

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, JANUARY 9, 2017 TIME: 6:15PM

## AGENDA

- 6:00PM – NON-MEETING RE: STRATEGY OR NEGOTIATIONS WITH RESPECT TO COLLECTIVE BARGAINING - RSA 91-A:2,I (a) – PORTSMOUTH AFSCME 1386 TENTATIVE AGREEMENT
- 6:15PM – WORK SESSION RE: FY18 BUDGET PROCESS AND PROPOSED BUDGET GUIDELINES

- I. CALL TO ORDER
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE

### PRESENTATIONS

1. Comprehensive Annual Financial Report (CAFR) – Scott McIntire, Melanson & Heath  
<http://cityofportsmouth.com/finance/CAFR16.pdf>.
2. Update on 150 Greenleaf Avenue
3. Update on Wastewater Treatment Facility and Combined Sewer Overflows

### V. ACCEPTANCE OF MINUTES – DECEMBER 19, 2016

### VI. PUBLIC COMMENT SESSION

### VII. APPROVAL OF GRANTS/DONATIONS

- A. \*Acceptance of Donation to the Portsmouth Fire Department
  - Newburyport Five Cents Savings Bank - \$500.00  
*(Sample motion – move to accept and approve the donation from the Newburyport Five Cents Savings Bank)*

### VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second reading of proposed Ordinance amending Chapter 7, Article II – Taxis, Section 7.201 – 7.217 (*Tabled Second Reading at the December 19, 2016 City Council Meeting*)
- B. Third and final reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Articles 2, 3, 11 and 15, to implement housekeeping changes relative to conformance with state law, nonconforming buildings and structures, setback requirements for parking areas, and the definition of “structure”
- C. Third and final reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Articles 5 and 15, to revise and clarify provisions related to yards (i.e., setbacks), exceptions to yard requirements, and projections into required yards; and to clarify the definition of “building coverage”

- D. Third and final reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Article 5, Section 10.521, to reduce the maximum building height from 35 feet to 30 feet in the Residential districts, and from 40 feet to 35 feet in the Mixed Residential districts
- E. Third and final reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Articles 4, 8 and 15, to allow accessory dwelling units and garden cottages by conditional use permit from the Planning Board, and to establish standards and procedures for such uses, in order to comply with a new state law
- F. Third and final reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Articles 5A and 6, regarding the Historic District, to reference Design Guidelines adopted by the Historic District Commission, to revise and expand the list of activities that are exempted from HDC review and approval, and to clarify that exempted uses are subject to administrative review and approval
- G. Third and final reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Article 10, Section 10.1010 – Wetlands Protection, to expand the jurisdictional wetlands to include a portion of the Piscataqua River shorefront north of the I-95 bridge, to clarify the existing allowance for expansion of a single or two-family dwelling, and to require restoration of a vegetated buffer strip to the extent feasible
- H. Third and final reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Article 12 – Signs, to limit the type and manner of illumination of signs using “direct illumination,” such as LED or plasma signs

## IX. CONSENT AGENDA

### ***A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA***

- A. Request for License to Install Projecting Sign:

Nancy Morgan owner of Nancy Morgan Art for property located at 238 State Street ***(Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement 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 projecting sign, for any reason, shall be donate 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***

- B. \*Acceptance of Donation to the Coalition Legal Fund:
  - Town of Carroll - \$1,000.00

***(Anticipated action – move to accept the donation to the Coalition Legal Fund)***
- C. Letter from Jeanine Sylvester, Runner's Alley, requesting permission to hold the 20<sup>th</sup> Annual Runner's Alley/Redhook Brewery Memorial 5k on May 28, 2017 at 11:00 a.m.  
***(Anticipated action – move to refer to the City Manager with power)***

**X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. Letter from Attorney William Scott regarding Restoration of Involuntarily merged lots – RSA 674:39-aa – 21 Elwyn Avenue *(see attached memorandum from Rick Taintor, Planning Director)* ***(Sample motion – move to Planning Board for report back)***
- B. Letter from Attorney Christopher Mulligan regarding Restoration of Involuntarily merged lots – RSA 674:39-aa – 70 Sims Avenue ***(Sample motion – move to Planning Board for report back)***
- C. Proposed Resolution regarding Schiller Station from concerned citizens ***(Sample motion – move to refer to the City Manager for report back)***

**XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

**A. CITY MANAGER**

**City Manager's Items Which Require Action:**

1. Update Re: Federal McIntyre Building
2. Report Back Re: Parking Enforcement Hours and Revenues
3. Report Back Re: Atlantic Heights Emergency Access
4. Acceptance of Street Re: New Parking Garage

**Informational items**

1. Events Listing

**B. MAYOR BLALOCK**

1. Appointment to be Considered:
  - Appointment of Molly Bolster to the Historic District Commission
2. Appointments to be Voted:
  - Reappointment of Philip Cohen to the Economic Development Commission
  - Appointment of Sarah LaChance to the Economic Development Commission
  - Appointment of Jane Begala to the Planning Board as an Alternate member
3. Reappointment to the PDA – John P. Bohenko, City Manager
4. Acceptance of Resignation from Joseph Almeida, Historic District Commission

5. Acceptance of Resignation from John Ricci, Planning Board effective March 1, 2017
6. Board of Ethics Selection Process by Lot
7. \*Establish Guidelines for FY18 General Fund Operating Budget (**Sample motion – move to accept the Joint Budget Committee recommendation of 4% for the Operating Budget for FY18**)

**C. ASSISTANT MAYOR SPLAINE**

1. Statement Supporting New Hampshire Legislation for Equality of Our Transgender Residents, and Banning So-Called Gay Conversion Therapy for Minors

**D. COUNCILOR SPEAR**

1. \*Request that the Legislative Subcommittee look into the City of Portsmouth taking over its own Pension Program

**E. COUNCILOR DENTON**

1. \*Winter Parking Ban Text Message (**Sample motion – Move that City Staff to report back on sending out a Winter Parking Ban text message to only those that sign up to receive them when Winter Parking Bans go into effect and when they are lifted**)

**XII. MISCELLANEOUS/UNFINISHED BUSINESS**

**XIII. ADJOURNMENT**

**KELLI L. BARNABY, MMC, CMC, CNHMC  
CITY CLERK**

*\*Indicates Verbal Report*

**INFORMATION ITEMS**

1. Notification that the minutes of the November 29, 2016 meeting of the Site Review Technical Committee are now available on the City's website

**NOTICE TO THE PUBLIC WHO ARE HEARING IMPAIRED: Please contact Dianna Fogarty at 603-610-7270 one-week prior to the meeting for assistance.**



# Combined Sewer Overflows

Portsmouth City Council Meeting

January 9, 2016

DRAFT

# Introduction

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- Recently Received Complaints Regarding Combined Sewer Discharge at South Mill Pond
  - South Mill Pond Conditions
  - Peirce Island WWTF Won't Treat Runoff
- Why Do CSOs Exist at All
  - Historic Cities Combined Drains and Sewer in One Pipe to Nearest Water Body – Was State of the Art

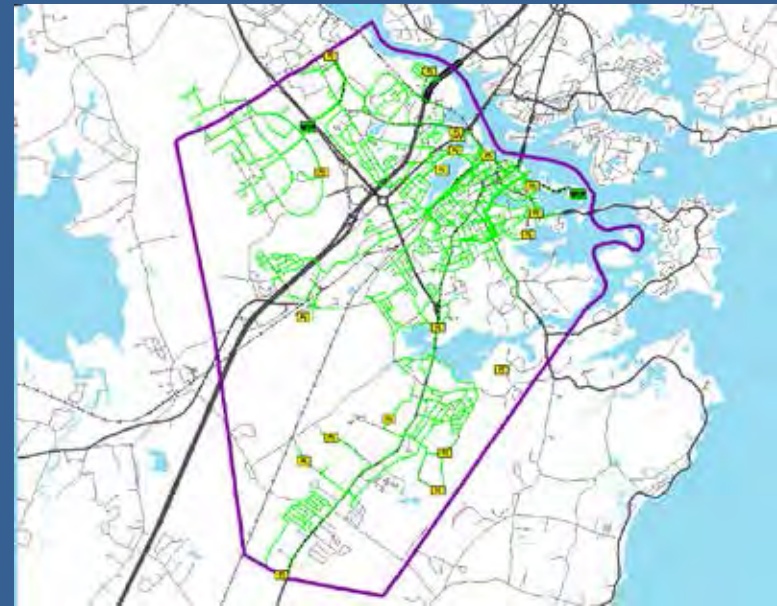


# Regulatory Compliance



# Portsmouth Wastewater System

- Peirce Island Treatment Plant (4.8 MGD)
  - Active Upgrade Construction to 6.1 MGD
- Pease Treatment Plant (1.2 MGD)
- ~120 Miles of Collection System (~20% is Combined System)
- 20 pumping Stations
- 3 Permitted Active CSOs







# Wastewater Collection and Treatment

- Wastewater is Collected in a Network of Underground Sewer Pipes
- At Low Points, Pump Stations are Needed to Lift the Sewer to a Higher Elevation
- Wastewater is Treated to Reduce Pollutants, then Discharged to the Receiving Waters



