



Chairman Hughes opened to the Council for questions. Solicitor Teitz encouraged the Council to ask questions now, the idea for the workshop presented for the Council's benefit. Chairman Hughes suggested talking about the district breaks. Mr. Buckland, citing page 6 of the booklet explained the General Commercial district runs from State Avenue down Main Road to Souza Road. Up to Canonicus is the Traditional Main district that has character, then the NBS would run from Judson to High Ridge Terrace to Russell Drive which has a school, church and mostly residential. A number of commercial projects make more of a commercial center because of the depth of the properties ended at Pocasset Avenue. Some development makes sense, could be rezoned. Councilor Lambert commented, the proposed language seems to understandably accept what the Town can do to redevelop those areas, a common sense approach to those neighborhoods, speaking in favor, will be a slow evolving process. Mr. Buckland explained the use table provides an opportunity with zoning in place for a particular structure, reducing the risk to a developer by being clear with vision and regulations, increasing the opportunity for development. Took out some lines not defined like household (e), under Residential, covered elsewhere in the regulations. Clarifies some other uses by referencing State Law as to where defined particularly schools and universities. Added terms for drive thru service in Section 7, added some dimensions and sizes, added clarification for detrimentally or impairment, what would be the determination for non-conformity. Concerned with dimensional standards, minimum lot size, setbacks, tried to improve the number of conformities.

Councilor Pelletier called it a good document, passive guidance, gives potential developers and property owners more of a record as to where the Town is going in those areas, could make a difference for vehicular traffic. Mr. Buckland explained have design guidelines for public right of way, State roads have more limited control; the standards could be applied for different areas of Town, ramp access and dimensional standards. Councilor Pelletier noted this was not strictly a planning document, a resource for developers, tenants, commercial business owners, well thought out, has a good technical level. Councilor Pelletier discussed awnings and lighting. Mr. Buckland explained in the PFD, see some roof pitch, can have a flatter roof, has a different visual effect. Councilor Gerlach arrived at this time. Councilor Chabot, referencing page 6, the cemetery area is quiet. This would allow for more businesses, less of a home type area, could be in conflict with the Cemetery Commission. Mr. Buckland pointed out this was the exact discussion wanted could modify the boundaries. Chairman Hughes noted the proposed building heights would be lowered from 50 feet to 35 feet; what could be built would be less than what is there now. Mr. Buckland explained, what you do under zoning is to say here is the framework. Councilor Gerlach apologized for being late, called the document a fantastic piece of work, lays out a vision, talking a long term plan here. In the vision some buildings will be leveled, some level of rebuilding. Work to enhance roads and streets may be another matter. Councilor deMedeiros questioned Bliss Corners, a Watershed area, would it be affected? Mr. Buckland explained, were discussions on overlay of watershed districts, will apply no matter what land use, does not get rid of any environmental restrictions. Can cut back on the commercial district on the pond side. Ms. Michaud explained the districts were calculated by section, some gained acreage, some lost. Souza Road remained general commercial. Councilor Chabot questioned if the document was reviewed with Wastewater Management. Ms. Michaud did speak with Mr. Lincourt, has not signed off on. Councilor Chabot noted Stormwater needed consideration, could have more impervious surfaces, more Stormwater. Questioned if reviewed with the DPW Director. Ms. Michaud explained Director Berlucchi has been involved in the discussions, reviewed the transportation sections with Police and Fire. Councilor Chabot requested to see the DPW review of Stormwater relative to this issue. Councilor Gerlach questioned water infrastructure. Ms. Michaud explained there was new water tower on Hambly Road, has increased capacity. One area in the Comp Plan has to do with water systems and build out. In the most recent

update, considerable collaboration with the water departments. Peter Corr, PB member, sits on the Stone Bridge Water board, have the capacity to pump 2.1 million gallons per day, are doing upgrades.

