requests to the Planning Board would allow the opportunity for abutters to give input.

Attorney Pelech stated that the merger from 4 to 2 lots will not involve the City Council and no public notice is required.

Motion passed on a 7-1 vote, Councilor Kennedy voted opposed.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

A. First reading of Annual Omnibus Ordinance Change, Parking and Traffic

Councilor Lown moved to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the September 21st City Council meeting as presented, seconded by Assistant Mayor Splaine.

Councilor Thorsen asked when discussion of resident parking and other issues will take place to be able to be included in the next omnibus. City Manager Bohenko stated that the Parking and Traffic Safety Committee will be hold work sessions as well as the Fee Committee in the future.

Motion voted.

B. Second 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 Morgan moved to table the second reading and move to a Work Session, seconded by Councilor Kennedy.

Councilor Morgan stated that the short-term vacation rentals have not been well-defined and feels that the staff was asked to draft an ordinance without first developing the concept. She stated that there should be a review of the various discrepancies and determination of the impact to neighborhoods and will this open the door to commercial activities. She concluded that there are too many complex issues and feels that we have been going too fast.

Assistant Mayor Splaine stated he agrees with holding a Work Session and feels that all of the speakers at the public hearing made valid points and that it will take awhile to get it right similar to the UBER ride sharing issue. He stated he does not want to see neighbor pitted against neighbor and feels that more conversation and dialogue is needed.

Councilor Shaheen stated she also appreciates all of the comments made during the public hearing. She stated that the Council had the benefit of being able to refer the ride-sharing issue to the Taxi Commission to work out the details and wonders if a Blue Ribbon Committee could be formed to work on this issue.

City Manager Bohenko stated that the legislature has a study committee going forward on this as we need enabling legislation in order to go forward and be able to enforce any ordinance that is passed. He stated that the ordinance should be moved forward and then it can be tweaked further.

Councilor Shaheen asked what the exposure to the City is if the ordinance is tabled as there are some people who have had cease and desist order and others that do not.

City Attorney Sullivan stated there is no financial exposure but it is a matter of respect for city ordinances.

Councilor Shaheen stated that the enforcement issue is a problem for going forward and feels that we have created the urgency ourselves on this issue, but if we can't enforce it then it has no teeth.

City Manager Bohenko stated if it is tabled, it should be tabled until the legislation is in place.

City Attorney Sullivan stated that we can only regulate the land usage through zoning, but not the licensing and enforcement until there is legislation.

Discussion ensued regarding the need for a Work Session and the necessity of legislation to enforce the ordinance.

Councilor Morgan and Councilor Kennedy agreed to amendment of motion to include Senator Martha Fuller Clark and the Legislative Delegation in the Work Session.

Councilor Lown stated that this is just kicking the can down the road and there are valid issues on both side of the issue. He stated he came prepared to offer amendments after hearing the input from the public hearing and doesn't feel that a Work Session will answer the questions and is only a delay tactic.

Councilor Thorsen stated he was also prepared to make amendments because this is the time to bring them forward, but he does feel that there are questions that need to be answered and agrees with holding a Work Session.

Mayor Lister passed the gavel to Assistant Mayor Splaine.

Mayor Lister stated he also came prepared to vote on the second reading. He appreciates all of the comments and has spoken to many people in many neighborhoods and most people want their neighborhoods to remain single-family residential. He understands that people want to rent out rooms in their own homes, but feels the neighborhoods have to be protected as there have been many years of zoning to bring Portsmouth to the point of having 21 solid residential neighborhoods. He concluded that we have to pay attention to the legislature.

Assistant Mayor Splaine returned the gavel to Mayor Lister.

Motion passed on 5-3 roll call vote. Councilors Lown, Spear and Mayor Lister voted opposed.

X. CONSENT AGENDA

Councilor Kennedy moved to adopt the Consent Agenda. Seconded by Councilor Morgan and voted.

- A. Letter from Zhana Morris, The Music Hall, regarding Parking Meter Permit Requests for the Music Hall's 2015-2016 Season (***Anticipated action – move to refer to the City Manager with power***)

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Attorney Francis Bruton, III of Bruton, LLC, regarding Nathan Aviezri Revocable Trust's request to unmerge lots at 75 Monroe Street

Councilor Lown moved to refer to the Planning Board for report back. Seconded by Councilor Shaheen and voted.

- B. Letter from Gerald Zelin regarding Proposed Zoning Amendments Regulating Short- Term Rentals, hotels, and motels by adding a prohibition on gambling at hotels and motels

Councilor Spear moved to refer to the Planning Board for a report back, seconded by Assistant Mayor Splaine.