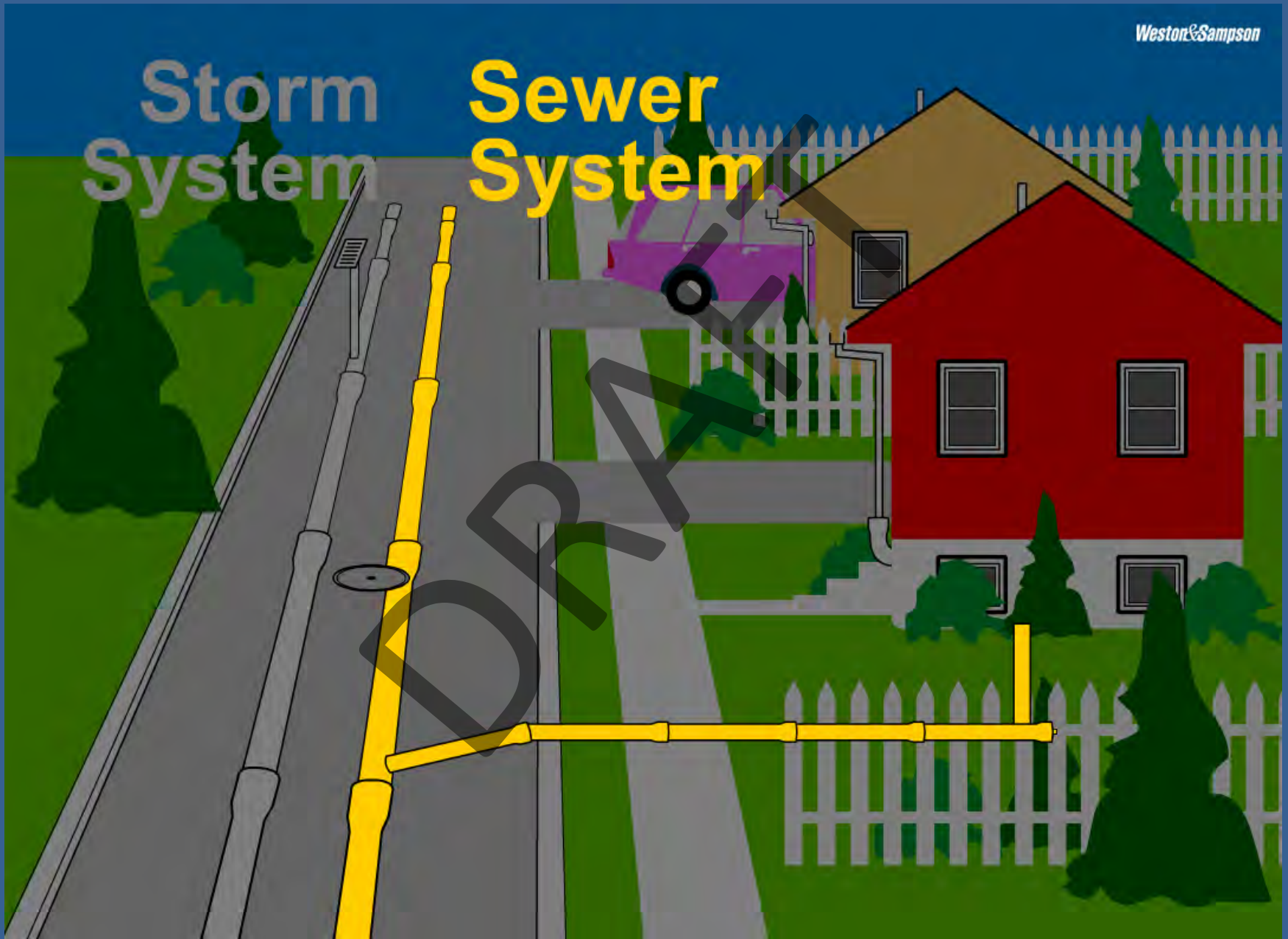


# Storm System

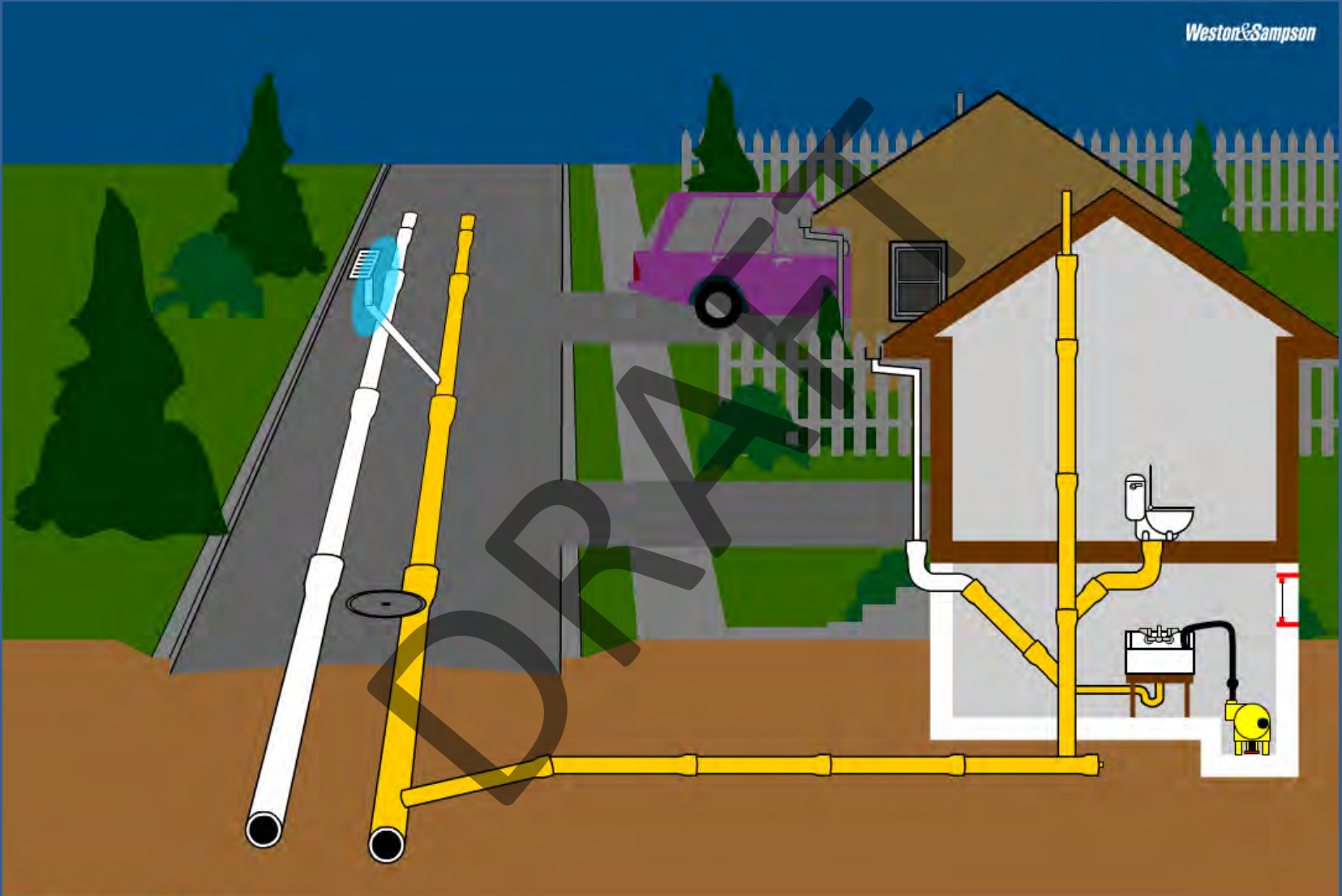


Storm  
System

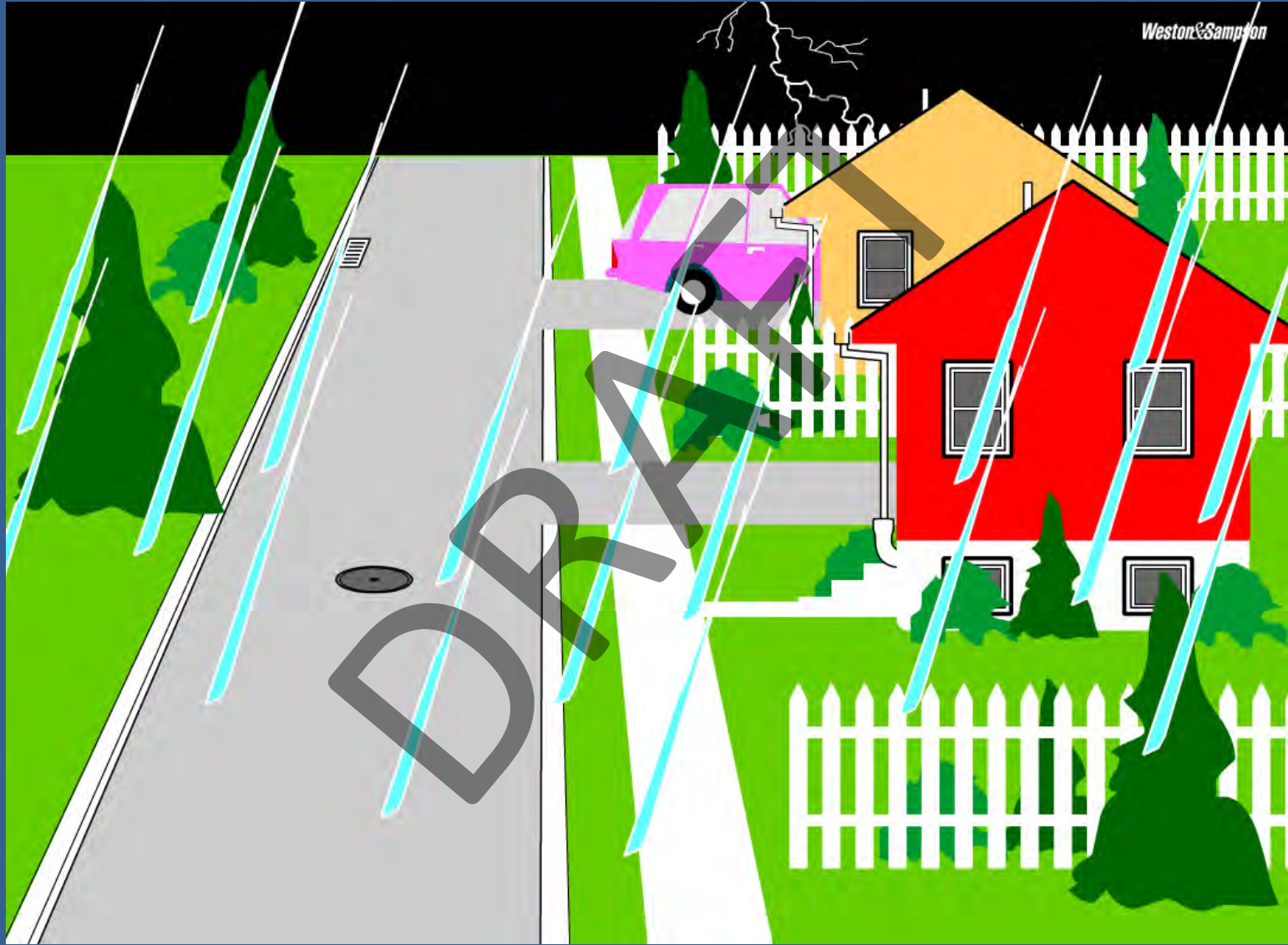
Sewer  
System



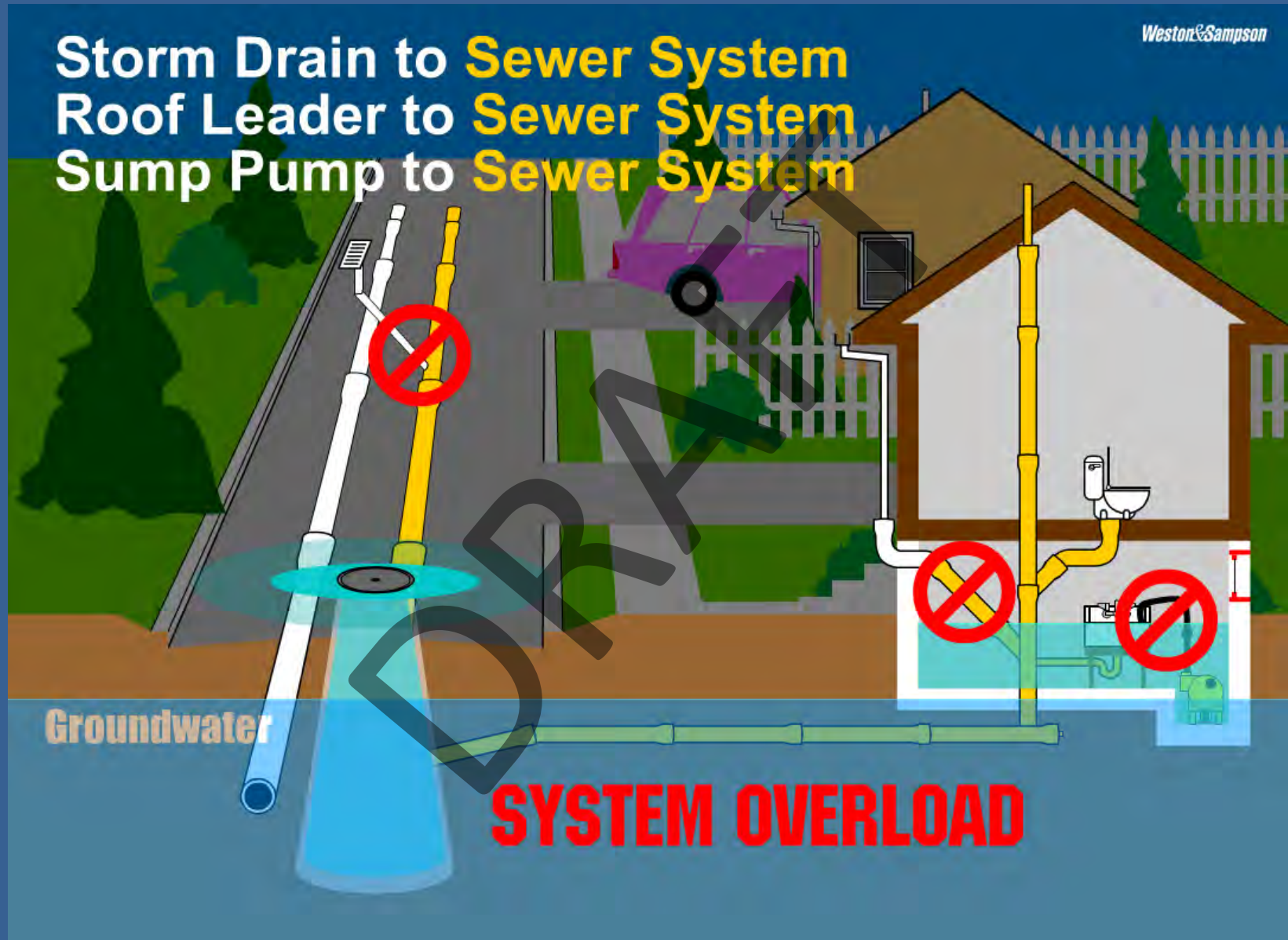




Groundwater



Storm Drain to Sewer System  
Roof Leader to Sewer System  
Sump Pump to Sewer System





Storm Drain to Storm System  
Roof Leader to **Outside**  
Sump Pump to **Outside**

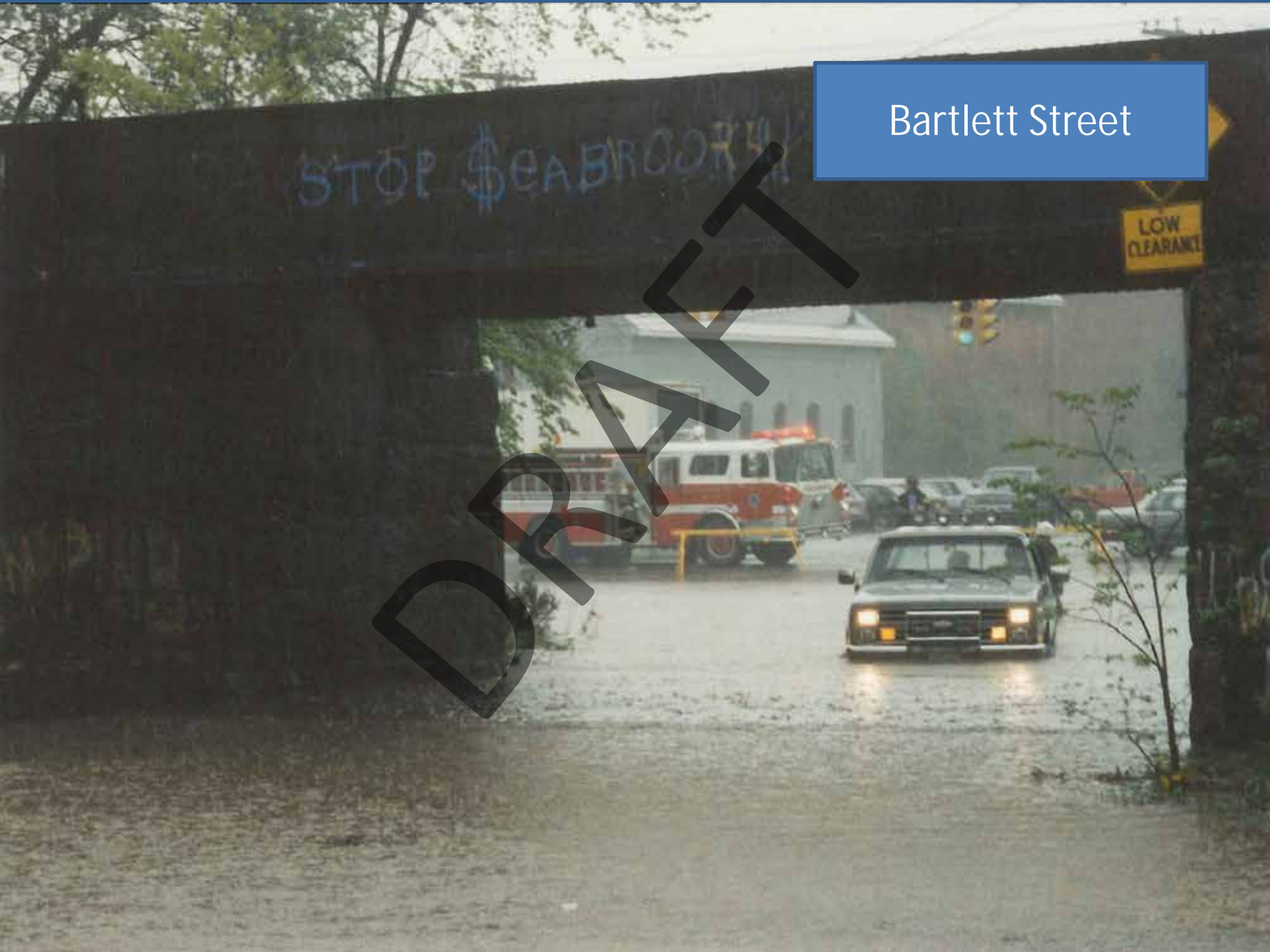


Bartlett Street

LOW  
CLEARANCE

STOP \$EABROOK

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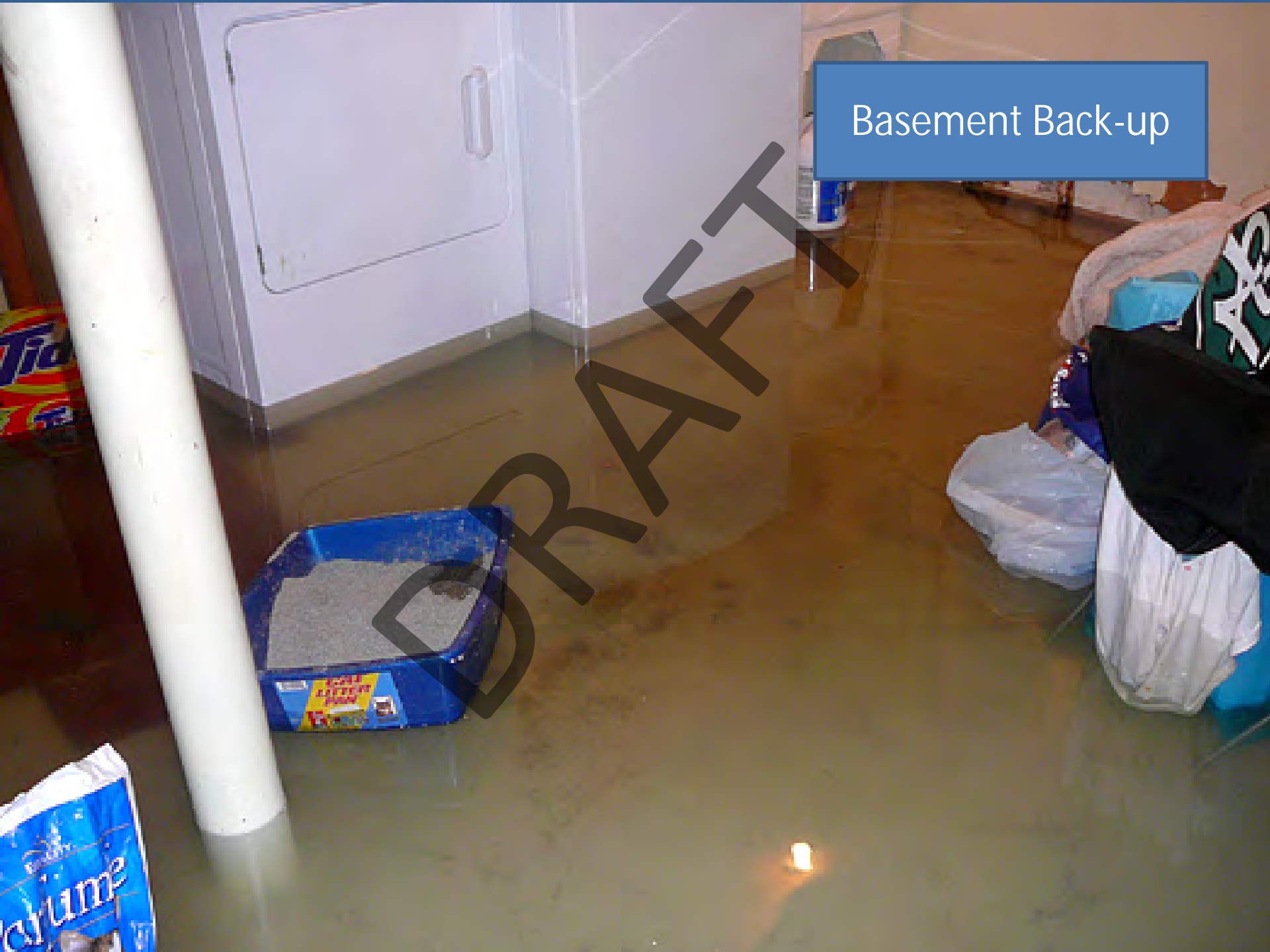


Lovell Street

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# Basement Back-up





Pease  
Outfall

14 CSOs pre – 1980's

## What is a CSO?

A permitted discharge point in a combined sewer

## Why are they there?

Provides a relief to minimize flooding and backups

WWTF &  
Outfall

Portsmouth, NH



# CSO Regulations

- Environmental Protection Agency CSO Control Policy (April 1994)
- City Has 3 EPA Permitted Active CSOs

*“EPA’s CSO control policy is a national framework for controlling CSOs through the NPDES permitting program. It provides guidance on how communities with CSOs can achieve [Clean Water Act \(CWA\)](#) (274 pp, 571 K, [About PDF](#)) goals in a flexible, cost-effective manner.”*

Taken from [www.epa.gov/npdes/combined-sewer-overflows-csos](http://www.epa.gov/npdes/combined-sewer-overflows-csos)





CSO 013

CSO 10A

CSO 10B

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# Compliance with CWA

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- CWA Goal to Eliminate CSO Discharges
- EPA CSO Control Policy
  - Achieve CWA Goals in a Flexible and Cost Effective Manner
- Long Term Control Plan
  - Fiscal Impacts
  - Alternatives Analyses
  - Implementation Schedule



# Results

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- Spent \$55M Since 1997 on Sewer Separation Following Long Term Control Plan
- Results
  - 90% Reduction in CSO Volume
  - Significant Reduction in Street Flooding
  - Significant Reduction in Basement Flooding
  - Met 2010 Long Term Control Plan Targets
  - Met EPA Regulatory Deadlines



# Next Steps

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- Post Construction Monitoring Plan
  - Submitted to EPA
- Long Term Control Plan Update
  - Will Identify Next Projects
  - Funding Through CIP
- Complete Elimination of CSO Water Quality Impact



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# Questions







# Peirce Island WWTF Construction

Portsmouth City Council Meeting  
January 9, 2017 Quarterly Update

# Topics of Discussion

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- Construction Update
- Legal Update





# Off Island Work





# Off Island Work Pictures



# Off Island Work Pictures





# Staging Area Work



# Staging Area Work Pictures



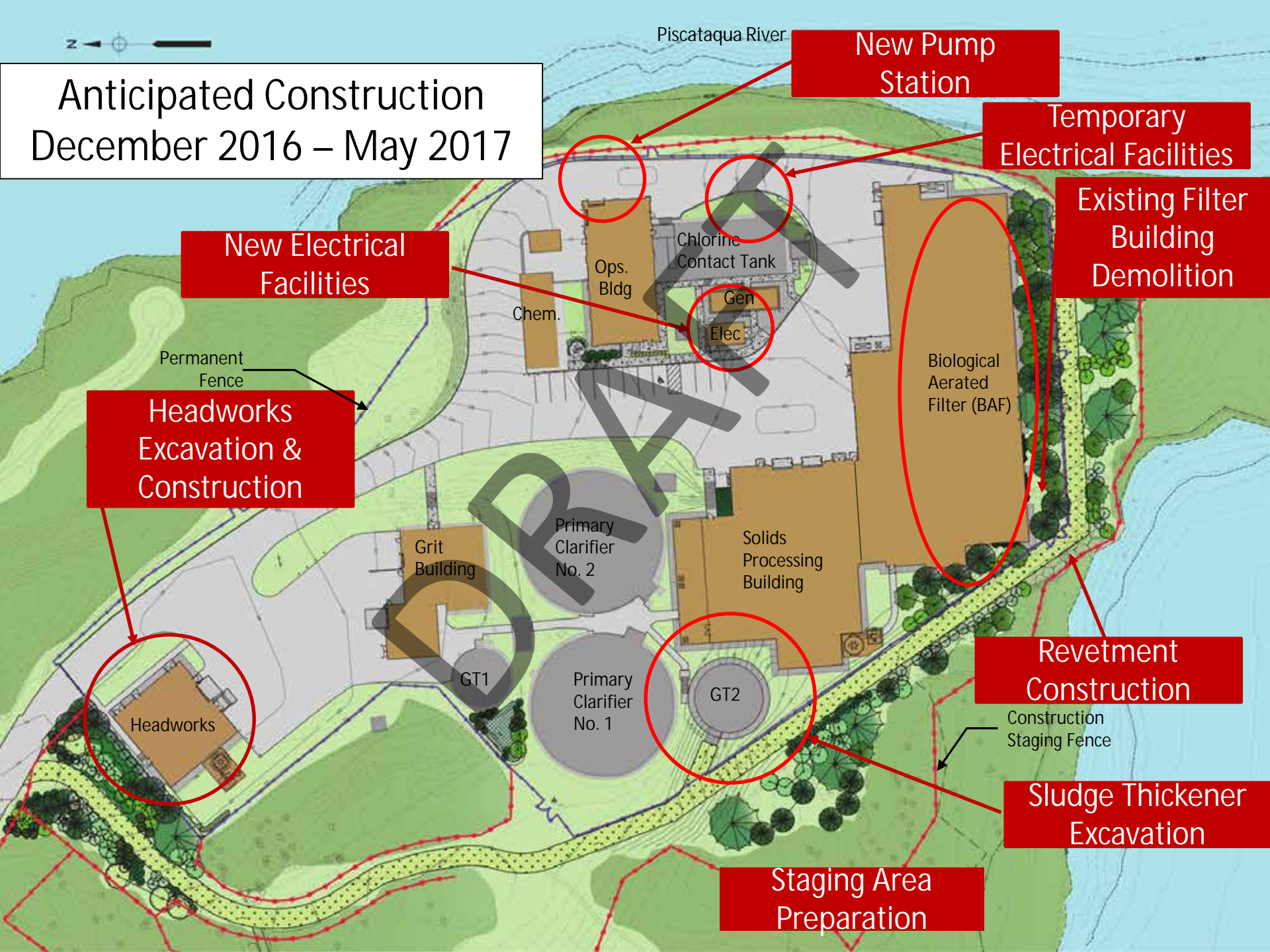


# WWTF Work

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Anticipated Construction  
December 2016 – May 2017



New Pump Station

Temporary Electrical Facilities

Existing Filter Building Demolition

New Electrical Facilities

Headworks Excavation & Construction

Headworks

Revetment Construction

Construction Staging Fence

Sludge Thickener Excavation

Staging Area Preparation

Chem.

Ops. Bldg

Chlorine Contact Tank

Gen

Elec

Permanent Fence

Grit Building

Primary Clarifier No. 2

Solids Processing Building

Biological Aerated Filter (BAF)

GT1

Primary Clarifier No. 1

GT2



# WWTF Work Pictures





# WWTF Work Pictures



# WWTF Work Pictures



January 9, 2017



Peirce Island WWTF Upgrade

12



# WWTF Work Pictures



# WWTF Work Pictures





# Public Meetings

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- September 21, 2016
- October 19, 2016
- November 16, 2016
- December 21, 2016
- Tonight's Quarterly Update to Council
- Presentations, Notes from Meeting on City's Wastewater Web Site
- No Construction Related Complaints to Date



# Ongoing Mitigation Work

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- Permitting and Design for Parking Area Expansion
  - Four Tree Island
  - Adjacent to Boat Ramp Parking Area
  - Construction in Spring 2017
- Use of Snow Dump Area in Winter
  - Will Reduce Traffic through South End for Downtown Load Out



# Legal Update

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- Consent Decree Second Modification
  - Milestones
  - Mitigation
- Citizens Complaint Update
  - Clean Water Act Complaint Filed November 30<sup>th</sup> in United States District Court
  - State Moved to Dismiss
  - City and EPA Will Respond in Late January





# Upgrade Milestones

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- Notice to Proceed September 1, 2016
- Completion of Headworks November 21, 2017
- Testing of BAF Influent Pumps May 9, 2019
- BAF Substantial Completion December 1, 2019
- Project Substantial Completion May 31, 2020  
(Contract Milestone)
- Meet Permit Compliance April 1, 2020
- Project Final Completion August 30, 2020  
(Contract Milestone)





**NON-MEETING RE: STRATEGY OR NEGOTIATIONS WITH RESPECT TO COLLECTIVE BARGAINING – RSA 91-A:2,I (a) – PORTSMOUTH POLICE CIVILIAN EMPLOYEES ASSOCIATION TENTATIVE AGREEMENT**

MUNICIPAL COMPLEX  
DATE: DECEMBER 19, 2016

CONFERENCE ROOM A  
TIME: 5:30PM

A roll call for attendance of City Council members present for the meeting was taken.

**COUNCIL PRESENT:** Mayor Blalock, Assistant Mayor Splaine, Councilors Perkins, Dwyer, Lown (5:35 p.m.), Pearson, Spear, Cyr and Denton (5:35 p.m.)

**STAFF PRESENT:** John P. Bohenko, City Manager, Robert Sullivan, City Attorney, Tom Closson, Negotiator; Dianna Fogarty, Human Resources Director; David Mara, Police Chief and Kelli L. Barnaby, City Clerk

**OTHERS PRESENT:** Brenna Cavanaugh, Police Commissioner

**Assistant Mayor Splaine moved to enter into Non-Meeting regarding Strategy or Negotiations with respect to Collective Bargaining – RSA 91-A:2,I (a) – Portsmouth Police Civilian Employees Association Tentative Agreement. Seconded by Councilor Dwyer and voted.**

City Negotiator Closson provided a review of the Portsmouth Police Civilian Employees Association Tentative Agreement.