Ms. Michaud explained why no neighborhood sub district was included in Bliss Corners. It was done in an earlier draft, during the process was suggested that area should be more pedestrian friendly to provide for greater development. Mr. Buckland explained because of residential properties, tried to mention where the General Commercial district exists, can extend or change zoning in these districts. Cautioned about going too far if extending the commercial base concentration of the district. Chairman Hughes requested any further comments, Solicitor Teitz reiterated, now is the time to speak up. Ms. Michaud explained advertising and postage would cost over \$6,900, over 1,100 notices would have to be sent, did budget. Solicitor Teitz questioned if another workshop would be needed before advertising for a public hearing. Councilor Pelletier suggested sending to those Boards and Commissions mentioned for their recommendations. Chairman Hughes recalled Wastewater Management, the Water Districts, DPW and Conservation would be requested to send recommendations. Solicitor Teitz suggested sending to Zoning for comments and recommendations. Councilor Gerlach suggested a timeline for the other entities to provide feedback. Chairman Hughes suggested responses by mid-January. Ms. Michaud noted, important to the process, are changes to the use table, a real benefit, provides a sense of clarity for property owners, goes beyond design standards. Chairman Hughes recapped, a recommendation to the Council will be put off until input from other Boards & Commissions, will return to make a recommendation to the Town Council. Mr. Buckland thanked the Planning Board and Town Council, appreciation to Ms. Michaud for getting the project together, also thanked Solicitor Teitz.

Chairman Hughes and Councilor Lambert announced a five minute break would be taken at this time, 9:10 pm.

## **2. General Discussion Regarding Quarry Licensing Process and Procedure**

Chairman Hughes and Councilor Lambert reopened the Planning Board and Council Special meeting respectively. A general discussion regarding Quarry Licensing Process and Procedure followed. Councilor Lambert was advised a number of patrons in the audience were here to address the issue of the quarry; comments can only be addressed to licensing itself. Councilor Lambert concerned, spoke to Solicitor Teitz, not sure if this hearing gave notice to the businesses on the issue of complaints addressed tonight. Solicitor Teitz requested this be on the agenda, a concern, had quarries in various stages, some prevented while in receivership, one had a license reissued properly, one is in litigation. Need to address, move forward, will be a public hearing for licensing but should not allow public input tonight, did as a special meeting not intended for public comment on any particular operation. Important to talk to the Council as a Licensing Board, for the PB to offer recommendations for a timeline and to get their input. Strongly recommend this is not for public comment. Councilor Lambert agreed

Solicitor Teitz explained, Vice-President deMedeiros now Chair, up to her to decide on procedure. Councilor Pelletier requested an explanation as to why public input is allowed on any number of items, why was this different. Solicitor Teitz explained, at a public hearing have to listen, an open meeting the public has the right to be heard, have different mechanism in the open forum, gives people an opportunity to speak at the discretion of the body and Chair unless required by law. After discussion VP deMedeiros allowed public comment only on the process; not about specific companies.

Solicitor Teitz gave an overview, have a handful of rules and regulations that apply in Town. The Zoning Ordinance considers quarries a prohibitive use, not allowed as a right for a new one, must have

been pre-existing. Referenced the handout, Town Code Chapter 38- Environment, had to meet five criteria to keep going forward. General theory is non-conforming, have the right to continue, can't expand, quarrying by site expand peripherally, inherent in use, Courts look at in a different light. Tiverton picked up the language from certain court cases, up to 25% is allowed per quarry. It is a non-conforming use; beyond this they need a special use permit. The Town process has not kept up with the annual licensing of quarries. Currently in litigation including one issue the Town said they don't have right. They sued the Town in Federal Court saying they do have the right, Town is still pursuing vigorously. Of the others, five are non-conforming preexisting, of those two are inactive, one is valid, two are in receivership. Looking to get back on a cycle to require licensing. Set forth in the ordinance is the need for a plan by a registered engineer with contours, plan for future to restore and a bond. Expect some conflicts to move forward, looking to send notice so they must come in.