Councilor Spear stated that this issue is not applicable to the Short-term rental ordinance issue and should be acted on its own merit.

Councilor Morgan asked if there can be a date specific to bring the report back.

Councilor Kennedy stated she would like it brought back with the Short-term rental ordinance information anyway.

Motion voted.

- C. Letter from James and Catherine Lamond regarding Short-term Vacation Rentals and Bed and Breakfasts Proposed Amendments to the Zoning Ordinance

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

- D. Letter from Attorney Bernard Pelech regarding Restoration of involuntarily merged lots – RSA 674:39aa – 65 Mendum Avenue (***Action previously taken***)

Councilor Kennedy moved to suspend the rules to allow the meeting to go past 10:00 p.m. Seconded by Councilor Shaheen and voted.

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Request to refer to the Planning Board Proposed Easements for a Bicycle/Pedestrian Path Along North Mill Pond

Councilor Spear moved to authorize the City Manager to refer to the Planning Board the proposed request for easements for report back to the City Council, seconded by Councilor Shaheen.

Councilor Lown stated this is a great idea and asked if the Planning Board approves this then will the Council purchase easements from landowners. City Manager Bohenko stated yes and there will also be opportunities to donate land.

Motion voted.

2. Report Back Re: Request from Patricia L. Russell and Burton J. Russell for Restoration of Involuntarily Merged Lots at 65 Mendum Avenue under RSA 674:39-aa (***Action previously taken***)

Informational items

1. Events Listing
2. Update on Haven School Playground
3. Master Plan Update
4. Report Back Re: Police Department Recommendations
5. Report Back Re: Whistleblower

Regarding Informational Item #4, Assistant Mayor Splaine stated he is pleased with the summary and that the Police Commission will begin to err on the side of disclosure and transparency. He asked if the City Manager and City Attorney had been invited to attend the meetings. City Manager Bohenko stated yes they will be attending the meetings and stated he has listed 10 recommendations.

Regarding Informational Item #5, Assistant Mayor Splaine asked, if the city passed a policy in 1995 against retaliation of employees who reported unlawful conduct, why was the Police Department able to place a gag order on John Connors and how can he be “ungagged”? City Manager Bohenko stated that the policy is exclusive to public employees and does not include the Police and Fire Departments as they fall under the Police and Fire Commission per City Charter.

Assistant Mayor Splaine moved that the document be referred to the Police Commission, Fire Commission and School Board requesting that it be adopted, seconded by Councilor Shaheen.

Councilor Lown stated that all employees are covered under the State RSA 275-E:2.

Motion voted.

Councilor Kennedy asked how the public will be informed what the dates for the Master Plan meetings will be as she sees the first one is scheduled for 09/22/15. Planning Board Director Taintor stated the dates were just finalized and presented to the Council first and will be published to the website, newsletter, Facebook, Twitter, etc. Councilor Kennedy asked that the neighborhood associations be contacted directly.

Councilor Shaheen asked about the Haven School Playground construction and if the neighborhood meeting date had been set yet and also will there be discussion about tree removal. City Manager Bohenko stated that the date hasn't been set yet, but the Trees and Public Greenery Committee will be reviewing the tree removal portion of the project.

Councilor Kennedy asked for an update on the Assessments and if the public can still make appointments to review with the Assessor. City Manager Bohenko stated he will get the information to the Council.

B. MAYOR LISTER

The follow appointments were considered and will be voted at the September 21, 2015 City Council meeting:

1. Appointments to be Considered:
 - Appointment of Richard Winstanley to the Cable Television and Communications Committee
 - Appointment of Jolanda Fannin to the Library Board of Trustees filling the expired term of Jody Record until October 1, 2015
 - Reappointment of Ernie Greenslade to the Library Board of Trustees
 - Reappointment of Ronald Cypher to the Parking & Traffic Safety Committee
 - Reappointment of Frederick (Ted) Gray, Jr. to the Parking & Traffic Safety Committee
 - Reappointment of Harold Whitehouse to the Parking & Traffic Safety Committee
2. Appointments to be Voted:
 - Kathleen Bergeron to the Citywide Neighborhood Steering Committee

Councilor Kennedy moved to approve the reappointment of Kathleen Bergeron to the Citywide Neighborhood Committee to April 1, 2018. Seconded by Councilor Shaheen and voted.

3. Topics for Work Sessions:
 - September 14th – Options Re: Irrigation Meters
 - November 23rd – Solid Waste & Recycling

Councilor Morgan requested that background materials for work sessions be made available prior to the day of the meetings.