At 5:45 p.m., Mayor Blalock closed the Non-Meeting with Counsel.

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**CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: MONDAY, DECEMBER 19, 2016

PORTSMOUTH, NH  
TIME: 7:00PM

At 6:00 p.m. the City Council held a Work Session regarding the Prescott Park Master Plan.

**I. CALL TO ORDER**

Mayor Blalock called the meeting to order at 7:10 p.m.

**II. ROLL CALL**

**Present:** Mayor Blalock, Assistant Mayor Splaine, Councilors Perkins, Dwyer, Lown, Pearson, Spear, Cyr and Denton

**III. INVOCATION**

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



#### **IV. PLEDGE OF ALLEGIANCE**

Olin Johannessen led in the Pledge of Allegiance to the Flag.

#### **PROCLAMATION**

1. Master Sergeant Darrin Sargent Formal Retirement from the NH Air National Guard

Mayor Blalock presented a Proclamation to publicly recognize, commend, and thank Master Sergeant Darrin P. Sargent for this twenty-two years of selfless service and deployment on behalf of his countrymen, and called upon all citizens of Portsmouth to do the same. Darrin accepted the Proclamation with thanks and appreciation.

#### **PRESENTATIONS**

1. Portsmouth High School Madrigal Singers

The Portsmouth High School Madrigal Singers led by Olin Johannessen performed a selection of Christmas music for the City Council.

2. New Hampshire Municipal Association

Judy Silva of NHMA presented Mayor Blalock and the City Council with the 2016 Russ Marcoux Municipal Advocate Award. Ms. Silva spoke to the criteria for the award and announced that this is the first time it has been awarded to a group and not an individual.

- 3 Update Re: Click N' Fix

Jamie McCarty, GIS Coordinator said the Click N' Fix program was released last November and it improved communication and provided a direct link to their work order management system. He said it provides immediate acknowledgement that a service request has been received and communicates when the requests are resolved. GIS Coordinator McCarty spoke to how the system works and how the site can be accessed.

Public Works Director Rice said they did not get an increase in requests but a change in how the requests come into the City. He reported that 1,539 request issues were opened and 1,498 issues have been addressed and are closed. He spoke to the 90 types of issues that look at anything from the age of the request to why the request has not been addressed. He addressed the enhanced tree program and lights requests for reported outages. Public Works Director Rice said with the outages we were able to request a refund which was received due to the Click N' Fix Program.

Councilor Spear asked if Eversource is overcharging other communities. Director Rice said it was due to a change in ownership. He then spoke regarding LED lights and that we will be looking at a \$120,000.00 savings citywide with the use of LED lights.

Councilor Denton asked if we could look into a text alert system for snow bans. Public Works Director Rice spoke to the many ways we have for alerting individuals of our snow bans but said we would look into the matter further.

## **V. ACCEPTANCE OF MINUTES – DECEMBER 5, 2016**

**Councilor Spear moved to accept and approve the minutes of the December 5, 2016 City Council meeting. Seconded by Councilor Cyr and voted.**

## **VI. PUBLIC COMMENT SESSION**

Paul Sanderson, Town of Greenland Selectman, explained the concerns they have with their water system. He said there are members from the Town wishing to speak to the City and have them listen to their concerns and come to a solution to their problem.

Jillian Lane, Town of Greenland, asked the City to look into allowing Portsmouth to provide water to the Town of Greenland. She spoke to the issues regarding their water supply due to the Coakley Landfill.

Mayor Blalock said that the City Council will have a report regarding the Coakley Landfill Group at the January 23<sup>rd</sup> Council meeting.

Mindi Messmer, Town of Rye, spoke to the cancer clusters which are geographically centered to the Coakley Landfill. She spoke to the landfill and how the ground water flows regularly away from the landfill. She said PFC's have been detected which are higher than the amounts allowed in New Jersey and Vermont. Ms. Messmer said we can't wait on this serious problem and their property values are being impacted.

Maria Emory, Town of Greenland, asked the City to consider supplying Portsmouth water to the Town of Greenland. She spoke to the high levels of PFC's and that they keep increasing.

Aimee Miller, Town of Greenland, spoke to the cancer cluster and the need for public water from Portsmouth to come to the Town of Greenland.

John Balboni, Town of Greenland, said that there are questions as to who the Coakley Landfill Group is and who are the federal powers.

Cheryl Vermette, Town of Greenland, spoke to the contamination of water which flows through her yard. She urged the City to help and bring public water to the town.

Liza McGuckin, Town of Greenland, spoke to PFC's in Berry's Brook and how have samples not been taken from the super site. She said the plume of contamination does not provide an accurate reading.

Janet Tibbetts, Town of Greenland, spoke to her concerns regarding the landfill that her family home has lived next to since 1690. She spoke to the continued devaluing of her families land and that the PFC's are poisoning water.

At 8:20 p.m. Mayor Blalock called a brief recess. At 8:30 p.m. Mayor Blalock called the meeting back to order.

Brian Kelly spoke to keeping Portsmouth Loud. He thanked the City Council for the Work Session with the Prescott Park Master Plan Committee. He stated there is consensus that the stage needs to be permanent. He said he and many others oppose a movable stage.

Andrea Amico said she advocates for the Town of Greenland to receive municipal water. She spoke in favor of continued testing at Pease. She said the city needs to be proactive with the PFC's and stated it is their waste that is moving in the system.

Tracey Kozak spoke on safety of Prescott Park and addressed the Master Plan and said temporary structures are more of a risk than a permanent structure. She said she supports a permanent structure and said temporary structures do not meet codes because there are no codes for them.

Trevor Bartlett thanked everyone for their work on the Prescott Park Master Plan. He spoke opposed to a temporary stage at the park. He said the events in the park have been occurring and are a part of the City's personality and spoke in support of them remaining in the Prescott Park.

Esther Kennedy asked that the meetings and times the Committees meet be held before or after hours. She said people are having difficulty getting to some meetings. She said a meeting with the Coakley Landfill Group needs to occur sooner rather than later with a report to the residents of Portsmouth, Greenland and Rye.

Zelita Morgan spoke on the Prescott Park Master Plan and said that Boston uses a temporary stage with no issues and Portsmouth could do the same. She addressed the Ethics Committee and said she is unhappy with the outcome of the Committee. She also stated that Working Groups should have to comply with meeting requirements. She also spoke in favor of Rick Becksted's application for the Planning Board vacancy. She said he is qualified and would make a good addition to the Board.

Beth Margeson spoke in support of the Prescott Park Maser Plan and said a tremendous amount of time has been spent on this matter. She said the cost is expensive but infrastructure is costly. She also stated she supports the change in governance.

Kathleen Cavalaro thanked the Blue Ribbon Committee for their work. She said you just received an advocacy award and would like Prescott Park Arts Festival to have a permanent home for the future. She wants the City to fight for a permanent stage for Prescott Park.

Arthur Clough spoke on the Ethics complaint and the Ordinance has been interpreted to be only financial and it is not correct. He said the Ordinance needs to be looked into and followed correctly.



Robin Comstock spoke to the Housing Committee recommendations. She spoke to affordable housing and it needs to accommodate employees in the City. She recommended providing an outline for the future growth for housing needs and the Committee is leading us to be proactive and not reactive.

Ben Anderson thanked the City Council for a well thought out Prescott Park Master Plan. He said some issues need to be worked out to have the Prescott Park Arts Festival to be viable in the City. He stated the temporary stage is not an option and there are serious issues with temporary structures. He further stated that someone will be seriously injured with a temporary stage.

Kaitlin Deyo said over the last 7 years she has heard of places that had temporary stages and had serious issues and some people were injured and killed.

James Boyle said the City moved to taking his land by eminent domain today. He said it is time for the City to do what is right and to stop trying to take his land.

**Councilor Lown moved to suspend the rules in order to allow Becky McBeath to speak at the Public Comment Session, which was closed. Seconded by Councilor Spear and voted.**

Becky McBeath said she is part of the Task Force on the Coakley Landfill. She said that Greenland are our neighbors and we have a responsibility and everyone deserves safe water.

## **VII. PUBLIC HEARINGS**

### **A. ORDINANCE AMENDING CHAPTER 7, ARTICLE II – TAXIS, SECTION 7.201 – 7.217**

Deputy City Attorney Woodland said we have a changed landscape on the regulating of transportation providers and the Taxi Ordinance. She reviewed the Ordinance before the Council and pointed out the proposed amendments. She reported one of the major changes is that taxis would need to be inspected by a manufactured dealership. She stated taxis would need to carry insurance and licenses would be \$65.00 initially with a \$50.00 renewal fee. She also indicated that signage would be deleted from the Ordinance.

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

Merle White, Anchor Taxi, spoke opposed to the requirements in the Ordinance regarding moving violations. He also spoke opposed to the requirement of inspections being done by a manufacture dealership. He said he has a mechanic that handles all issues relating to his vehicle. Mr. White said that the Public Works Department and the Police Department should remain in charge of the inspections.

Peter Bresciano, Chair of Transportation Service Commission, spoke to the work session held on October 19<sup>th</sup>. He said at the regular meeting of the Transportation Service Commission they reviewed the new proposed ordinance prepared by the Legal Department and spent an hour discussing the ordinance. He further stated on November 8<sup>th</sup> the Legal Department, himself and Lt. Maloney went over the minor changes to the ordinance. Chairman Bresciano said he does not agree with the requirement for a manufacturer to conduct inspections on the taxis. He said we should leave that requirement as it appeared in the current ordinance and look at the item in a year.

Merle White said ride sharing is a farce in the State and there is no regulating the UBER drivers.

With no speakers remaining, Mayor Blalock declared the public hearing closed.

**Councilor Spear moved to suspend the rules in order to take up item IX. A. – Second reading of proposed Ordinance amending Chapter 7, Article II – Taxis, Section 7.201 – 7.217. Seconded by Councilor Cyr and voted.**

IX. A. - Second reading of proposed Ordinance amending Chapter 7, Article II – Taxis, Section 7.201 – 7.217

**Councilor Lown moved to pass second reading and schedule a third and final reading of the proposed Ordinance at the January 9, 2017 City Council meeting. Seconded by Assistant Mayor Splaine.**

**Councilor Lown moved to table the Ordinance for more information regarding various amendments from Deputy City Attorney Woodland until the January 9, 2017 meeting. Seconded by Assistant Mayor Splaine.**

Councilor Lown said we can't burden people beyond the regulations of UBER. He feels the fees are appropriate.

Councilor Dwyer asked if there is anything that we want to fold into the ordinance from comments made by Peter Bresciano or Merle White.

City Manager Bohenko said we will bring back a motion to amend the ordinance as outlined by Deputy City Attorney Woodland and additional items can be brought forward as well.

Councilor Spear said he would like to add an option to strike the requirement that inspections must be done by a manufactured dealership.

**Motion to table passed.**

**Councilor Lown moved to suspend the rules in order to take up Item VII. E. – Public Hearing Ordinance amending Chapter 10 – Zoning Ordinance, Articles 4, 8 and 15, to allow accessory dwelling units and garden cottages by conditional use permit from the**

**Planning Board, and to establish standards and procedures for such uses, in order to comply with a new state law. Seconded by Assistant Mayor Splaine and voted.**

## **VII. PUBLIC HEARINGS**

- E. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, ARTICLES 4, 8, AND 15, TO ALLOW ACCESSORY DWELLING UNITS AND GARDEN COTTAGES BY CONDITIONAL USE PERMIT FROM THE PLANNING BOARD, AND TO ESTABLISH STANDARDS AND PROCEDURE FOR SUCH USES, IN ORDER TO COMPLY WITH A NEW STATE LAW

Planning Director Taintor said this ordinance is required to be adopted by June 1, 2017. He said the law mandates you must allow one attached ADU per single-family dwelling in every zoning district where single-family dwellings are permitted.

- By right, by special exception, or by conditional use permit
- Not required to allow more than one ADU per dwelling

An Interior door must be provided between the principal dwelling unit and the ADU

### Accessory Dwelling Units: State Law – Prohibitions

The City may not –

- Apply additional requirements (e.g., lot area, setbacks, height, etc.) to an ADU beyond what is required for a single-family dwelling
  - Exception: May require adequate parking for the ADU
- Limit the ADU to less than 2 bedrooms or less than 750 sq. ft.
- Require familial relationship between occupants of the principal dwelling and the ADU (“in-law apartment”)
- Require the door between the primary unit and the ADU to remain unlocked

### State Law – Options

The City may –

- Require provision of adequate parking for the ADU
- Require one of the units to be occupied by the property owner
- Require demonstration that a unit is the owner’s primary residence, and adopt regulations to enforce this requirement
- Establish standards for ADU’s to promote “aesthetic continuity with the principal dwelling”
- Limit the number of ADUs per single-family dwelling
- Limit the number of unrelated individuals that occupy an ADU (if the same requirement applies to a single-family dwelling)
- Allow detached AUDs – but if allowed, they must conform to the same requirements as for attached ADUs, except that additional lot area may be required



### Proposed Ordinance

Allowed by Conditional Use Permit from the Planning Board:

- Attached Accessory Dwelling Units (AADUs)
  - All Residential, Mixed Residential, and Character districts
- Detached Accessory Dwelling Units (DADUs)
  - Rural, SRA, SRB, GRA, GRB  
(districts requiring at least 5,000 sq. ft. of lot area per unit)
- “Garden Cottages”
  - All Residential, Mixed Residential, and Character districts

### All ADUS

- Complies with state mandates and prohibitions
- Additional provisions:
  - ADU may not be separated in ownership from the principal dwelling unit
  - No business use of either unit, except that the owner-occupied unit may have a home occupation as allowed by ZO
  - 1 additional parking space for ADU  $\leq$  400 sq. ft.; 2 parking spaces for ADU > 400 sq. ft.

### Attached ADUS

- Maintain the appearance of a single-family dwelling
- If more than one door in the front, one door shall clearly be the principal entrance and the others shall be designed to appear secondary

### Detached ADUS

#### *Challenge*

- *Conversions of existing accessory structures (garages, carriage houses) will be more context-sensitive than large additions on existing homes*
- *But zoning for single-family dwellings is inappropriate for garage conversions – especially setbacks, building height*

#### *Solution – “Garden Cottage”*

- Conversion of an existing accessory dwelling
- Not an ADU, but an alternative to attached or detached ADU

### Garden Cottages

- Not an “accessory dwelling unit” under the statute, so single-family zoning standards (required setbacks, allowed height) do not apply
  - A lot with a primary dwelling and a garden cottage has two dwelling units and is therefore ineligible for another (ADU) unit

- Garden cottage will be less expensive for the owner to create than an ADU, and should be more affordable
- Would allow increase in affordable housing without changing the basic character of the lot or intruding on neighbors' privacy
- Gives homeowner a third option with the hope that this lower-cost, lower-impact option will be preferred

Standards for Garden Cottages

- No expansion of existing accessory building, other than the addition of a small front entry or a side or rear deck
- Maximum size of 500 sq. ft.
- If within a required yard, no windows or doors higher than 8 feet facing the adjacent property
- 1 off-street parking space

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

Jeffrey Cooper spoke regarding accessory dwelling unit and said to protect the rights of owners you could apply for anything to a third bedroom. He addressed the door between the accessory dwelling and the main house and stated property owners should use their property as they see fit. He said accessory dwelling units are for large units and when the parking requirement comes into play. He stated he supports home sharing and whether or not money is exchanged is no one's business. Mr. Cooper indicated he supports short term rentals.

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

- B. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, ARTICLES 2, 3, 11 AND 15, TO IMPLEMENT HOUSEKEEPING CHANGES RELATIVE TO CONFORMANCE WITH STATE LAW, NONCONFORMING BUILDINGS AND STRUCTURES, SETBACK REQUIREMENTS FOR PARKING AREAS, AND THE DEFINITION OF “STRUCTURE”

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

- C. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, ARTICLES 5 AND 15, TO REVISE AND CLARIFY PROVISIONS RELATED TO YARDS (I.E., SETBACKS) EXCEPTIONS TO YARD REQUIREMENTS, AND PROJECTIONS INTO REQUIRED YARDS; AND TO CLARIFY THE DEFINITION OF “BUILDING COVERAGE”

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

- D. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, ARTICLE 5, SECTION 10.521, TO REDUCE THE MAXIMUM BUILDING HEIGHT FROM 35 FEET TO 30 FEET IN RESIDENTIAL DISTRICTS, AND FROM 40 FEET TO 35 FEET IN THE MIXED RESIDENTIAL DISTRICTS

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

- F. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, ARTICLES 5A AND 6, REGARDING THE HISTORIC DISTRICT, TO REFERENCE DESIGN GUIDELINES ADOPTED BY THE HISTORIC DISTRICT COMMISSION, TO REVISE AND EXPAND THE LIST OF ACTIVITIES THAT ARE EXEMPTED FROM HDC REVIEW AND APPROVAL, AND TO CLARIFY THAT EXEMPTED USES ARE SUBJECT TO ADMINISTRATIVE REVIEW AND APPROVAL

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

- G. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, ARTICLE 10 SECTION 10.1010 – WETLANDS PROTECTION, TO EXPAND THE JURISDICTIONAL WETLANDS TO INCLUDE A PORTION OF THE PISCATAQUA RIVER SHOREFRONT NORTH OF THE I-95 BRIDGE, TO CLARIFY THE EXISTING ALLOWANCE FOR EXPANSION OF A SINGLE OR TWO-FAMILY DWELLING, AND TO REQUIRE RESTORATION OF A VEGETATED BUFFER STRIP TO THE EXTENT FEASIBLE

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

- H. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, ARTICLE 12 – SIGNS, TO LIMIT THE TYPE AND MANNER OF ILLUMINATION OF SIGNS USING “DIRECT ILLUMINATION,” SUCH AS LED OR PLASMA SIGNS

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

## **VIII. APPROVAL OF GRANTS/DONATIONS**

- A. Acceptance of Donation for the 400<sup>th</sup> Anniversary Trust from Harold Whitehouse - \$300.00

**Assistant Mayor Splaine moved to accept and approve the donation for the 400<sup>th</sup> Anniversary Trust. Seconded by Councilor Spear.**

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he is proud that Mr. Whitehouse was the first donor to the Anniversary Trust. He said we will be recognizing Harold at a future Council meeting with pictures to be taken of Harold providing the check to the City.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.



**Motion passed.**

**IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES**

- B. Second reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Articles 2, 3, 11 and 15, to implement housekeeping changes relative to conformances with state law, nonconforming buildings and structures, setback requirements for parking areas, and the definition of “structure”

**Councilor Dwyer moved to pass second reading and schedule third and final reading at the January 9, 2017 City Council meeting. Seconded by Councilor Perkins and voted.**

- C. Second reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Articles 5 and 15, to revise and clarify provisions related to yards (i.e., setbacks), exceptions to yard requirements, ad projections into required yards; and to clarify the definition of “building coverage”

**Councilor Pearson moved to pass second reading and schedule third and final reading at the January 9, 2017 City Council meeting. Seconded by Councilor Dwyer and voted.**

- D. Second reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Article 5, Section 1.521, to reduce the maximum building height from 35 feet to 30 feet in the Residential districts, and from 40 feet to 35 feet in the Mixed Residential districts

**Councilor Spear moved to pass second reading and schedule third and final reading at the January 9, 2017 City Council meeting. Seconded by Councilor Pearson.**

Councilor Spear asked that Planning Director Taintor review the ordinance with the Council.

Planning Director Taintor explained the revised ordinance does the following:

- Reduce maximum height to 30 feet only for flat roofs on lots in the Single Residence, General Residence and Mixed Residence districts (minimum lot area one acre or less)
  - No change proposed for sloped roofs or lots in the Rural or GAMH districts
- Restrict eave height (top of exterior wall) to 22 feet if less than 20 feet from lot line
- Define “flat roof” = slope of less than 1:4 for more than 50% of the roof area

Councilor Dwyer spoke to 22 ft seeming too short to her. Planning Director Taintor said the typical house is 2 ½ stories it could be 23-24 ft. He said it is the flat roof that would have the problem.