Solicitor Teitz explained, want to make clear the Town will require a license. Only one license has been approved by the Council, the others did not meet the standards to apply. The one current license did meet all the legal requirements, did complain about the bond. Solicitor Teitz, when questioned, identified them, CNC Family Limited Partnership, 1764 Crandall Road. The bond was a couple of hundred thousand dollars. Chairman Hughes noted a satellite view showed no quarrying. Solicitor Teitz wanted to start the process with the license application, referral to the PB, the time frame, need a reasonable amount of time. Chairman Hughes explained, depends on being supplied with all the proper information, have to make sure about zoning, will have to determine if there is a special use permit, the ability to meet surety, have Commonwealth redo sureties. Solicitor Teitz explained was a very specific cost to re-grade under the Earth Removal Enabling Act as well as zoning. Mr. Corr had 22 recommendations for the Solicitor including fencing and dust control, water is not mentioned should be used, fencing should be all the way around. These regulations do not include a classification of the survey, no definition as to what is gravel, needs to be re-written. Solicitor Teitz discussed blasting, regulated by the State Fire Marshal's Office. Directed to notify the Fire Dept. and the Clerk, do not have to notify the neighbors, they are strictly liable for damage to neighboring property. Solicitor Teitz added for the public hearing, have to be noticed 21 day in advance, Zoning requires three successive weeks advertising.

VP deMedeiros took comments at this time, reminded to discuss only the process. Jim Rego, resident questioned if a cease and desist order could be used. Solicitor Teitz replied in the negative, have to make clear is allowed, give them the opportunity to apply for a license, reminded talking about the general process. Marsha, Paul James Drive likened it to driving without a license. The Solicitor explained, they did have licenses, we did not tell them to renew. There were licenses issued under the old system, have to provide the opportunity and due process. As for blasting, is a State issue, not something for the Town to enforce, complaints about blasting should be sent to the State Fire Marshal's Office. The Town has a noise regulation, call the Police Department so they can measure, affirm the dates and times. Bob Toolin, Linda Road, referenced the pond that supplies water, questioned if the quarry was checked for depth. Solicitor Teitz explained the plans submitted have to include elevation, DEM is responsible for groundwater, the Town should look into it as well. Councilor Chabot suggested it become part of the licensing process. Solicitor Teitz agreed good idea to send the application to both water districts. Councilor Pelletier was concerned about the water depth, how anyone knows, can't see from the streets. Councilor Gerlach agreed, should be some sort of inspection, licensing is different and distinct. Solicitor Teitz noted was important to have a public hearing so the neighbors could be heard. Another Linda Road resident complained about blasting had complained to the State. Solicitor Teitz also suggested taking complaints to the local legislators. John Oliveira, Linda Road, has called the Police Department in the

past, went nowhere, also complained about the dust and would like to know when they will be blasting. Residents complained the blasting has recently gotten worse. Garrett Oliveira appreciated the Council for listening, hoping to get all the information before hand, planning on putting together a list of concerns.

Solicitor Teitz was wary about the public comments, concerned about legal issues, found this very helpful. Solicitor Teitz requested Mr. Corr send him the revamped list of comments on the ordinance. Chairman Hughes noted, a good first step in starting the process is sending out the applications.

Solicitor Teitz requested an item be added to the agenda for discussion about a joint meeting on the tolls.

Councilor Pelletier made a motion, seconded by Councilor Gerlach to add to the agenda a discussion on scheduling a joint meeting with the 2 other towns on the bridge tolls. Motion passed unanimously.

Chairman Hughes adjourned the Planning Board part of the Joint Session.

Solicitor Teitz suggested Monday, December 2<sup>nd</sup> as the best date for a joint meeting at the Portsmouth Town Hall at 7pm. would be a meeting of the three Town Councils, Tiverton, Bristol and Portsmouth on litigation on the Bridge Tolls, to be in Executive Session, convened in open session. Solicitor Teitz requested Council confirm to the Town Clerk.

Solicitor Teitz will have a deadline for the quarries as soon as possible, subject to existing requirements first, may change requirements later.

At this time Vice-President deMedeiros called for motion to adjourn the Special Meeting.

**ADJOURNMENT:**

Councilor Lambert motioned, seconded by Councilor Arruda to adjourn. The motion passed unanimously.

The meeting adjourned at 10:50 p.m.

**A True Copy.**

**ATTEST:** \_\_\_\_\_  
Nancy L. Mello, Town Clerk