4. Request to Change Retreat Date from October 3, 2015 to January, 2016

Councilor Morgan stated that she feels that adding a retreat for the new Council is a good idea, but she would still like to have the October retreat.

Councilor Kennedy stated she agrees and feels that many topics can be covered over that one Saturday as opposed to one topic per work session at night.

Councilor Shaheen and Councilor Spear both concur with Mayor Lister that the October retreat be deferred.

Mayor Lister stated the Retreat for October 3, 2015 will not be held.

5. Discuss Letter from Attorney General – Charter Questions

Councilor Thorsen clarified that this letter referred to both proposed charter questions. City Attorney Sullivan stated that is correct.

Councilor Shaheen asked what is the timeline to addressing changes to the Charter, as well as what is the process and procedure for voting for a Charter Commission or forming a Charter Committee and is there anything that the Council should do before November. City Attorney Sullivan stated that there is nothing that can be done at this point there is not enough time before November.

Assistant Mayor Splaine stated he wants a Committee formed to take care of these issues that we didn't do thoroughly enough as well as other issues such as Ward Councilors, etc. He stated he would like a report back or summary of the process and timeline.

Councilor Kennedy stated she had invited the public to join her when she met with City Attorney Sullivan and no one attended, but she felt that City Attorney Sullivan indicated he is willing to do a historical evaluation of previous Charter Commission and Committees and how to involve the public.

6. Prescott Parks Arts Festival Performance Schedule (*Not on Agenda*)

Mayor Lister read the motion to instruct the Prescott Park Arts Festival that for the 2016 season, no performance should be scheduled during the week before the end of school and that no performance during the week shall be performed after school begins. Assistant Mayor Splaine moved to approve, seconded by Councilor Kennedy.

Councilor Kennedy stated she appreciates this being brought forward because of the incident last week and feels it was unfortunate because everyone has started feeling good about how the season had gone and then on that one night, it was extremely loud and feels that questions need to be answered.

Councilor Shaheen stated that the challenge of the PPAF working group are when people are surprised by situations and trying to take away that conflict. She stated that it was thought that the parameters were understood, but then this performance went beyond 10:00 p.m. on a school night.

Mayor Lister stated they are working closely with the Trustees and the staff and this is the latest issue that has arisen and we need to send a clear message.

Councilor Thorsen stated he understands how this came about but wonders if this performance was a part of the original contract and did they actually go outside of that contract.

Councilor Shaheen stated there is no long term contract and only an interim plan in place. She stated that the Monday Movie Nights were discontinued once school started and it was assumed that there were no concerts during the week either.

Councilor Thorsen stated he would like to see this be specific to school nights and not during the day as that shouldn't be limited. He stated that he is happy that the working group, Prescott Parks Arts Festival and Trustees are working together but wants to make sure that things aren't being addressed in a piecemeal fashion.

City Manager Bohenko stated that he feels it is important to put this in place before they start working on the 2016 season calendar and have this on the record.

Councilor Thorsen moved to amend by adding:no "evening" performances....etc, seconded by Councilor Morgan.

Mayor Lister stated that this is the most recent issue and one of many and feels it would be helpful to have everyone agree on this and understand that the working group is continuing working on the rest of the issues.

Councilor Shaheen stated she understands that this request is unorthodox and will not become the normal procedure, but agrees that this needed to be addressed prior to the 2016 season scheduling.

Councilor Morgan asked who is reviewing and approving the schedule. City Attorney Sullivan explained that this has been a summer of transition and that the Trustees of the Trust Fund are supposed to be approving all programming but that has not been happening and the Mayor's working group has been working with them and the Prescott Parks Arts Festival through the transition.

Councilor Morgan stated that Councilor Shaheen mentioned a long-term agreement and asked when that will be made available. Councilor Shaheen clarified that there is no long-term agreement yet. Councilor Morgan asked Councilor Shaheen for the list of issues that she had referred to at a previous meeting.

Motion to amend passed.

Main motion as amended passed.

C. ASSISTANT MAYOR SPLAINE

1. Proposal for An Elected Charter Commission (See CM #5 discussion)
2. Mayors For Peace – Presentation

Assistant Mayor Splaine stated that at Mayor Lister's request he attended the Mayors for Peace Presentation which over 200 cities world-wide participated which has a vision to

encourage nuclear non-proliferation by the year 2020. He presented Mayor Lister with the button he received on his behalf.