**Councilor Dwyer moved to delete B. – In Article 5 – Dimensional and Intensity Standards, the following new Section 10.523:**

**10.523 Height Setback From Side Lot Line**

**In a Residential or Mixed Residential district, the top of an exterior wall that is less than 20 feet from a side lot line shall not exceed 22 feet above grade.**

**Seconded by Councilor Spear and voted.**

**Main motion passed as amended with Councilor Lown voting opposed.**

- E. Second reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Articles 4, 8 and 15, to allow accessory dwelling units and garden cottages by conditional use permit from the Planning Board, and to establish standards and procedures for such uses, in order to comply with a new state law

**Assistant Mayor Splaine moved to amend the proposed Ordinance as follows:**

**(a) Insert the following new Section 10.814.80:**

**In granting a conditional use permit for an accessory dwelling unit, the Planning Board may modify a specific dimensional or parking standard set forth in this Section, provided that the Board finds such modification will be consistent with the required findings in Section 10.815.60**

**(b) In proposed Section 10.815.32, change “500 sq. ft.” to “600 sq. ft.”**

**(c) Insert the following new Section 10.815.60:**

**In granting a conditional use permit for a garden cottage, the Planning Board may modify a specific dimensional or parking standard set forth in this Section, provided that the Board finds such modification will be consistent with the required findings in Section 10.815.40.**

**Seconded by Councilor Perkins.**

**Councilor Perkins moved to table the ordinance until the January 9, 2017 City Council meeting. Seconded by Assistant Mayor Splaine.**

Councilor Cyr said he would like to see requirements for parking from information that is data driven.

Councilor Dwyer said as a City Council they could move forward with the Ordinance.

Councilor Spear said he opposed the motion to table. He said the staff heard improvements at the last meeting and feels we can pass the revised amendment.

**On a roll call 1-8, motion to table the Ordinance until January 9, 2017 City Council meeting failed to pass. Assistant Mayor Splaine voted in favor. Assistant Mayor Splaine voted in favor. Councilors Perkins, Dwyer, Lown Pearson, Spear, Cyr, Denton and Mayor Blalock voted opposed.**

**Councilor Perkins moved to pass second reading of the amended Ordinance and schedule third and final reading at the January 9, 2017 City Council meeting. Seconded by Councilor Spear and voted.**

- F. Ordinance amending Chapter 10 – Zoning Ordinance, Articles 5A and 6, regarding the Historic District, to reference Design Guidelines adopted by the Historic District Commission, to revise and expand the list of activities that are exempted from HDC review and approval, and to clarify that exempted uses are subject to administrative review and approval

**Councilor Spear moved to pass second reading and schedule third and final reading at the January 10, 2017 City Council meeting. Seconded by Councilor Dwyer and voted.**

- G. Second reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Article 10, Section 10.1010 – Wetlands Protection, to expand the jurisdictional wetlands to include a portion of the Piscataqua River shorefront north of the I-95 bridge, to clarify the existing allowance for expansion of a single or two-family dwelling, and to require restoration of a vegetated buffer strip to the extent feasible

**Councilor Lown moved to pass second reading and schedule third and final reading at the January 9, 2017 City Council meeting. Seconded by Councilor Pearson and voted.**

- H. Second reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Article 12 – Signs, to limit the type and manner of illumination of signs using “direct illumination,” such as LED or plasma signs

**Councilor Perkins moved to pass second reading and schedule third and final reading at the January 9, 2017, City Council meeting. Seconded by Councilor Pearson and voted.**

**Councilor Spear moved to suspend the rules in order to take up third and final reading of Ordinances IX. B – IX. H. Seconded by Councilor Perkins.**

**Councilor Lown moved to remove IX. D. and IX. E. from the motion. Seconded by Councilor Perkins and voted**

Assistant Mayor Splaine spoke opposed to suspending the rules for these ordinances and does not feel it is necessary to pass the ordinances this evening.

Councilor Pearson said she would vote opposed as well. She said she feels we give the public additional time for input holding third and final reading at the next meeting.

Councilor Lown said he is in favor of voting the ordinances through this evening.

**On a roll call vote 4-5, main motion *failed* to pass. Councilors Perkins, Dwyer, Lown and Spear voted in favor. Assistant Mayor Splaine, Councilors Pearson, Cyr, Denton and Mayor Blalock voted opposed.**



**X. CONSENT AGENDA**

A. Request for License to Install Projecting Sign:

Chloe Kelley owner of Serendipity for property located at 41 Pleasant Street  
***(Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement 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***

B. Request for License to Install Projecting Sign:

Emily Stearns owner of Drift, LLC for property located 12B Fleet Street  
***(Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement 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***

C. Request for License to Install Projecting Sign:

Tom Chappell owner of Ramblers Way for property located at 100 Market Street  
***(Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement 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***

**XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

*(There are no items under this section of the agenda this evening)*

**XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

**A. CITY MANAGER**

1. Proposed Public Hearing Re: Amending Elderly and Disabled Exemptions

City Manager Bohenko said he would like to push this item off for a public hearing to be held on January 23<sup>rd</sup>.

**Councilor Perkins moved that the City Council act to authorize the City Manager to proceed with the proposed increases to income limits for the elderly and disabled exemptions by the increase in the Boston CPI-U for November 2015 to November 2016, and further, move to authorize the City Manager to bring the Resolutions back for public hearing and adoption at the January 23, 2017 City Council meeting, as proposed. Seconded by Councilor Cyr and voted.**

2. Request for Public Hearing Re: All Veterans Tax Credit RSA 72:28 (b)

City Manager Bohenko said he would like to wait and see how other cities and towns voted on this matter or make changes. He said there maybe legislation coming forward.

Councilor Dwyer said the NHMA Board feels that no one has enough information on this item.

City Manager Bohenko said there is no need to rush, we have until February.

Councilor Denton asked if we need to decide on the amount for January 23<sup>rd</sup>. He would like to see \$500.00 for all veterans. City Manager Bohenko said the public hearing would be held on January 23, 2017.

**Councilor Denton moved that the City Council act on one of the aforementioned options as outlined in the City Manager's memorandum dated December 15, 2016, and further, move to authorize the City Manager to bring back the Resolution for public hearing and adoption at the January 23, 2017 City Council meeting, as presented. Seconded by Councilor Perkins and voted.**

3. Sale of Surplus Generator

**Councilor Perkins moved to authorize the City Manager to dispose of surplus generator by the sealed bid process. Seconded by Councilor Pearson and voted.**

4. Adoption of Housing Policy and Housing Committee Recommendations

**Councilor Lown moved that the Council adopt the Housing Policy and endorse the Housing Committee's recommendations, and to ask the City Manager to make \$10,000.00 available from contingency to draft zoning language to implement the recommendations. Seconded by Councilor Pearson.**

Councilor Spear said he would like to bring back housing options for January 9, 2017.

Councilor Denton said increasing housing stock will increase affordable housing.

**B. MAYOR BLALOCK**

1. Appointments to be Considered:

- Reappointment of Philip Cohen to the Economic Development Commission
- Appointment of Sarah LaChance to the Economic Development Commission
- Appointment of Jane Begala to the Planning Board as an Alternate member

The City Council considered the appointments listed above which will be voted on at the January 9, 2017 City Council meeting.

2. Appointments to be Voted:
  - Appointment of Robin Pickering to the Portsmouth Housing Authority – Resident Representative
  - Reappointment of Chris Mulligan to the Zoning Board of Adjustment
  - Reappointment of David Rheume to the Zoning Board of Adjustment

**Councilor Lown moved to appoint Robin Pickering to the Portsmouth Housing Authority as the resident representative filling an unexpired term until April 1, 2020; reappointment of Chris Mulligan and David Rheume to the Zoning Board of Adjustment until December 1, 2021. Seconded by Councilor Perkins and voted.**

Assistant Mayor Splaine asked how many members are on the Portsmouth Housing Authority and said he would like to see additional members appointed. City Manager Bohenko said that this is governed by State statute.

3. Appointment by Mayor to Sustainable Practices Blue Ribbon Committee – Tracey Cameron

Mayor Blalock announced he appointed Tracey Cameron to the Sustainable Practices Blue Ribbon Committee.

4. Resignation of Stefany Shaheen from the Economic Development Commission

**Assistant Mayor Splaine moved to accept with regret the resignation of Stefany Shaheen from the Economic Development Commission and to send a letter of thanks for her service to the City. Seconded by Councilor Pearson and voted.**

#### **C. ASSISTANT MAYOR SPLAINE**

1. At 50 Years:  
Remembering Portsmouth's North End

Assistant Mayor Splaine said he would be reviewing what has taken place in the North End over the last 50 years. He said in the spring he would be bringing forward 6 components for support. He also indicated he would bring his ideas forward over the next several meetings on this matter and look at what the future holds for the North End.

#### **D. COUNCILOR DWYER**

1. Middle School Update

Councilor Dwyer spoke to the mediation process that was started last year to resolve various claims. She said at that time the Joint Building Committee asked the City Council to grant up to \$600,000.00 on trying to get to a settlement. She said she is happy to report all parties have reached an agreement and the City will receive full reimbursement of the funds.



City Manager Bohenko said that Councilor Dwyer and Dexter Legg spent many hours on this matter and thanked both of them for their hard work.

**E. COUNCILOR LOWN**

1. Parking & Traffic Safety Committee Meeting Action Sheet and Minutes of the December 1, 2016

**Assistant Mayor Splaine moved to approve and accept the Parking & Traffic Safety Committee action sheet and minutes of the December 1, 2016 meeting. Seconded by Councilor Cyr and voted.**

**F. COUNCILOR SPEAR**

1. Extending evening hours of downtown parking meter enforcement in Portsmouth

Councilor Spear said 5 City Councilors attended the Joint Budget Committee meeting last week. He said he would like a report back from City staff on extending evening hours of the downtown parking meter enforcement in Portsmouth.

**Councilor Spear moved to have a report back on extending evening hours of the downtown parking meter enforcement. Seconding by Councilor Lown.**

Councilor Cyr said he does not support extending hours but it is important to have the conversation to move forward.

Councilor Pearson requested to see what it would be like to raise the parking rates by \$.25 versus extending the hours of enforcement.

**Motion passed.**

**XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

Councilor Spear said the City Council and Committee needs to do a better job in communicating about the Prescott Park Stage. He said we need to address better the concerns that were being expressed.

Councilor Spear requests that the Coakley Landfill Group at the January 23, 2017 Council meeting explain some of the bullet points from the Coakley Landfill Fact Sheet presented during the Public Comment Session by Greenland resident Mindi Messmer.

Assistant Mayor Splaine said for the January 9, 2017 City Council meeting he would have a Resolution to send to the Legislative Delegation regarding the gay conversion ban and Transgender Equality.

**XIV. ADJOURNMENT**

**At 11:00 p.m., Councilor Lown moved to adjourn. Seconded by Councilor Cyr 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, MMC, CMC, CNHMC  
City Clerk



**NEWBURYPORT**  
FIVE CENTS SAVINGS  
**BANK**

December 14, 2016

Portsmouth Fire Department  
170 Court Street  
Portsmouth, NH 03801

Dear Friends:

On behalf of Newburyport Five Cents Savings Bank, I am pleased to present to your organization the enclosed donation. This bank prides itself on its commitment to the local and surrounding communities.

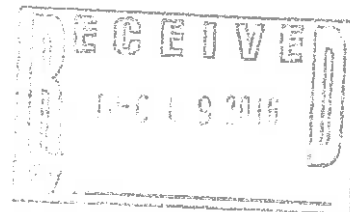
We understand the current financial pressure that has been placed on charitable organizations and municipal entities, and hope that our gift will help to demonstrate our support for the good work that you do. Aligned with our mission, we encourage our employees to also become active in volunteering and contributing their time to many of the social groups in our great communities.

Wishing you great success in 2017!

Sincerely,

  
Janice C. Morse  
President & CEO

JCM/ejb  
Encl. ck. \$500.00



## ORDINANCE #

### THE CITY OF PORTSMOUTH ORDAINS:

That Chapter 7, Article II, - S - of the Ordinances of the City of Portsmouth be stricken in its entirety and replaced as follows:

#### ARTICLE II: TAXIS

##### Section 7.201: PURPOSE

It is the intention of this ordinance to provide a structure for the regulation of motor vehicle operators who seek to hold themselves out as operators of a taxi, accepting the special benefits and burdens of that particular designation.

##### Section 7.202: TAXI DEFINED

The term "Taxi" shall mean any motor vehicle used for the transportation of passengers for hire, the destination and route of which are under the direction and control of the passenger; except that this Ordinance shall not apply to the following:

- A. Limousine services, which provide designated luxury or specialty vehicles by prior appointment for discrete functions;
- B. Limousine services whose operator is limited to the transport of passengers by prior appointment from locations within the City of Portsmouth to destinations located outside of the City or the reverse;
- C. Transportation services that carry seven (7) or more passengers;
- D. Transportation services operated by the municipality or other entity free-of-charge; and
- E. Transportation network companies and their operators who are regulated under the laws of the State of New Hampshire.

##### Section 7.203: OPERATOR AND OWNER DEFINED

- A. The term "Operator" as used in this Ordinance shall mean the person driving or having control or possession of a motor vehicle while it is being used as a Taxi.



- B. The term "Owner" as used in this Ordinance shall mean the person or business entity having the ownership or leasehold of any vehicle used or licensed to be used as a Taxi.

**Section 7.204: MEDALLION REQUIRED**

No vehicle shall be operated as a Taxi unless that vehicle has been issued a Medallion and such Medallion has not be suspended or revoked. The word "Medallion" shall mean the permission granted by the City of Portsmouth for a vehicle to be used as a Taxi.

**Section 7.205: TAXI LICENSE REQUIRED**

No person shall operate a motor vehicle as a Taxi within the City of Portsmouth unless such person holds a valid Taxi License issued by the City Clerk and is operating a vehicle with a valid Medallion.

**Section 7.206: TAXI LICENSE REQUIREMENTS**

- A. Any person seeking a Taxi License shall submit an application to City Clerk. Such application shall require the applicant to provide a residential history for the preceding ten (10) years and submit the results of a **criminal background check multi-state/multi-jurisdiction criminal records locator or other similar commercial nationwide data base with validation (primary source search)** and motor vehicle record history covering each jurisdiction in which the applicant has resided ~~in and~~ the 10 year time period. In addition, the applicant shall provide a passport photograph and such other information as the City Clerk reasonably deems necessary to determine if the applicant meets all minimal requirements for the issuance of a Taxi License. The City Clerk has the authority to require the submission of results of criminal background checks and motor vehicle history records from multiple jurisdictions depending on the residency and residential history of the individual applicant.
- B. The City Clerk shall have the authority to issue a Taxi License upon the submission of documentation satisfactory to the City Clerk and Taxi Coordinator that the applicant meets the following criteria:
1. Possesses a valid motor vehicle operator's license;
  2. Maintains a satisfactory motor vehicle record as defined in Section 7.206 (C);
  3. Has no disqualifying criminal conduct as defined in Section 7.206 (D); and

4. Has received no more than three (3) violations of this ordinance in the year preceding the application and no more than six (6) total in all preceding years; and

~~5. Payment of Taxi License fee.~~

**5. Is not a match on the United States Department of Justice National Sex Offender Public Website.**

The City Clerk reserves the right to deny a Taxi License to an unsuitable person.

C. A motor vehicle record shall be deemed not satisfactory if:

~~1. The applicant has three or more convictions for moving violations directly related to operation of a vehicle such as but not limited to speed, failure to stop and/or lane violations, in this or any other state, in the three years prior to the date of the application.~~

~~2. The applicant has lost his/her privilege to operate a motor vehicle (license revoked and/or suspended) at any time, in this or any other state, in the three years prior to the date of the application, for any reason related to the operation of a motor vehicle.~~

**The applicant has had more than 3 moving violations in the prior 3-year period, or one major violation in the prior 3-year period, including, but not limited to, attempting to evade the police, reckless driving, or driving with a suspended or revoked license.**

D. Disqualifying criminal conduct is defined as:

~~1. The applicant has been convicted of a felony or misdemeanor, in this or any other state, in the seven years prior to the date of the application.~~

~~2. The applicant has been convicted of a felony involving a controlled substance or violence, in this or any other state, in the fifteen years prior to the date of the application.~~

**The applicant has been convicted, within the past 7 years, of driving under the influence of drugs or alcohol, fraud, sexual offenses, use of a motor vehicle to commit a felony, a crime involving property damage, and/or theft, acts of violence, or acts of terror.**

- E. By submitting an application, applicant authorizes the City to undertake such investigation as it deems reasonably necessary to verify the applicant's statements and eligibility to hold a Taxi License.
- F. Administrative appeal of any decision of the City Clerk relative to issuance or denial of a Taxi License shall be made in writing and delivered to the City Attorney within thirty (30) days of the decision. Appeals shall be to the Taxi Coordinator, with notice of the opportunity to be heard and to respond; such opportunity to occur within thirty (30) days of receipt of the appeal.

Section 7.207: MEDALLION REQUIREMENTS

- A. Any Owner seeking a Medallion for a vehicle shall submit an application to the City Clerk. Such application shall require the Owner to provide the vehicle identification number, proof of insurance and such other information as the City Clerk reasonably deems necessary to determine if the applicant meets all minimal requirements for the issuance of a Medallion.
- B. The City Clerk shall have the authority to issue a Medallion upon the submission of documentation satisfactory to the City Clerk and Taxi Inspector that the following criteria have been met:
  - 1. Vehicle registration;
  - ~~2. Vehicle has the required markings as set forth in Section 7.211 (A) and (B);~~
  - ~~23. Proof that the vehicle is current in its passed a State inspection such inspection must have occurred at a manufacturer's dealership for the make of the vehicle to be used as a Taxi (maintenance and repair work can be done at any facility);~~
  - ~~34. Proof of adequate personal injury and property damage liability insurance coverage for the term of the Medallion; and~~
  - ~~45. Payment of Medallion Application Fee.~~
- C. Adequate insurance shall be personal injury coverage of not be less than three hundred thousand dollars (\$300,000) for injury to one person with a total coverage of not less than five hundred thousand dollars (\$500,000) for each accident. The property damage coverage shall be not less than fifty thousand dollars (\$50,000) per occurrence.
- D. Administrative appeal of any decision of the City Clerk relative to issuance or denial of a Medallion shall be made in writing and delivered to the City Attorney within thirty (30) days of the decision. Appeals shall be to the Taxi Coordinator,

with notice of the opportunity to be heard and to respond; such opportunity to occur within thirty (30) days of receipt of the appeal.

**Section 7.208: TAXI COORDINATOR**

There shall be a Taxi Coordinator who shall be an officer of the Portsmouth Police Department assigned by the Chief of Police. That officer, in addition to his or her regular duties, shall assist the City Clerk with the implementation of this Ordinance, conduct background investigations and have the enforcement powers set forth in this ordinance.

**Section 7.209: FEES AND TERMS FOR LICENSES AND MEDALLIONS**

- A. All Medallions and licenses granted under this chapter shall continue and remain in full force and effect for a period from the first day of April each year until midnight on the 31<sup>st</sup> day of March of the following year.
- B. All applications for renewals of Medallions or licenses must be filed with the City Clerk no earlier than February 1 and no later than March 1.
- C. Fees shall be set by the City Council as part of its annual budget adoption process as set forth in Chapter 1, Article XVI.
- D. Until such time as the fees are set by the City Council under paragraph 7.209 (C), the fees are as follows:
  - 1. The first time fee for a Medallion shall be one hundred twenty-five dollars (\$125.00) each year or any part of a year commencing on April 1st for each Taxi payable in advance on application for the Medallion. The renewal fee shall be one hundred dollars (\$100.00).
  - ~~2. The fee for a Taxi License shall be sixty-five dollars (\$65.00) per year or any part of a year commencing on April 1st. The renewal fee shall be \$50.00.~~
  - 23.** The fee for restoration of any Medallion that has been revoked shall be one hundred dollars (\$100.00), except that when the revocation is due to failure to meet vehicle inspection requirements, no fee shall be due if the vehicle is repaired to the satisfaction of the Taxi Coordinator within 1 business day of the revocation.
- E. If required insurance coverage terminates, expires or is suspended, Owner shall immediately suspend service until insurance coverage is in place. All required insurance policies shall contain a provision, which will provide for the automatic



notification by the insurer to the City of the cancellation or expiration of the policy. Notice shall be mailed to the City Clerk.

#### Section 7.210: TAXI OPERATOR CONDUCT

A Taxi Operator shall:

- A. Use only a vehicle that has been issued and displays a Medallion;
- B. Display a copy of his/her Taxi License in a conspicuous place within the Taxi where it may be seen by any passenger;
- C. Not laminate, deface or alter the Taxi License;
- D. Not stand or park on any street except at designated Taxi stands or bus stops, except while actually engaging in taking on or discharging passengers;
- E. Not engage in any conduct that endangers the health, welfare or safety of passengers or the public; and
- F. Report in writing to the City Clerk any and all of the following:
  - 1. Any change of address within thirty (30) days of such change;
  - 2. Any motor vehicle motor vehicle moving violation within seven (7) days;
  - 3. Any motor vehicle license suspension or revocation within seven (7) days; and
  - 4. Any misdemeanor or felony arrest within seven (7) days.

Any failure to report will result in the imposition of a late fee of \$50.00 and may result in the revocation of the Taxi License and/or the finding of a violation

#### Section 7.211: MEDALLION OWNER REQUIREMENTS

- A. **Each Taxi shall utilize a roof light with the firm name or the word 'Taxi' inscribed thereon and operating during evening hours when the Taxi is on duty.** ~~Each Taxi shall have a roof light attached to the roof of the Taxi with the firm name or the word "Taxi" inscribed thereon and operating during evening hours when the Taxi is on duty.~~ There shall be no other lights on a Taxi, except those required by law.

~~B. Each Taxi shall have the Medallion holder's name displayed on the sides thereof in letters not less than three (3) inches in height.~~

**BC.** Each Taxi shall display two license plates furnished by the City of Portsmouth with the word "TAXI" on the plates; such plates shall be attached in a conspicuous place on the front and rear of the motor vehicle operated.

**CD.** Provide proof of vehicle inspection renewal to the City Clerk within ten (10) days of the end of the month for which inspection is due. Failure to provide such notice will result in a \$50.00 late fee for the untimely compliance and may result in the revocation of the Medallion and/or the finding of a violation.

**DE.** Return to the City any Medallion which has not been renewed within five (5) business days after the expiration of the term set forth in Section 7.209.

#### Section 7.212: TAXI STANDS AND HAILS

A. The term "Taxi stand" as used in this Ordinance shall be construed to mean such portion or portions of the public street or highway as shall be designated by the City Council of the City of Portsmouth as a place in which Taxis may stand or park.

1. No Owner or Operator of any Taxi shall allow or permit a Taxi to remain standing or parked unattended for longer than ~~five (5)~~ **fifteen (15)** minutes at any Taxi stand.
2. No Operator shall park a Taxi in a double line at a public stand nor shall any Operator park a Taxi in such a manner as to interfere with traffic, either vehicular or pedestrian, at any location.
3. No more than two (2) Taxis owned by the same person or business entity shall occupy any one Taxi stand at any one time.

B. Taxis may accept street hails.

#### Section 7.213: ADDITIONAL OPERATOR AND OWNER REQUIREMENTS

All Operators and Owners shall:

- A. Ensure that fares are posted, published or otherwise available to the passenger before engagement of the fare;
- B. Provide a written receipt if requested;
- C. Decline multiple fares unless each passenger consents;

- D. Prohibit the use of smoking materials of any kind within the Taxi at any time; the Owner of each Taxi shall post a notice in each Taxi, plainly visible to all occupants of the Taxi, reading, "No Smoking"; and
- E. Maintain the Taxi in a safe, clean and sanitary condition at all times.

**Section 7.214: ENFORCEMENT**

- A. If the Taxi Coordinator reasonably believes that a Taxi may no longer be safe during the term of the Medallion period, the Taxi Coordinator may order the Owner to have the Taxi re-inspected, at Owner's cost, at a manufacturer's dealership as required under section 7.207(B)(3).
- B. Any Portsmouth Police Department officer may:
  - 1. Issue a written notice of violation of this Ordinance.
  - 2. Issue a Defective Equipment notice to the Owner and/or Operator of the Taxi requiring correction of the defect within five (5) business days with proof of correction provided to the Police Department to avoid automatic suspension of the Medallion. The Medallion will be immediately surrendered to the City Clerk after five (5) business days if proof of correction is not provided to the Police Department.
  - 3. Suspend immediately an Operator's Taxi License or an Owner's Medallion upon a reasonable belief that there is an imminent danger to the health, safety or welfare of passengers or the public.
- C. Administrative appeals of any notice of violation, defective equipment notice, suspension or revocation shall be made in writing by the Operator or Owner and delivered to the City Attorney within fourteen (14) days of the suspension, revocation or notice of violation. Appeals shall be to the Taxi Coordinator, with notice to the Operator or Owner of the opportunity to be heard and to respond.
- D. If the Taxi Coordinator determines after notice and response that any violation of state law or this Taxi ordinance has occurred, the Taxi Coordinator may, in addition to the actions set forth in Section 7.214 (A), take one (1) or more of the following actions.
  - 1. Remove the Medallion from the Taxi in violation until the violation is corrected and proof of correction is provided to the Taxi Coordinator;
  - 2. Suspend or revoke any Medallion or License;
  - 3. Refer for prosecution any violation of this Ordinance.

- E. Any person or entity in violation may be subject to a fine of no more than \$300 upon conviction by the Portsmouth District Court.

**Section 7.215 APPEALS**

Written final decisions of the City Clerk and the Taxi Coordinator relative to the issuance, suspension and revocation of licenses, medallions and other actions of enforcement made pursuant to this Ordinance are final. Persons aggrieved of the decisions of the City Clerk and/or Taxi Coordinator shall have all rights and remedies available to them in the courts of the State of New Hampshire.

**Section 7.216: RECIPROCITY WITH OTHER MUNICIPALITIES**

Taxis which are licensed in other municipalities may deliver passengers from outside the City to destinations within the City or pick up passengers by prior arrangement in the City for delivery to destinations outside the City.

**Section 7.217 TRANSITION PERIOD**

Owners and Operators operating a Taxi upon the effective date of this Ordinance may continue to operate while Taxi License and Medallion applications are pending under this Ordinance and a final decision has been made to approve or deny the Taxi License or Medallion application.

The City Clerk shall properly alphabetize and/or re-number the ordinance as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall become effective as of February 1, 2017.

**APPROVED:**

\_\_\_\_\_  
Jack Blalock, Mayor

**ADOPTED BY COUNCIL:**

\_\_\_\_\_  
Kelli L. Barnaby, City Clerk



ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, be amended as follows:

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- A. Amend Article 2 – Administration and Enforcement, Section 10.236 – Expiration of Approvals, as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

Variances and special exceptions shall expire unless a building permit is obtained within a period of ~~one year~~ **two years** from the date granted.

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- B. Amend Article 3 – Nonconforming Lots, Buildings, Structures and Uses, Section 10.320 – Nonconforming Buildings and Structures, as follows:

- (1) Amend Section 10.321 as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

A lawful nonconforming building or structure may continue **and may be maintained or repaired**, but may not be extended, reconstructed, or enlarged ~~or structurally altered except in conformity with this Ordinance~~ **unless such extension, reconstruction or enlargement conforms to all the regulations of the district in which it is located.**

- (2) Delete Sections 10.322, 10.324 and 10.327.
- (3) Renumber Sections 10.323, 10.325 and 10.326 as Sections 10.322, 10.323 and 10.324.
- 

- C. Amend Article 11 – Site Development Standards, Section 10.1113 – Location of Vehicular Use Facilities, by inserting the letters “GW” in two tables, as follows (additions to existing language **bolded**; remaining language unchanged from existing):

10.1113.31 Off-street parking areas, accessways, maneuvering areas and traffic aisles serving uses in a Business or Industrial district shall be set back from all Residential and Mixed Residential districts as follows:

District	Minimum Distance from Residential or Mixed Residential District
B	50 feet
GB, <b>GW</b>	100 feet
I, OR, WI	100 feet

[...]

10.1113.41 Off-street parking areas, accessways, maneuvering areas and traffic aisles serving uses in a Business or Industrial district shall be set back from front lot lines as follows:

District	Minimum Setback from Front Lot Line
B	20 feet
GB, <b>GW</b>	40 feet
I, OR, WI	50 feet

D. Amend Article 15 – Definitions, Section 10.1530 – Terms of General Applicability, as follows (additions to existing language **bolded**; remaining language unchanged from existing):

Structure (including roof structure)

Any production or piece of work, artificially built up or composed of parts and joined together in some definite manner. Structures include, but are not limited to, buildings, fences **over 4 feet in height**, signs, and swimming pools. (See also: temporary structure.)

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

\_\_\_\_\_  
Jack Blalock, Mayor

ADOPTED BY COUNCIL:

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Kelli L. Barnaby, City Clerk

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, be amended as follows:

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A. Amend Article 5 – Dimensional and Intensity Standards, as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

(1) In Section 10.515 – Measurement Rules, amend Section 10.515.10 as follows:

10.515.10 ~~Building Coverage and Yards~~

**10.515.11 For a corner lot or through lot, all requirements related to the front yard shall apply to the principal front yard and all secondary front yards.**

**10.515.12** ~~Calculations of building coverage and~~ **Determinations of yards shall not include:**

(a) gutters, cornices or eaves projecting not more than 30 inches from a vertical wall;

**(b) balconies, bay windows or awnings projecting not more than 2 feet from a vertical wall, not exceeding 4 feet in width, and cumulatively not exceeding 50% of the width of the building face;**

~~(b)~~ **(c) structures (such as decks and patios) less than 18 inches above ground level;**

**10.515.13 Fences not over 4 feet in height shall be exempt from front yard requirements, and fences not over 6 feet in height shall be exempt from side and rear yard requirements.**

**10.515.14** ~~(e) MA~~ **mechanical systems (i.e. HVAC, power generators, etc.) that are is less than 36 inches above the ground level with a mounting pad not exceeding 10 square feet; are shall be exempt from yard requirements, but shall be set back at least 10 feet from a property line; and are shall not be located closer to the street than the front of the principal structure.**

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- (2) In Section 10.516 – Exceptions to Yard Requirements, amend Section 10.516.10 as follows:

10.516.10 Front Yard Exception for Existing Alignments

If existing principal buildings on the same side of the same street, in the same zoning district, and within 200 feet of a lot are located closer to the street than the minimum required front yard specified in this Article, the required front yard for **the principal building on** such lot shall be the average of the existing alignments of all such principal buildings, rounded to the nearest foot. **For the purpose of this provision, buildings on the subject lot shall not be included in the average of existing alignments.**

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- (3) In Section 10.516 – Exceptions to Yard Requirements, amend Section 10.516.30 as follows:

10.516.30 Corner Lot Vision Obstruction

On a corner lot, no structure, accessory structure, landscaping, or screening which obstructs visibility shall be erected or maintained between the heights of 2.5 feet and 10 feet above the edge of pavement grades within the area bounded by the sidelines of the intersecting street rights-of-way and a straight line joining points along said street sidelines 20 feet from the point of intersection of such sidelines or extensions thereof. This provision shall not apply in the CBA and CBB districts **Character Districts 4-W, 4 and 5.**

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- (4) In Section 10.516 – Exceptions to Yard Requirements, amend Section 10.516.40 as follows:

**10.516.40 Projections Into Required Yards**

~~The following building elements may project into required yards as indicated:~~

<del>Projecting Element</del>	<del>Maximum Projection Into Yard</del>
<del>Balconies or bay windows, not exceeding 50% of the building face in total</del>	<del>2 feet</del>
<del>Open and uncovered terraces, decks, steps or stoops less than 4 feet in height</del>	<del>Up to one-half the required yard</del>

Projecting Element	Maximum Projection Into Yard
Unenclosed porches, steps or stoops more than 4 feet in height	6 feet
Porticos (either enclosed or unenclosed) less than 20 square feet in area	5 feet
Roof eaves or overhangs	2 feet
Fire escapes, fire towers, storm enclosures, awnings, or similar architectural features	4 feet

In the Single Residence, General Residence and Mixed Residential districts, building elements may project into required yards by the amounts indicated in the following table:

	SRA, SRB		GRA		GRB, GRC, MRO, MRB	
	Front Yard	Side or Rear Yard	Front Yard	Side or Rear Yard	Front Yard	Side or Rear Yard
<b>Building Elements</b>	<b>Maximum Projection Into Required Yard</b>					
Terraces, decks, steps and stoops that are uncovered and unenclosed and are less than 3 feet in height and less than 100 square feet in area	5'	5'	0'	5'	10'	0'
Porches, porticos, steps or stoops that are covered and unenclosed and are less than 12 feet in height (to top of roof) and less than 50 square feet in area	5'	5'	0'	5'	5'	0'
Porches and porticos that are covered and enclosed and are less than 12 feet in height (to top of roof) and less than 20 square feet in area	5'	5'	0'	5'	5'	0'

0' = No projection allowed into required yard

- (5) In Section 10.570 – Accessory Buildings, Structures and Uses, amend Sections 10.571 through 10.573 as follows:

10.571 No accessory building, structure or use shall be located in any required front yard, **or closer to a street than the principal building.**

~~10.572 Where the required side yard or rear yard is 10 feet or less, an accessory building or structure shall conform to the yard requirement.~~

~~10.573 Where the required side yard or rear yard is more than 10 feet, an accessory building or structure may be located within the required side yard or rear yard subject to the following standards:~~

~~10.573.10 An accessory building or structure not greater than 10 feet in height and 100 square feet in area shall be set back at least 5 feet from a side or rear lot line.~~

~~10.573.20 An accessory building or structure greater than 10 feet in height or 100 square feet in area shall be set back from the lot line at least 10 feet or 75% of the height of the structure, whichever is greater.~~

**10.572 In a Character, Business or Industrial district, all accessory buildings and structures shall conform to the side yard and rear yard requirements of the applicable zoning district.**

**10.573 In a Residential or Mixed Residential district, an accessory building or structure may be located in a required side yard or rear yard subject to the following:**

**10.573.10 An accessory building or structure not more than 10 feet in height and not more than 100 square feet in area shall be set back at least 5 feet from any lot line.**

**10.572.20 An accessory building or structure more than 10 feet in height or more than 100 square feet in area shall be set back from any lot line at least the height of the building or the applicable yard requirement, whichever is less.**

- B. Amend Article 15 – Definitions, as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

Building coverage

The aggregate horizontal area or percentage (depending on context) of a lot covered by all buildings and structures on the lot, excluding:

- (a) gutters, cornices and eaves projecting not more than 30 inches from a vertical wall;
- (b) structures less than 18 inches above ground level (such as decks and patios);
- (c) balconies, bay windows or awnings projecting not more than 2 feet from a vertical wall, not exceeding 4 feet in width, and cumulatively not exceeding 50% of the width of the building face;**
- (d) fences; and**
- (e) mechanical systems (i.e. HVAC, power generators, etc.) that are less than 36 inches above the ground level with a mounting pad not exceeding 10 square feet.**

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The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

\_\_\_\_\_  
Jack Blalock, Mayor

ADOPTED BY COUNCIL:

\_\_\_\_\_  
Kelli L. Barnaby, City Clerk

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards, be amended as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

A. In Article 5 – Dimensional and Intensity Standards, Section 10.521 – Table of Dimensional Standards – Residential and Mixed Residential Districts, amend the maximum structure height standards as follows:

	R	SRA	SRB	GRA	GRB	GRC	GA/MH	MRO	MRB
Maximum Structure Dimensions									
Structure height									
<b>Sloped roof</b>	35'	35'	35'	35'	35'	35' <sup>3</sup>	35' <sup>3,4</sup>	40'	40'
<b>Flat roof</b>	<b>35'</b>	<b>30'</b>	<b>30'</b>	<b>30'</b>	<b>30'</b>	<b>30'</b>	<b>35'<sup>3,4</sup></b>	<b>30'</b>	<b>30'</b>

B. In Article 15 – Definitions, Section 10.1530, insert the following definitions:

**Flat roof**

**A roof with a slope of less than 1:4 for more than 50% of the roof area.**

**Sloped roof**

**A roof with a slope of 1:4 or more for at least 50% of the roof area.**

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.



APPROVED:

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Jack Blalock, Mayor

ADOPTED BY COUNCIL:

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Kelli L. Barnaby, City Clerk

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, be amended as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

- A. In Article 4 – Zoning Districts and Use Regulations, Section 10.440 – Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, insert new uses #1.20 and #1.30 as follows:

Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH	MRO CD4- L1	CD4- L2	MRB	CD5 CD4
<b>1.20 Accessory dwelling unit</b>									
<b>1.21 Attached</b>	CU	CU	CU	CU	N	CU	CU	CU	CU
<b>1.22 Detached</b>	CU	CU	CU	N	N	N	N	N	N
<b>1.30 Garden Cottage</b>	CU	CU	CU	CU	N	CU	CU	CU	CU

Use	GB	GW	B	WB	OR	I	WI	Supplemental Regulations
<b>1.20 Accessory dwelling unit</b>								<b>10.814 (Accessory Dwelling Units)</b>
<b>1.21 Attached</b>	N	N	N	N	N	N	N	
<b>1.22 Detached</b>	N	N	N	N	N	N	N	
<b>1.25 Garden Cottage</b>	N	N	N	N	N	N	N	<b>10.815 (Garden Cottages)</b>

and renumber existing uses #1.20 through 1.80 accordingly.

B. In Article 8 – Supplemental Use Standards, insert the following new Sections 10.814 and 10.815:

**10.814 Accessory Dwelling Units**

**10.814.10** One, and only one, accessory dwelling unit shall be allowed on any lot containing a single-family dwelling. An accessory dwelling unit shall not be allowed under this Section 10.814 on a lot that contains more than one dwelling unit.

**10.814.20** Except as provided in elsewhere in this Section 10.814, all land use regulations applicable to a single-family dwelling shall also apply to the combination of a principal dwelling unit and an accessory dwelling unit.

**10.814.30** All accessory dwelling units shall comply with the following standards:

**10.814.31** The principal dwelling unit and the accessory dwelling unit shall not be separated in ownership (including by condominium ownership).

**10.814.32** Either the principal dwelling unit or the accessory dwelling unit shall be occupied by the owner of the dwelling. The owner shall provide documentation demonstrating to the satisfaction of the City that one of the units is his or her principal place of residence.

**10.814.33** Neither the principal dwelling nor the accessory dwelling unit shall be used for any business, except that the property owner may have a home occupation use in the unit that he or she occupies as allowed or permitted elsewhere in this Ordinance.

**10.814.34** In addition to the two off-street parking spaces required for the single-family dwelling, one parking space shall be provided for an ADU up to 400 sq. ft. gross floor area, and two parking spaces shall be provided for an ADU larger than 400 sq. ft.

**10.814.40** An attached accessory dwelling unit (AADU) shall comply with the following additional standards:

**10.814.41** An interior door shall be provided between the principal dwelling unit and the accessory dwelling unit.

- 10.814.42** The accessory dwelling unit shall not have more than two bedrooms and shall not be larger than 750 sq. ft. gross floor area.
- 10.814.43** Any exterior changes to the single-family dwelling shall maintain the appearance of a single-family dwelling. If there are two or more doors in the front of the dwelling, one door shall clearly be the principal entrance and the others shall be designed to appear to be secondary.
- 10.814.50** A detached accessory dwelling unit (DADU) shall comply with the following additional standards:
- 10.814.51** In a General Residence district, the combination of the principal dwelling and the DADU shall comply with the minimum lot area per dwelling unit specified for the district.
- 10.814.52** The DADU shall not have more than two bedrooms and shall not be larger than 750 sq. ft. gross floor area; except that the maximum gross floor area shall be 1,000 sq. ft. if the lot area is 2 acres or more.
- 10.814.54** The DADU shall be separated from the single-family dwelling by at least 20 feet.
- 10.814.60** Before granting a conditional use permit for an attached or detached ADU, the Planning Board shall make the following findings:
- 10.814.61** Exterior design of the ADU is compatible with the existing residence on the lot through architectural use of building forms, scale and construction materials.
- 10.814.62** The site plan provides adequate open space and landscaping that is useful for both the ADU and the primary dwelling.
- 10.814.63** The ADU will maintain a compatible relationship to adjacent properties in terms of location and design, and will not significantly reduce the privacy of adjacent properties.

**10.814.64** The ADU will not result in excessive noise, traffic or parking congestion.

**10.814.70** A certificate of use issued by the Planning Department is required to verify compliance with the standards of this Section, including the owner-occupancy requirement. Said certificate shall be renewed annually.

**10.814.80** In granting a conditional use permit for an accessory dwelling unit, the Planning Board may modify a specific dimensional or parking standard set forth in this Section, provided that the Board finds such modification will be consistent with the required findings in Section 10.814.60.

#### **10.815 Garden Cottages**

An accessory building existing on the effective date of this ordinance may be converted to a garden cottage through a conditional use permit granted by the Planning Board, subject to the following provisions and limitations.

**10.815.10** One garden cottage, and only one, shall be allowed on any lot containing a single-family dwelling.

**10.815.20** Relationship to other provisions of this Ordinance:

**10.815.21** No garden cottage shall be allowed on the same lot as an accessory dwelling unit authorized under this Ordinance.

**10.815.22** The establishment of a garden cottage results in two dwelling units on the property and thus makes the property ineligible to establish an accessory dwelling unit under RSA 674:72-73 and this Ordinance. As a condition of receiving a conditional use permit for a garden cottage, the property owner shall waive all rights under RSA 674:72 and RSA 674:73.