D. COUNCILOR LOWN

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the July 9, 2015 meeting

Councilor Lown stated that 2 “no right-turn on red” intersections were eliminated at Middle/Miller and Fleet/Congress. He stated that 2 other requests failed to be eliminated at Congress/Maplewood and Fleet/State.

Councilor Lown moved to approve and accept the minutes of the July 9, 2015 Parking & Traffic Safety Committee meeting. Seconded by Councilor Spear and voted 7-1, Councilor Kennedy voted opposed.

E. COUNCILOR SPEAR

1. Prescott Park Stage Relocation

Councilor Spear stated he would like to divide his motion into 2 portions and would like to take up the second portion first.

Councilor Spear moved to authorize the City Manager to conduct a strategic plan for the long-term use of Prescott Park to include all appropriate stakeholders, seconded by Councilor Shaheen.

Councilor Spear stated that he feels that with all of the different issues that have been discussed it is a good time to have the broader discussion for long-term planning.

Councilor Morgan asked who the stakeholders are as it is a gift to the City and should be looked at as part of the whole Master Planning process. Councilor Spear stated he does not have a list but feels there has always been a spirit of inclusivity and no one is turned away. He stated perhaps the Council could let the City Manager know who they feel should be included in the discussions and come to a consensus of what the expectations are and potential uses. Councilor Morgan asked if the Portsmouth Listens group would be included because they are inclusive of many different residents.

Councilor Shaheen stated for clarification that this is for Prescott Park and not the Prescott Parks Arts Festival. She continued that she supports this because the working group has been consistently working in relation to the evolution of the Park as other groups and companies become involved.

Councilor Kennedy stated she is perplexed because she feels that the players should be specified in the motion and also wonders what role the Trustees of the Trust Fund have/will play and thinks that the recommendation should be coming from them.

Councilor Shaheen stated this recommendation did come to the Council from the Trustees of the Trust Fund as they feel that a clear plan needs to be in place.

Councilor Morgan stated she would like the City Attorney to bring back the deed restrictions of the area and also is confused as to who will be giving the input.

Councilor Spear moved to amend the motion to state “to authorize the Prescott Park Working Group to conduct a strategic plan for the long-term use of Prescott Park to include all appropriate stakeholders, seconded by Councilor Shaheen. Motion passed. Main motion as amended passed.

Councilor Spear moved to authorize the City Manager to proceed with the land use reviews regarding the Prescott Park Arts Festival’s proposed stage relocation, with final approval by City Council before stage is built, seconded by Councilor Shaheen.

Councilor Spear stated that it is a valid concern that the tail may be wagging the dog, but feels this needs to be done before the strategic planning. He clarified that this is only for the land use board approval process, not to build the stage.

Councilor Morgan stated that this should not be done before the strategic plan and therefore the Council should be authorizing the repairs to the current stage.

Councilor Shaheen reiterated that this is not approval the building of the stage only the land use reviews so that the process can move forward. She continued that the need for a new stage is directly related to the PPAF musical productions needs and no one is looking to eliminate this annual performance. She concluded that all parties agree that there are safety issues concerned and that the current stage should not be repaired to be torn down in 2 years.

Councilor Kennedy stated without a plan we shouldn’t be doing the work and if the footings are put in, it is permanent and feels that the strategic plan needs to be in place first.

Councilor Spear and Councilor Shaheen agreed to a friendly amendment to add “with final approval by City Council before stage is built”.

Motion passed on a 6-2 vote, Councilors Kennedy and Morgan voted opposed.

2. Request to Extend Report Back from Blue Ribbon Committee on Sagamore Creek Land until December 21, 2015

Councilor Spear moved to approve the request to extend the report back from the Sagamore Creek Land Blue Ribbon Committee until December 21, 2015. Seconded by Assistant Mayor Splaine and voted.

F. COUNCILOR THORSEN

1. Short-Term Rental (No action needed)

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Shaheen asked when there will be an update on the Wastewater Treatment Facility. City Manager Bohenko stated the Legal Department is still working with the EPA.

Mayor Lister reminded everyone of the 9/11 Memorial Service outside of City Hall at 8:30 a.m. on September 11, 2015.

Councilor Morgan asked when the work session on the short-term vacation rentals will be held. City Manager Bohenko stated he will need to coordinate schedules with the invited legislators.

XIV. ADJOURNMENT

Councilor Spear moved to adjourn at 11:05 p.m. Seconded by Councilor Shaheen and passed unanimously.

A handwritten signature in black ink, appearing to read 'V. French', written in a cursive style.

Valerie A. French
Deputy City Clerk