**10.815.23** A garden cottage that complies with the standards of this section is exempt from the residential density standards of the Zoning Ordinance. A second dwelling unit on a lot that does not comply with the standards of this section shall be considered to be either a second primary dwelling or an accessory dwelling unit and shall comply with the applicable standards and provisions of the Ordinance.



- 10.815.30 Garden cottages shall comply with the following standards:**
- 10.815.31 The existing accessory building shall not be expanded either vertically or horizontally, other than through the addition of a front entry not to exceed 50 sq. ft., or a side or rear deck not to exceed 300 sq. ft.**
  - 10.815.32 A garden cottage shall not be larger than 600 sq. ft. gross floor area.**
  - 10.815.33 A garden cottage that is within a required yard for the zoning district shall not have any windows or doors higher than eight feet above grade facing the adjacent property.**
  - 10.815.34 One parking space shall be provided for a garden cottage in addition to the two off-street parking spaces required for the single-family dwelling.**
  - 10.815.35 The principal dwelling unit and the garden cottage shall not be separated in ownership (including by condominium ownership); and either the principal dwelling unit or the garden cottage shall be occupied by the owner of the property. The owner shall provide documentation demonstrating to the satisfaction of the City that one of the units is his or her principal place of residence.**
- 10.815.40 Before granting a conditional use permit for a garden cottage, the Planning Board shall make the following findings:**
- 10.815.41 Exterior design of the garden cottage is compatible with the existing residence on the lot through architectural use of building forms, scale and construction materials.**
  - 10.815.42 The site plan provides adequate open space and landscaping that is useful for both the garden cottage and the primary dwelling.**
  - 10.815.43 The garden cottage will maintain a compatible relationship to adjacent properties in terms of location and design, and will not significantly reduce the privacy of adjacent properties.**

**10.815.44 The garden cottage will not result in excessive noise, traffic or parking congestion.**

**10.815.50 A certificate of use issued by the Planning Department is required to verify compliance with the standards of this Section, including the owner-occupancy requirement. Said certificate shall be renewed annually.**

**10.815.60 In granting a conditional use permit for a garden cottage, the Planning Board may modify a specific dimensional or parking standard set forth in this Section, provided that the Board finds such modification will be consistent with the required findings in Section 10.815.40.**

C. In Article 15 – Definitions, insert the following new definitions:

**Accessory dwelling unit (ADU)**

**A dwelling unit that is constructed on the same lot as a single-family dwelling and complies with the standards for accessory dwelling units set forth in this Ordinance.**

**Attached accessory dwelling unit (AADU)**

**An accessory dwelling unit that is constructed within or attached to a single-family dwelling. For the purpose of this definition, “attached” means sharing a common wall for at least 25 percent of the length of the side of the single-family dwelling.**

**Detached accessory dwelling unit (DADU)**

**An accessory dwelling unit that is constructed within an accessory building on a lot containing one single-family dwelling.**

**Dwelling unit, accessory**

**See accessory dwelling unit.**

**Garden cottage**

**A dwelling unit that is constructed through conversion of an accessory building on the same lot as a single-family dwelling and complies with the standards for garden cottages set forth in the Ordinance.**

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

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Jack Blalock, Mayor

ADOPTED BY COUNCIL:

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Kelli L. Barnaby, City Clerk

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, Article 5A – Character Districts, and Article 6 – Overlay Districts, Section 10.630 – Historic District, be amended as follows:

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A. In Article 5A, delete Section 10.5A45 – Architectural Design Guidelines.

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B. In Article 6, insert a new Section 10.632.30 as follows:

10.632.30 The Design Guidelines adopted by the Commission and approved by the City Council are intended as a tool to help manage change and protect the City’s architectural and historical resources. They are used in the review process to encourage the retention and repair of the existing historic fabric and to provide a framework for the review of new construction within the historic context of the surrounding neighborhood.

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C. In Section 10.635.70 – Review Criteria, revise subparagraph (3) as follows (additions to existing **bolded**; remaining language unchanged from existing):

(3) The extent to which a proposed project’s exterior design, scale, arrangement, texture, detailing and materials complement or enhance the existing structure and are compatible with surrounding properties **and the Commission’s adopted Design Guidelines**.

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D. In Article 6, Section 10.633.20 – Exemptions from Certificate of Approval, make the following changes (deleted from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

10.633.20 Exemptions from Certificate of Approval

The following activities shall not require a Certificate from the Commission **but require review and certification by the Code Official**:

[...]

(3) Maintenance and repair of ~~fire~~ **exterior** walls, chimney repairs, entryway repairs, **or** deck repairs provided these are of the same design and material **(including the use of lime-based mortar for repointing historic brick)**;

[...]

- (5) ~~Roofing or re-roofing of~~ **Replacement roofing on** existing structures provided that **(1)** the roof plane ~~and~~ remains the same **and the material remains the same** regardless of color, **or (2) asphalt roofing is replaced with slate, composite-slate, or wood singles;**

[...]

- (7) **Placement or replacement of** ~~R~~roof-mounted mechanical or electrical equipment and ventilation terminators ~~on a single-family or two-family dwelling~~ where the equipment (1) is not located on a roof surface that faces or is visible from a public way, (2) does not exceed 27 cubic feet, and (3) does not extend more than 3 feet above the roof plane;

- (8) **Placement or replacement of** ~~W~~wall-mounted mechanical or electrical equipment and ventilation terminators ~~for a single-family or two-family dwelling~~ where the equipment (1) is painted a similar color to match or blend with the wall color, (2) does not extend more than six inches out from the wall plane, and (3) does not vent directly into a public way; and where (4) all duct work or equipment feeds enter the building's interior at ground level so as not to be visible;

- (9) **Placement or replacement of** ~~G~~ground-mounted mechanical or electrical equipment **(including a generator)** ~~for a single-family or two-family dwelling~~ where (1) the equipment is located behind the structure and is not in public view, and (2) all duct work or equipment feeds are located in the building's interior or immediately adjacent to the equipment;

- (10) **Placement or replacement of** ~~S~~storm windows, storm doors, screen windows and screen doors, provided they are constructed with wood frames, with any metal or vinyl tracks concealed by the wood frames. Window guards provided they are constructed with bars or rods of wrought iron, or metal formed and painted to resemble wrought iron. Mesh guards are not exempt;

- (11) Placement or replacement of ~~C~~chimney caps or bishop pots that are constructed of masonry or bluestone, or of other material with a black, dark brown or copper finish;

- (12) **Placement or replacement of** ~~G~~gas and electric meters ~~on a single-family or two-family dwelling~~ if mounted on an **exterior** wall, not facing **or visible from** a public way. **Landscaping or fencing may be as a visual screen;**



(13) Construction, alteration or demolition of any structure or element of a structure that the Code Official documents as being necessary to avoid an immediate health or safety emergency prior to the Commission convening a meeting to consider the matter. In such instance, the Code Official shall immediately ~~notify~~ **provide written notification to** the Commission of his **such** action.

[...]

(16) **Placement of a Temporary toilet, trailer, tent or tensile structures;**

[...]

(18) The **placement, removal or** replacement of wood or metal fencing (except for chain-link **which may only be removed**) ~~on a property with a contributing structure~~ provided the replacement fence is in **substantially** the same location with **substantially** the same height, material, and design;

(19) The replacement of exterior lighting ~~on a contributing structure~~ provided the replacement lighting is **substantially** in the same location with **substantially** the same height, material, and design;

[...]

(21) **Placement or replacement of Terraces, walks, driveways, and sidewalks and in-ground swimming pools** provided that any such element is substantially at the existing grade plane of the property;

(22) **Placement or replacement of B**building accessories and décor, such as: window-mounted portable air conditioning units, play equipment, **residential trash enclosures, snow guards, benches, trellises, non-commercial boat rack storage structures,** window boxes, **raised planters,** mailboxes less than 18" in all dimensions, flags, hose reels, door bells and knockers, weathervanes, bells, wind chimes, birdfeeders, artwork, sculpture, and other similar exterior décor-;

(23) New or replacement piers, floats, docks or gangways for single-family and two-family dwellings provided any vertical handrail support systems are constructed with metal, wire, rope or wood-; **or**

(24) **Placement or replacement of wood, brick or granite steps or landings;**

(25) **Placement or replacement of a commercial solid waste enclosure provided the enclosure: (1) is fully enclosed with the use of gates;**

**(2) is constructed of wood or stone material; and (3) is no greater than 60” in height or 100 sq. ft. in area; or**

**(26) Placement or replacement of wood or copper gutters and downspouts.**

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The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

\_\_\_\_\_  
Jack Blalock, Mayor

ADOPTED BY COUNCIL:

\_\_\_\_\_  
Kelli L. Barnaby, City Clerk

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, Article 10 – Environmental Protection Standards, be amended as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

A. Amend Section 10.1013 – Jurisdictional Areas, as follows:

10.1013.40 The tidal wetlands of Sagamore Creek, Little Harbour, North Mill Pond, and South Mill Pond **and part of the Piscataqua River**, defined as follows:

[...]

- (e) **Piscataqua River: Extending along the shoreline of the Piscataqua River from the northwest side of the I-95 bridge up to and including the waterfront parcel fronting on Porpoise Way.**

B. Amend Section 10.1016 – Permitted Uses, as follows:

10.1016.10 The following uses, activities and alterations are permitted in wetlands and wetland buffers:

[...]

- (4) The construction of an addition or extension to a one-family or two-family dwelling that lawfully existed prior to the effective date of this Ordinance or was constructed subject to a validly issued conditional use permit, provided that:
  - (a) The footprint area of the addition or extension, **together with the area of all prior such additions and extensions**, shall not exceed 25 percent of the area of the principal heated structure existing prior to the effective date of this Ordinance or constructed pursuant to a validly issued conditional use permit (this 25 percent limit shall not be based on pre-existing attached or detached garages, sheds, decks, porches, breezeways, or similar buildings or structures);

[...]

C. Amend Section 10.1017 – Conditional Uses, as follows:

10.1017.50 Criteria for Approval

Any proposed development, other than installation of utilities within a right-of-way, shall comply with all of the following criteria:

**(6) Any area within the vegetated buffer strip will be returned to a natural state to the extent feasible.**

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

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Jack Blalock, Mayor

ADOPTED BY COUNCIL:

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Kelli L. Barnaby, City Clerk

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, Article 12 – Signs, be amended as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

A. In Section 10.1263 – Illumination Standards, insert the following new subsection:

**10.1263.60 A sign using direct illumination shall consist only of letters, numbers and other common typographical characters, all of which shall be in no more than three colors against a dark background, and the total illuminated area shall not exceed 30 percent of the total area of the sign.**

B. In Section 10.1290 – Sign Definitions, amend the definition of “changeable sign” as follows:

Changeable sign

A sign or portion thereof with characters, letters or ~~illustrations~~ **symbols** that can be changed, whether electronically or manually without altering the face or surface of the sign. A sign on which the message changes more than once per day shall be regulated as an animated sign. A sign on which the only changes are mechanical or electronic indication of time or temperature is not considered a changeable or animated sign.

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

\_\_\_\_\_  
Jack Blalock, Mayor

ADOPTED BY COUNCIL:

\_\_\_\_\_  
Kelli L. Barnaby, City Clerk



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# M E M O R A N D U M

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**TO:** John P. Bohenko, City Manager  
**FROM:** Rick Taintor, Planning Director *RT.*  
**DATE:** December 28, 2016  
**RE:** City Council Referral – Projecting Sign  
Address: 238 State St.  
Business Name: Nancy Morgan Art  
Business Owner: Nancy Morgan

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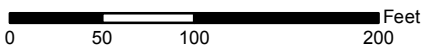
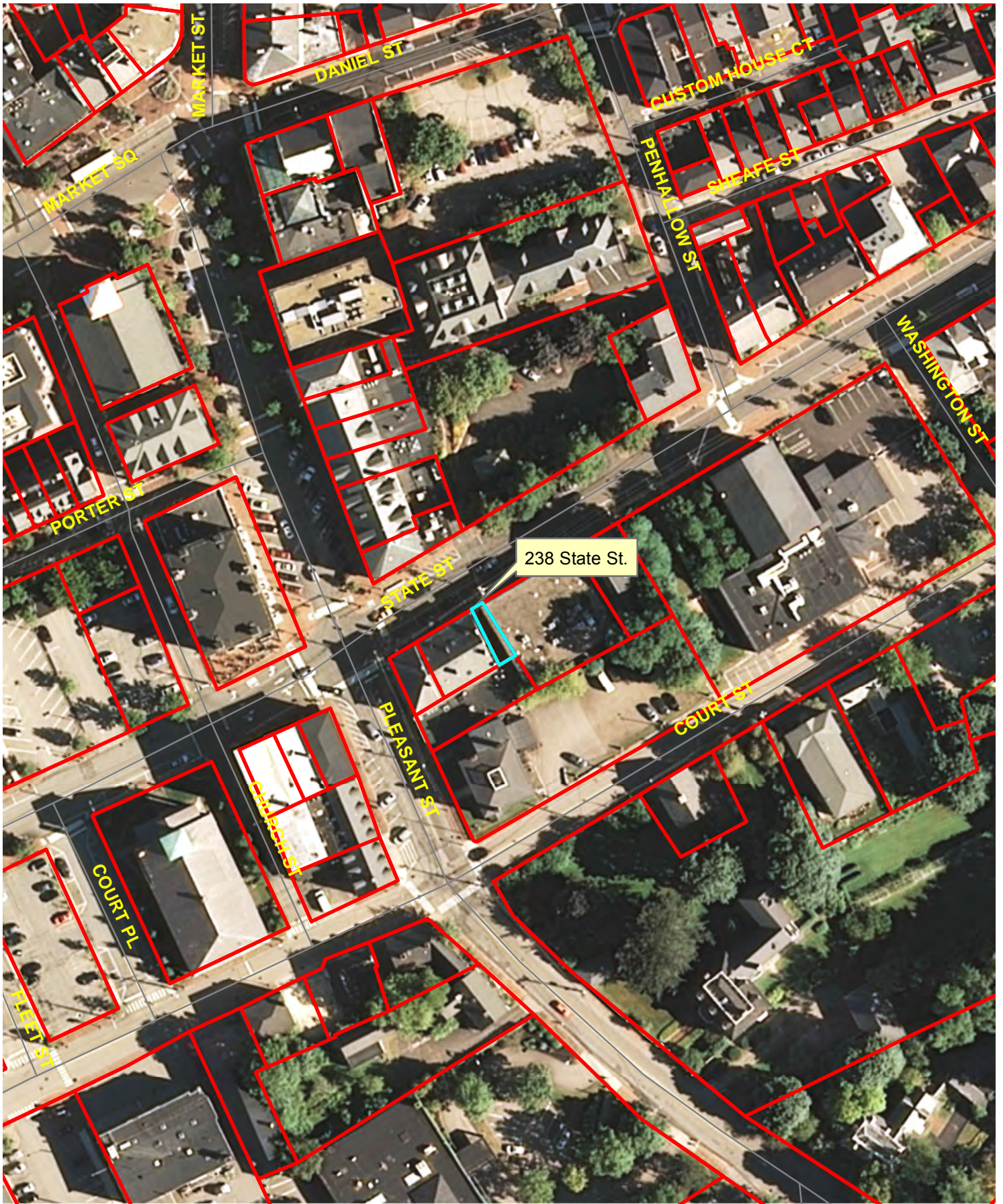
Permission is being sought to install a projecting sign on an existing bracket, as follows:

Sign dimensions: 30" x 30"  
Sign area: 6.3 sq. ft.  
Height from sidewalk to bottom of sign: 7.5'

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:

1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the projecting sign, for any reason, shall be done at no cost to the City; and
3. 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.

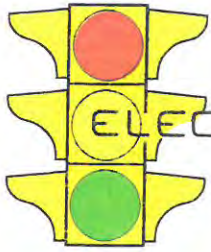




# Request for Projecting Sign License 238 State St.



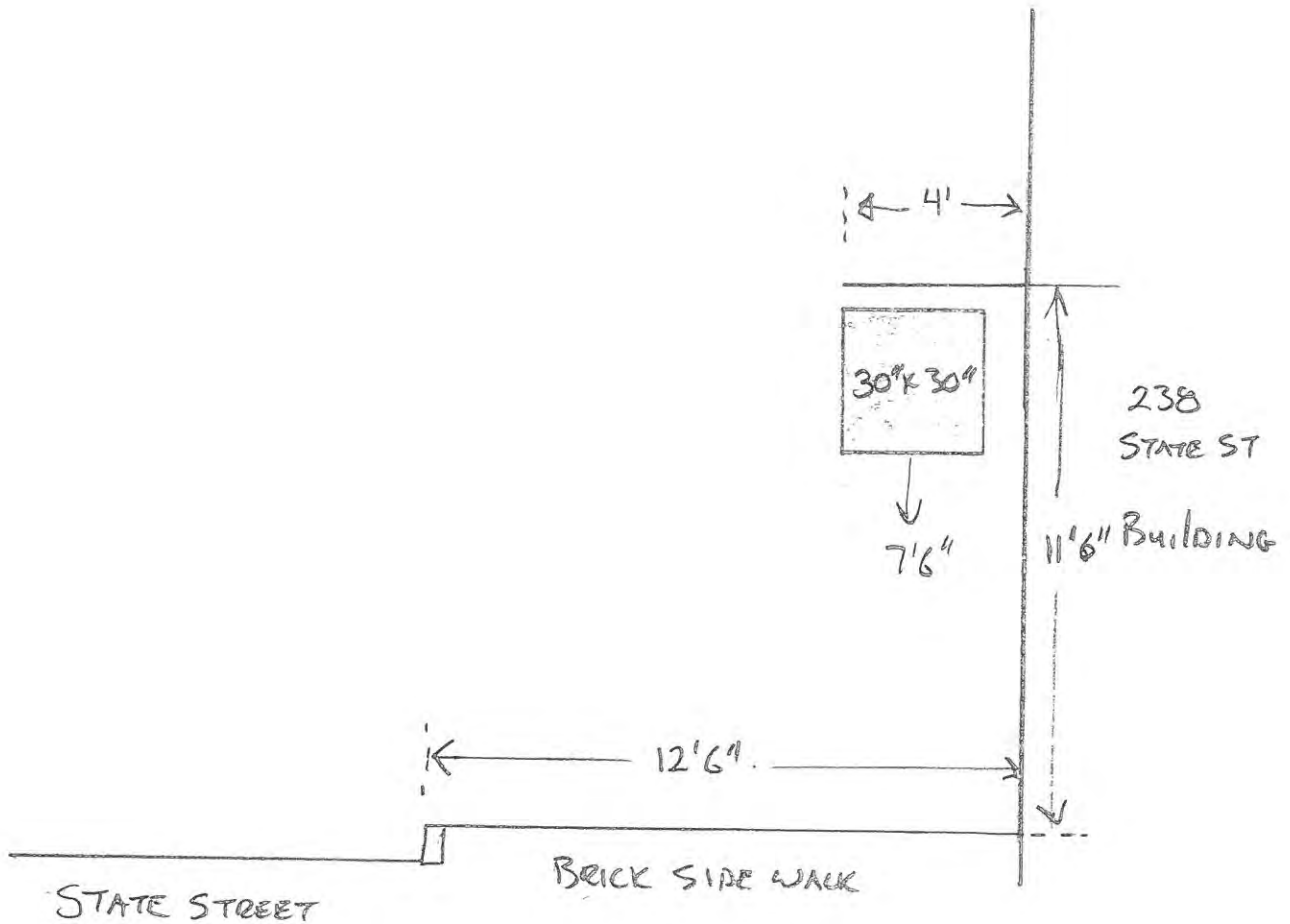


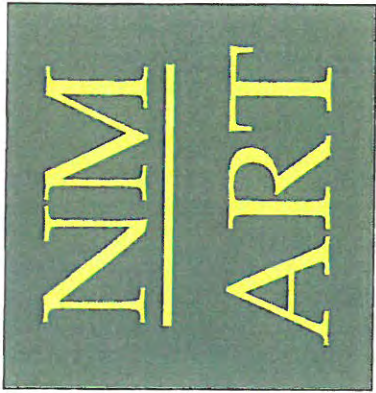


ELECTRIC LIGHT  
COMPANY INC.

SIGN

PROFILE VIEW





Projecting  
SIGN



Wall SIGN



**SIGN PERMIT APPLICATION**

Inspection Department, 1 Junkins Ave. Portsmouth, NH 03801  
Office Number: (603) 610-7243 (Facsimiles Not Accepted)

Zone Dist.: CD4

Street Address of Sign(s): 238 State Street Map #: Sign District: 3

Business Name: Nancy Morgan Art Phone #:

Business Owner Name: Nancy Morgan Phone 207-636-1323

Sign Contractor: Nancy Morgan Address: Shapleigh ME Phone #:

**EXISTING SIGNS: (On ENTIRE Property)**

**PROPOSED SIGNS:**

	#	Qty.	L (In.)	H (In.)	S.F. (S.F.)	Ht.* (Ft.)	Ltg.**	Being Removed?		Qty.	L (In.)	H (In.)	S.F. (S. F.)	Ht.* (Ft.)	Ltg.**
Wall / Attached	1					n/a			1	1	96	18	12.0	n/a	E
	2					n/a			2					n/a	
	3					n/a			3					n/a	
	4					n/a			4					n/a	
	5					n/a			5					n/a	
Free-Standing	6								6						
	7								7						
	8								8						
Projecting	9								9	1	30	30	6.3	7.5	E
	10								10						
Awning	11								11						
Canopy	12								12						
Parapet	13								13						
Roof	14								14						
Marquee	15								15						
Spl. Event	16	-----	-----	-----	-----	-----	-----	-----	16						
Temp.	17	-----	-----	-----	-----	-----	-----	-----	17						

Existing Signs Total: SF

New Signs Total: 18.3 SF

\* Height is from ground to sign bottom for Projecting & Awnings, and to sign top for Free-Standing & Monuments.  
\*\* Ltg.: E=External, I/F=Internal/Florescent, I/N=Internal/Neon, H=Halo, LED=Light Emitting Diode

**Total the sign areas of all existing sign(s) that are remaining on the property and all new sign(s) here:**

*Do not include any existing signs that are being removed.*

Wall Attached:	12.0 SF	Awning:	SF	Roof:	SF	
Spl. Event	Free-Stand.: SF	Canopy:	SF	Marquee:	SF	
SF	Projecting:	6.3 SF	Parapet:	SF	Temporary:	SF

**TOTAL SIGN AREA: 18.3 SF** (exclude temporary & F.S. signs)

Total # of New Signs: 2 Total # Temp. Signs:

**Store front dimension is NEEDED for complete review of application:**

Store Front Linear Frontage: 10 Feet - On Site Plan List Setback dimensions and Location of Signs

<b>For Office Use:</b>	Allow Area: Factor	2	X	10	Store Front	19 SF TOTAL
Allow FS Hgt. 12	Allow Area: Factor		X			SF TOTAL
<b>Allow. Areas: (ea.)</b>	Wall =	40	Projecting =	12	Roof =	na
Temp. =	Freestd. =	20	Parapet =	na	Awning =	20
					Canopy =	na

**Stipulations / Comments:** Projecting sign requires a license from the City Council. Wall sign may be released seperately.

Zoning Official: 

Code Official:

Date: 13-Dec-16



December 29, 2016

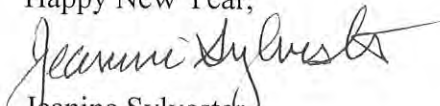
Dear Mayor Blalock/City Council,

Plans for the 20th Annual Runner's Alley/Redhook Brewery Memorial 5k are beginning to take shape and once again we look for your approval to hold the race. This year's race is scheduled for May 28, 2017 at 11:00AM. All the logistics remain the same with the start and finish continuing to be at the Redhook Brewery. One hundred percent of the proceeds from the race will be donated to Krempels Center, based out of the Community Campus here in Portsmouth. If you are not familiar with Krempels Center, I urge you to visit their website for a truly moving picture of what they are all about ([www.krempelscenter.org](http://www.krempelscenter.org)).

We look forward to your support once more, with almost 2000 runners last year as well as thousands of supporters and volunteers, we're very excited for an even better year! Voted as one of New England's top 100 races by New England Runner Magazine this race attracts runners and visitors from all over New England making it a wonderful asset to the entire Portsmouth community. Please consider granting us your permission to conduct another successful event, while raising seriously needed funds for an incredibly inspiring nonprofit organization, Krempels Center. The Runner's Alley/Redhook Race has always given 100% of its proceeds to charity and will continue to do so. As always we will work closely with the police department and the PDA to ensure we are abiding by all necessary rules and regulations.

Thank you for your time and consideration, wishing you and the City of Portsmouth all the very best in 2017!

Happy New Year,

  
Jeanine Sylvester  
Runner's Alley

Runner's Alley  
104 Congress Street  
Portsmouth, NH 03801  
603.430.1212

Redhook Brewery  
1 Redhook Way  
Portsmouth, NH 03801  
603.430.8600

Krempels Center  
100 Campus Drive  
Portsmouth, NH 03801  
603.570-2026



LAW OFFICES

**BOYNTON WALDRON DOLEAC  
WOODMAN & SCOTT, P.A.**

CHARLES B. DOLEAC\*†  
RALPH R. WOODMAN, JR.  
WILLIAM G. SCOTT  
FRANCIS X. QUINN, JR.\*  
CHRISTOPHER E. GRANT\*†‡  
CHRISTINE WOODMAN CASA\*  
PHILIP L. PETTIS  
HEATHER DUNION NEVILLE\*  
SUSAN AILEEN LOWRY  
MICHAEL H. DARLING†

82 COURT STREET  
PORTSMOUTH, NEW HAMPSHIRE 03801  
TELEPHONE (603) 436-4010  
FAX (603) 431-9973  
www.boyntonwaldron.com

JEREMY R. WALDRON  
(1921 – 2012)  
WYMAN P. BOYNTON  
(1908 – 1997)  
CHARLES A. GRIFFIN  
OF COUNSEL

received  
12/12/16

December 8, 2016

\*ALSO MEMBER OF MAINE BAR  
†ALSO MEMBER OF MASSACHUSETTS BAR  
‡ALSO MEMBER OF VERMONT BAR

Honorable Mayor Blalock and Members of the City Council  
City Hall  
1 Junkins Avenue  
Portsmouth, NH 03801

**RE: Restoration of involuntarily merged lots – RSA 674:39-aa  
21 Elwyn Avenue, Portsmouth**

Dear Honorable Mayor Blalock and Counsel Members:

I represent Arlene F. Beatty, both individually and as Trustee of the Arlene F. Beatty Trust, owner of 21 Elwyn Avenue in Portsmouth. This property is shown on Assessors Map 113 as Block 28, Lot 0000. The same Assessors Map indicates that the property consists of 0.23 acres. There are two lots (Lots 45 and 47) that comprise 21 Elwyn Avenue.

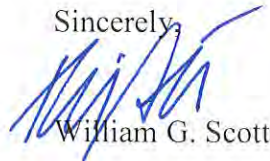
This existing lot consists of two separate lots on the 1899 plan, and neither the current owner nor any predecessor in title ever voluntarily merged the two lots. Of note, Arlene Beatty and her family have owned this property since the 1950s. These two lots were involuntarily merged by the City.

In accordance with RSA 674:39-aa, we respectfully request that the Council restore the two lots to their original pre-merger status.

We have enclosed a copy of the current deed and applicable plan that is on record with the Registry of Deeds.

We look forward to your response to this request. Thank you.

Sincerely,



William G. Scott

Enclosures  
cc: Arlene Beatty

THIS IS A CONFIRMATORY DEED  
KNOW ALL MEN BY THESE PRESENTS BK 3460PG0776

THAT I, ARLENE FLORENCE BEATTY, unmarried, of 21 Elwyn Avenue, Portsmouth, N.H. 03801

for consideration paid, grant to ARLENE F. BEATTY as TRUSTEE of the ARLENE F. BEATTY TRUST, under agreement dated December 2, 1999, of 21 Elwyn Avenue, Portsmouth, Rockingham County, State of New Hampshire 03801 with WARRANTY COVENANTS

A certain lot or parcel of land situated in said Portsmouth and being on the Easterly side of Elwyn Avenue and being Lot Nos. 45 and 47 on "Plan of a Lot of Land owned by Alfred L. Elwyn, Portsmouth, New Hampshire compiled from a survey made 1899 by A. C. Hoyt, C.E., Scale 100 feet to an inch, W. H. Whitney, 15 Court Square, Boston, Mass., August, 1899," recorded in Rockingham County Registry of Deeds, Book 567, Page 481, bounded and described as follows:

Northerly by Lot No. 43 on said plan one hundred (100) feet; Easterly by Lot Nos. 46 and 48 one hundred (100) feet; Southerly by Lot No. 49 one hundred (100) feet; Westerly by Elwyn Avenue one hundred (100) feet.

This deed is upon the express condition and part consideration that said grantees, their heirs and assigns, shall not erect nor cause nor permit to be erected upon said premises any buildings or structure within the distance of fifteen (15) feet from the street lines thereof, nor any building other than dwelling houses or buildings in the nature of dwelling houses and the necessary outbuildings therefor.

Being the same premises conveyed by Edith M. Dawson to William E. and Florence M. Beatty by deed dated February 24, 1959 and recorded in Rockingham County Registry of Deeds in Book 1496, Page 435. The said William E. Beatty having died on August 30, 1965, in said Portsmouth, and the said Florence M. Beatty having died on August 19, 1971 leaving the foregoing real estate to Arlene Florence Beatty and Eleanor Shirley Beatty by her will. See Rockingham County Probate Docket No. 50337, Estate of Florence M. Beatty.

Being the same premises conveyed to the Grantor and her sister, Eleanor Shirley Beatty as joint tenants with rights of survivorship and not as tenants in common, by deed recorded Book 2099, Page 453. The said Eleanor Shirley Beatty having died at Portsmouth, New Hampshire on February 14, 1997. See affidavit of the Grantor recorded herewith.

This is a CONFIRMATORY DEED, given to confirm a prior deed between the same parties recorded in Book 3441, Page 956.

Witness my hand and seal this 9<sup>th</sup> day of March, 2000.

WITNESS:

David Sanderson

Arlene Florence Beatty  
Arlene Florence Beatty

STATE OF NEW HAMPSHIRE  
County of Rockingham, ss.

March 9<sup>th</sup>, 2000.

On this the 9<sup>th</sup> day of March, 2000, before me, the undersigned officer, personally appeared Arlene Florence Beatty known to me (or satisfactorily proven) to be the person(s) whose name(s) is subscribed to the within instrument and acknowledged that she executed the same for the purpose therein contained.

In witness whereof I hereunto set my hand and official seal

David Sanderson

Notary Public  
My Commission Expires:

DAVID SANDERSON, NOTARY PUBLIC  
My Commission Expires May 13, 2006



DAVID SANDERSON, NOTARY PUBLIC  
My Commission Expires May 13, 2006

10012642

2000 MAR 14 PM 12:24

ROCKINGHAM COUNTY  
REGISTRY OF DEEDS

00176




PLAN OF  
 A LOT OF LAND  
 OWNED BY  
**ALFRED L. ELWYN**  
 PORTSMOUTH, N. H.  
 Compiled from a survey made 1899  
 by A. C. Hoyt C. E.  
 Scale 100 ft. to an inch,  
 W. H. Whitney 15 Court Sq.  
 Boston, Mass.  
 Aug. 1899.



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# MEMORANDUM

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**TO:** John P. Bohenko, City Manager  
**FROM:** Rick Taintor, Planning Director   
**DATE:** December 21, 2016  
**RE:** City Council Referral –  
Request that the involuntarily merged lots at 21 Elwyn Avenue be restored to their premerger status

---

In a letter dated December 8, 2016, Attorney William G. Scott on behalf of Arlene F. Beatty and the Arlene F. Beatty Trust has requested that the City Council restore two lots at 21 Elwyn Avenue to their premerger status pursuant to RSA 674:39-11.

## Property Description

The property that is the subject of this request is shown on Assessors Map 113 as Lot 28. The lot contains 0.23 acre (10,000 sq. ft.) and has 100 feet of frontage on Elwyn Avenue. Attached is an orthophoto showing the subject and abutting parcels.

The request letter states that the existing lot corresponds to two separate lots on an 1899 subdivision plan, and that neither the current owners nor any predecessor in title ever voluntarily merged the two lots.

As shown on the 1899 plan submitted with the request, the two original lots that comprise the current lot were each 50 feet wide by 100 feet deep, like the other lots in the block bounded by Elwyn Ave., Rockland St., Kent St. and Lincoln Ave. While the two lots at the corner of Lincoln and Kent were ultimately developed in a different orientation, the subject lot is the only one in the block that has been merged to be a "double" lot of 100 feet by 100 feet.

## Statutory Requirements

RSA 674:39-aa provides that "lots or parcels that were involuntarily merged prior to September 18, 2010 ... shall at the request of the owner, be restored to their premerger status ...." The statute distinguishes between "involuntary" and "voluntary" mergers as follows:

- "Involuntary merger" and "involuntarily merged" mean lots merged by municipal action for zoning, assessing, or taxation purposes without the consent of the owner.
- "Voluntary merger" and "voluntarily merged" mean a merger under RSA 674:39-a, or any overt action or conduct that indicates an owner regarded said lots as merged such as, but not limited to, abandoning a lot line.

RSA 674:39-aa only applies where “no owner in the chain of title voluntarily merged his or her lots.” Further, RSA 674:39-aa,II(b) states “If any owner in the chain of title voluntarily merged his or her lots, then all subsequent owners shall be estopped from requesting restoration.”

RSA 674:39-aa assigns the responsibility for “restoration of involuntarily merged lots” to the City Council. Unlike other situations where lots are proposed to be merged or separated, there is no role for the Planning Board in this process.

If the merged lots meet the criteria in the statute, the Council must vote to restore them to their premerger status. Conversely, if the merged lots do not meet the criteria in the statute, the City Council has no jurisdiction to grant a request to split the lots. A decision by the Council regarding a request to restore lots to their premerger status may be appealed to the Zoning Board of Appeals, but no standards for such appeals are set forth in the statute.

### **Analysis**

The merged lot is 10,000 sq. ft. in area (100' x 100'). An existing single-family dwelling, garage and shed have a total footprint of 1,526 sq. ft., thus occupying 15.3 percent of the total lot area.

Both the existing dwelling and the shed are very close to the boundary separating the two premerger lots. Attached for reference is a map printed from the City's GIS system showing lot lines and building footprints with the original lot boundary added (blue dashed line). This map implies that the dwelling crosses the former property line; however, it is important to note that due to the different ways in which different layers have been created for the GIS there could be up to 3-4 feet difference in the relationship between the building layer and the parcel layer.

The subject lot is in the General Residence A zoning district, which requires a minimum lot area of 7,500 sq. ft. and continuous street frontage of 100 feet. Because this zoning was applied to the neighborhood after it was fully developed, most lots in the area do not conform to the zoning requirements, typically having around 5,000 sq. ft. of lot area and 50 feet of frontage. While the subject lot does comply with the area and frontage requirements, the two premerger lots do not, and would require zoning relief if they were separated.

If City Council grants the request to separate the existing lot into the two original lots, the vacant lot will require variances for lot area and frontage in order to construct a dwelling. Variances should also be required to create a new substandard lot area and side yard setback for the existing dwelling. Furthermore, depending on where the existing dwelling and shed lie in relation to the previous lot line, the division may also require an easement to allow such structures to remain on the adjacent lot. It should be noted that such variances and easement would normally be required by the Planning Board if the lots were divided through the subdivision process; however, since the request is to divide lots in accordance with RSA 674:39-11, there is no regulatory authority for staff to require a lot survey or to ensure that all these zoning details are addressed.

### **Process**

If the City Council agrees with the owner that the lots have been involuntarily merged—that is, that no owner in the chain of title has taken any action to treat the two lots as a single lot—it may simply vote to approve the request. Beginning in September 2015, in response to a controversy regarding a similar request for the parcel at 65 Mendum Avenue, the City Council

has referred such requests to the Planning Board for a report back. Such a report is not required by State law, but was considered desirable so that neighbors of the subject lot could be notified and have an opportunity to raise any concerns about the proposed lot division.

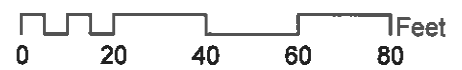
Following the City Council vote, it will be up to the owner to take any further action to confirm the restoration to premerger status, such as recording a plan at the Registry of Deeds.

#### **Attachments**

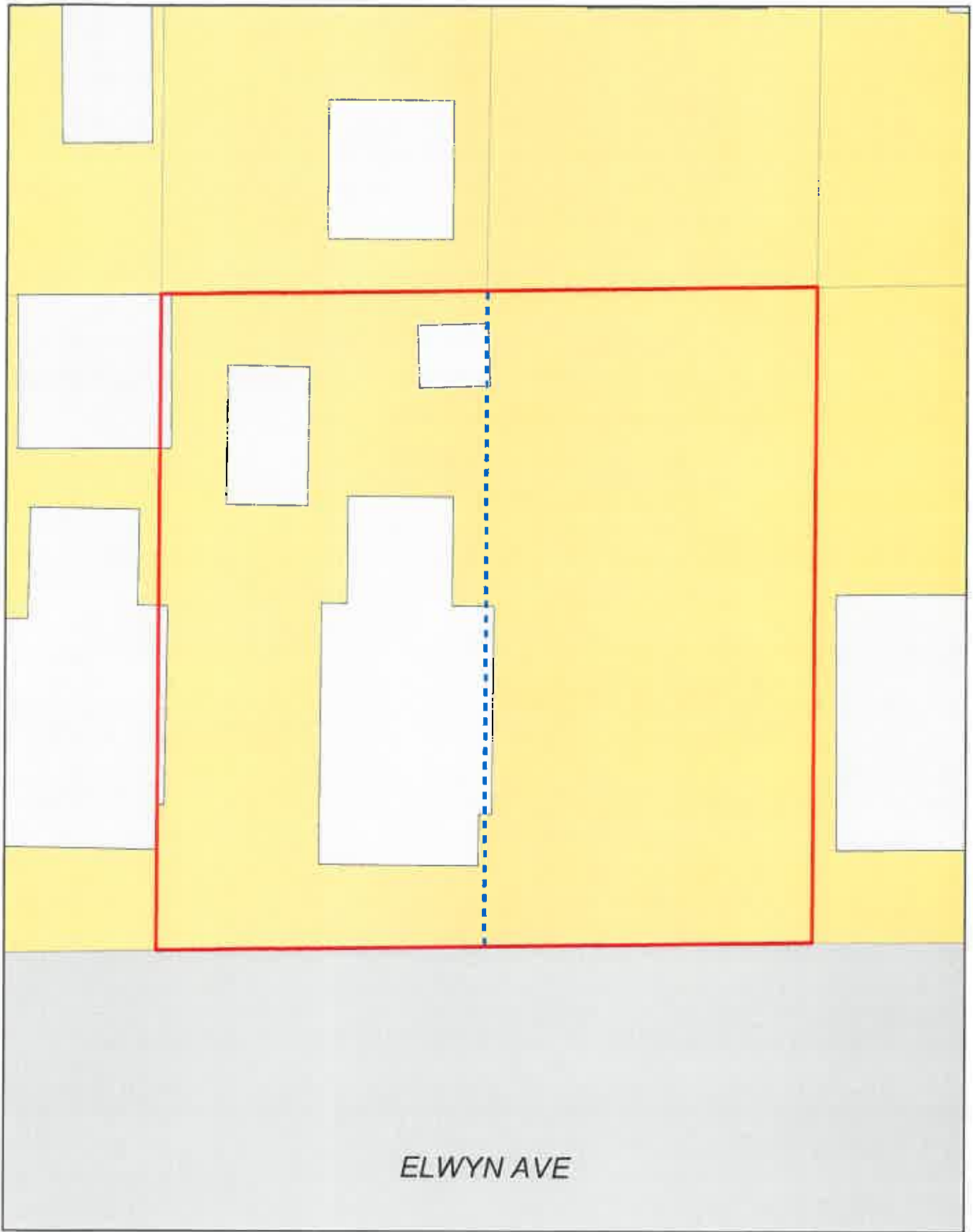
- Orthophoto with parcel lines
- Parcel map showing buildings and former lot boundary



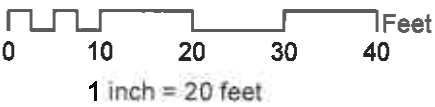
21 Elwyn Avenue



1 inch = 40 feet



21 Elwyn Avenue





# BOSEN & ASSOCIATES, P.L.L.C.

ATTORNEYS AT LAW

**John K. Bosen**  
Admitted in NH & MA

**Christopher P. Mulligan**  
Admitted in NH & ME

**Albert Hansen**  
Admitted in NH, MA & ME

**David M. Howard**  
Admitted in NH

**Molly C. Ferrara**  
Admitted in NH

December 29, 2016



Jack Blalock, Mayor  
Portsmouth City Council  
1 Junkins Avenue  
Portsmouth, NH 03801

**RE: Request for Restoration of Involuntarily Merged Lots  
Pursuant to RSA 674:39-aa  
70 Sims Ave / Tax Map 233, Lot 76**

Dear Mr. Mayor:

This office represents the interest of Mark G. Broderick and Emily Spencer, owners of the above referenced property. Please consider this a formal request for the restoration of two involuntarily merged lots to their premerger status, pursuant under RSA 674:39-aa.

The City Assessor's present records indicate that Map 233, Lot 76 is a single lot measuring .41 acres, located at 70 Sims Avenue, at the intersection of Sims Avenue and Fletcher Street. See Exhibits A and B. There are actually two separate lots, one measuring approximately 5000 square feet, and the other measuring approximately 12,910 square feet, which have been involuntarily merged. I enclose the tax cards for each parcel from 1972 (Exhibits C and D), which identify the separate lots as Map 58, Lots 55 and 64 respectively. The City's tax assessment data dating back to 1951 consistently treat these as two separate lots. See Exhibits E and F.

Former Lot 55 is the lot which contains the existing single family dwelling located at 70 Sims Avenue. Former Lot 64 is the lot to the rear of the house lot on Fletcher Street. The City's tax records indicate that these were billed as two separate lots at least until 1972. Sometime thereafter, the City involuntarily merged the two lots.

I have enclosed a copy of the deed into Mr. Broderick and Ms. Spencer (Exhibit G). The legal description contained therein is consistent with the deed into Regina A. Birt in 1952 (Exhibit H) with a metes and bounds description for the outside perimeter of the entire property, and not calling out the individual lots. This description of the entirety was carried forward to the Broderick/Spencer deed.<sup>1</sup>

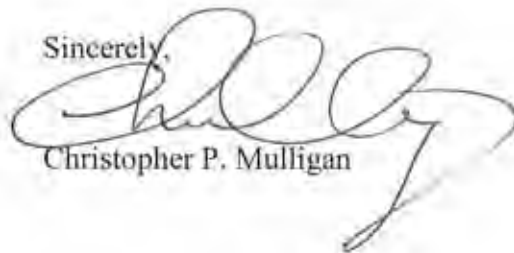
<sup>1</sup> Prior to the Birt deed, the property was conveyed by deeds with reference only to the Tax Map and Lot numbers. It is noted that the Broderick/Spencer deed references a third lot, lot 65. This reference was carried forward from at least 1934 when it appears in a City Tax Collector's deed. See Exhibit I. That deed is clear that the entirety consists of 17,910 square feet, which is the sum of former Lots 55 and 64, per Exhibits E and F. See also Exhibit A. No independent information regarding former Lot 65 has been obtained by the applicants and this application only seeks to restore the 1972 lot division.

Jack Blalock, Mayor  
December 29, 2016  
Page Two

No owner in the chain of title voluntarily merged these lots. The use of a legal description that encompasses the entirety rather than calling out the individual lots is not legally sufficient to effect a voluntary merger of the lots. See Roberts v. Windham, 165 NH 186, 192 (2013) (holding that the conveyance of multiple lots as one tract in a single deed does not support a finding of a voluntary merger). Therefore, pursuant to RSA 674:39-aa, I formally request that the lots be restored to their premerger status, and all zoning and tax maps be updated to identify the premerger boundaries of those lots.

I respectfully request that this matter be added to the agenda of the next City Council meeting. Thank you for your attention and please contact me if you have any questions or require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Mulligan", written in a cursive style.

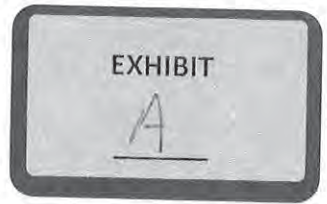
Christopher P. Mulligan

CPM/

Enclosures

cc: Mark G. Broderick and Emily Spencer (w/ enclosures)

# 70 SIMS AVE



**Location** 70 SIMS AVE

**Mblu** 0233/ 0076/ 0000/ /

**Acct#** 30442

**Owner** BRODERICK MARK G

**Assessment** \$327,300

**Appraisal** \$327,300

**PID** 30442

**Building Count** 1

## Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2016	\$139,200	\$188,100	\$327,300

Assessment			
Valuation Year	Improvements	Land	Total
2016	\$139,200	\$188,100	\$327,300

## Owner of Record

**Owner** BRODERICK MARK G  
**Co-Owner** SPENCER EMILY  
**Address** 70 SIMS AVE  
 PORTSMOUTH, NH 03801

**Sale Price** \$330,000  
**Certificate**  
**Book & Page** 5710/0076  
**Sale Date** 04/29/2016

## Ownership History

Ownership History				
Owner	Sale Price	Certificate	Book & Page	Sale Date
BRODERICK MARK G	\$330,000		5710/0076	04/29/2016
STELLMACH JEROME	\$111,200		2996/1587	07/16/1993

## Building Information



**Building 1 : Section 1**

**Year Built:** 1959  
**Living Area:** 1,638  
**Replacement Cost:** \$178,398  
**Building Percent Good:** 78  
**Replacement Cost Less Depreciation:** \$139,200

Building Attributes	
Field	Description
Style	Cape Cod
Model	Residential
Grade:	C
Stories:	1.75
Occupancy	1
Exterior Wall 1	Vinyl Siding
Exterior Wall 2	
Roof Structure:	Gable/Hip
Roof Cover	Asph/F Gls/Cmp
Interior Wall 1	Drywall/Sheet
Interior Wall 2	
Interior Flr 1	Hardwood
Interior Flr 2	Inlaid Sht Gds
Heat Fuel	Gas
Heat Type:	Hot Water
AC Type:	None
Total Bedrooms:	3 Bedrooms
Total Bthrms:	1
Total Half Baths:	0
Total Xtra Fixtrs:	0
Total Rooms:	7
Bath Style:	Avg Quality
WB Fireplaces	1
Extra Openings	0
Metal Fireplaces	0
Extra Openings	0

**Building Photo**

Building Photo (<http://images.vgsi.com/photos/PortsmouthNHPhotos/\93\00\50\88.jpg>)

**Building Layout**



Building Sub-Areas (sq ft)			Legend
Code	Description	Gross Area	Living Area
BAS	First Floor	1,026	1,026
TQS	Three Quarter Story	816	612
UBM	Basement, Unfinished	1,026	0
WDK	Deck, Wood	144	0
		3,012	1,638

**Extra Features**

Extra Features	Legend
No Data for Extra Features	

**Land**

**Land Use**

**Use Code** 1010  
**Description** SINGLE FAM MDL-01  
**Zone** SRB  
**Neighborhood** 123  
**Alt Land Appr Category** No

**Land Line Valuation**

**Size (Acres)** 0.41  
**Frontage**  
**Depth**  
**Assessed Value** \$188,100  
**Appraised Value** \$188,100

**Outbuildings**

Outbuildings	Legend
No Data for Outbuildings	

**Valuation History**

Appraisal			
Valuation Year	Improvements	Land	Total
2015	\$139,200	\$188,100	\$327,300
2014	\$130,600	\$173,400	\$304,000
2013	\$130,600	\$173,400	\$304,000

Assessment			
Valuation Year	Improvements	Land	Total
2015	\$139,200	\$188,100	\$327,300
2014	\$130,600	\$173,400	\$304,000
2013	\$130,600	\$173,400	\$304,000

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**Partial Legend**

City Tax Assessor's Office for the County Report

**754** Lot or lot(s) number

**232** Parcel area in acres (AC) or square feet (SF)

**200** Tax Parcel number (including a planning map)

**100** Parcel lot identifier

**SING AVE** Street name

Parcel/Planned boundary

Parcel/CD boundary

Water boundary

Structure (1984 data)

Parcel covered by the map (from other road or street parcel)



This map is for assessment purposes only. It is not intended for legal description or conveyance. Parcels are mapped as of April 1, 2015. Parcel boundaries are based on the most recent available information. Some parcels may be shown with different colors. Some parcels may be shown with different colors. Some parcels may be shown with different colors. Some parcels may be shown with different colors.







**Property Information**

**Property ID** 0233-0076-0000  
**Location** 70 SIMS AVE  
**Owner** BRODERICK MARK G



**MAP FOR REFERENCE ONLY  
NOT A LEGAL DOCUMENT**

City of Portsmouth, NH makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated 4/1/2015  
Properties updated 12/01/2016





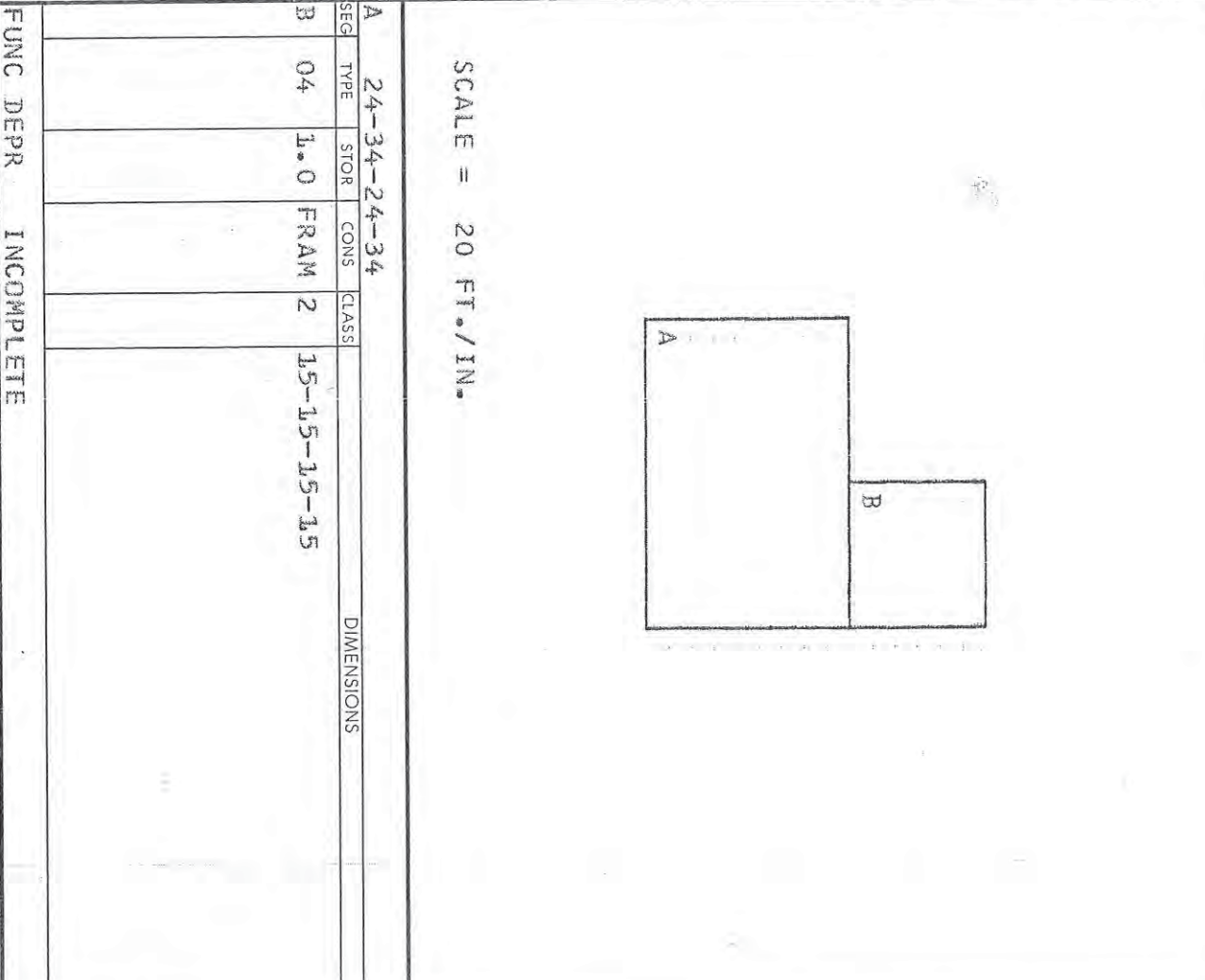


CONTROL NO. 190  
 STRUCTURE VALUE

STRUCTURAL ELEMENTS

ITEM	1	2	3	4	5	6	PRICE
FOUNDATION							14000
EXT WALLS							290
INSULATION							
ROOF							
BASEMENT							
FLOORS							
INT FIN.							
ROOMS							
ATTIC							
HEAT							
FIREPLACES							
PLUMBING							
TILE							
DORMERS							
SEG. B							

BRICK							
STONE							
FLOOR							
INT FINISH							
PLUMB							
ELEC							
SIZE							
AREA							
OCCUPANCY							
CONSTRUCTION							
CLASS							
AGE							
REMOD							
COND							
REPLACEMENT VALUE							
PHYS DEPR							
PHYSICAL VALUE							
FUNC DEPR							
FUNC VALUE							
ACTUAL VALUE							
EQ							
ASSESSMENT							
SALE PRICE							
DATE MO/YR							



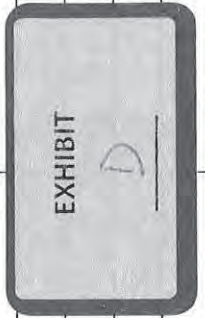
UNITED APPRAISAL CO.	BUILDING TOTAL	19037	100	19000											
CONSTRUCTION	1.05 FR B A	3	1959	NO	G	23575	15	20039	5	19037	100	19000	10/18/71	1502	
REPLACEMENT VALUE															
PHYS DEPR															
PHYSICAL VALUE															
FUNC DEPR															
FUNC VALUE															
ACTUAL VALUE															
EQ															
ASSESSMENT															
SALE PRICE															
DATE MO/YR															

10/18/71 1502  
 X SIGNED 2735



PROPERTY OWNER: DAME/BURLEIGH C & WINIFRED C  
 70 SIMS AVE  
 PORTSMOUTH NH 03801  
 PROPERTY LOCATION: 70 SIMS AVE Fletcher St.  
 SIDE: W  
 LOCATION CODE: / / / /  
 PLAN LOT: 058.064 R33 076 11  
 CARD: 1 OF 1  
 MORTGAGE:

RECORD OF TRANSFER  
 CITY OF PORTSMOUTH N.H.  
 JOHN B. PETTY CAE, ASSESSOR  
 TYPE: RESD  
 PROJECT: 31001  
 CONTROL NO: 1907058006400  
 DATE: 92156  
 BOOK: 1421  
 PAGE: 002  
 AMOUNT:



LAND FACTORS		LAND IMPROVEMENTS				SUMMARY	
TOPOGRAPHY	LEVEL	LOCATION	DEPR	VALUE	EQ	ASSESSMENT	
1	CROWLEY/STEPHEN C	GOOD	25	2025	100	2000	19 72
2		GOOD	50				LAND
3		02					BLDG
4		STATIC					TOTAL
5		SANDY					19
6		LOAM					LAND
7							BLDG
							TOTAL
ACREAGE COMPUTATION		ACREAGE COMPUTATION		ACREAGE COMPUTATION		ACREAGE COMPUTATION	
1	H-Lot	54 A	2	2025	100	2000	19
2	REAR		2	20	100		LAND
3							BLDG
4							TOTAL
5							19
6							LAND
							BLDG
							TOTAL
ACREAGE COMPUTATION		ACREAGE COMPUTATION		ACREAGE COMPUTATION		ACREAGE COMPUTATION	
				2045	100	2000	19
							LAND
							BLDG
							TOTAL

LOT COMPUTATION				ACREAGE COMPUTATION			
FRONT	REAR	FRONTAGE	DEPTH	STREET PRICE	DEPTH %	ADJ FR PR	TOTAL
1							
2							
3							
4							
LOT TOTAL				LOT TOTAL			







PROPERTY ASSESSMENT RECORD, - CITY OF PORTSMOUTH, N. H.

RECORD OF OWNERSHIP			DATE OF TRANSFER	SALE PRICE IF KNOWN	ASSESSMENT RECORD		
PLAN	LOT	ADDRESS			LAND	BLDG.	TOTAL
58	55	Sims Ave West					125
DESCRIPTION	L + BLDG				LAND	BLDG.	TOTAL
							200
	5,000 10				LAND	BLDG.	TOTAL
							300
	50		9/21/56	1.65-S	LAND	BLDG.	TOTAL
			6/3/52	XX			3500
			1-20-48	55.50	LAND	BLDG.	TOTAL
							unfin- 4900



NEW HOUSE

Burleigh C. & Winifred C. Dame 1421/002  
 Stephen C. Gregory 1247/32  
 Reginald H. Birt

RURAL PROPERTY

PROPERTY FACTORS		LAND VALUE COMPUTATIONS AND SUMMARY			OWNERS PREVIOUS TO 1951	
TOPOGRAPHY	LEVEL	CLASSIFICATION	NO. OF ACRES	RATE	TOTAL	NAME
SOIL TYPE	LOAM	TILLABLE				
LAND CLASS	GOOD	PASTURE				
DRAINAGE	GOOD	WOODED				
WATER SUPPLY	GOOD	WASTE LAND				
FENCES	GOOD	TOTAL ACREAGE				
ELECTRICITY	YES	TOTAL VALUE LAND				
TELEPHONE	YES	TOTAL VALUE BUILDINGS				
ROAD	PAVED	TOTAL VALUE LAND & BUILDINGS				
REMARKS						

75.0  
 935-135  
 Cornelius Hobbs 12-31-47  
 City Parks 10/4/47  
 Rosier & Davies 1948-125  
 A.W. Bates 1968

URBAN PROPERTY

PROPERTY FACTORS		LAND VALUE COMPUTATIONS AND SUMMARY			
TOPOGRAPHY	IMPROVEMENTS	FRONTAGE	DEPTH	UNIT PRICE	FRONT FT. PRICE
LEVEL	WATER				
HIGH	SEWER				
LOW	GAS				
ROLLING	ELECTRICITY				
SWAMPY	ALL UTILITIES				
	GARBAGE DISPOSAL				
	TREND OF DISTRICT				
PAVED	IMPROVING				
SEMI-IMPROVED	STATIC				
DIRT	DECLINING				
SIDEWALK					
TOTAL VALUE LAND					300
TOTAL VALUE BUILDINGS					4900
TOTAL VALUE LAND & BUILDINGS					5200 + 10% = 5700

\* Abolished \$2000 in '58 - 1/2 Completed -















BK 5710 PG 0076

Return to  
~~MAIL TO~~  
Mark G. Broderick  
and Emily Spencer  
~~70 Sims Avenue~~  
~~Portsmouth, NH 03801~~



016784

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS: That **JEROME STELLMACH**, Single, of 70 Sims Avenue, Portsmouth, NH 03801 and **GEORGIANA M. GEWLAS (F/K/A GEORGIANA STELLMACH)**, Single, of 1169 N. Burluson Blvd., Ste 107 #155, Burluson TX 76028

for consideration paid grants to **MARK G. BRODERICK**, single, of 30 Lyons Drive, Westwood, MA 02090 and **EMILY SPENCER**, single, of 30 Lyons Drive, Westwood, MA 02090, as joint tenants with rights of survivorship,

with WARRANTY COVENANTS:

Three certain tracts or parcels of land, with the buildings thereon, situate in Portsmouth, County of Rockingham, State of New Hampshire, as follows:

Lots No. 55, 65 and 64 on Plan 58 in Plans in Appraisers' Office, City Hall, Portsmouth, New Hampshire.

Said Premises being more particularly bounded and described as follows:

Beginning on the Southerly side of Sims Avenue in said Portsmouth, at land of John Rooney, thence running Westerly by Sims Avenue fifty (50) feet to Fletcher Street; thence turning and running Southerly by Fletcher Street two hundred twenty seven and three tenths (227.3) feet to land of Rose Akerman et al; thence turning and running Easterly by said Akerman land one hundred (100) feet to land of Rachael Bloomquist; thence turning and running Northerly by said Bloomquist land one hundred thirty and seven tenths (130.7) feet to land of John Rooney; thence turning and running Westerly by said Rooney land fifty (50) feet; thence turning and running still by said Rooney land Northerly one hundred (100) feet to the point of beginning.

2016 APR 29 AM 11:35

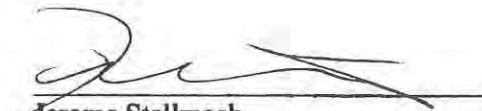
ROCKINGHAM COUNTY  
REGISTRY OF DEEDS

BK 5710 PG 0077

Meaning and intending to describe and convey the same premises as conveyed to Jerome Stellmach and Georgiana Stellmach by Warranty Deed of David B. Galvin dated July 16, 1993 and recorded in Book 2996, Page 1587 of the Rockingham County Registry of Deeds.


We, the grantors hereby release all rights of homestead in the above described premises.

Executed this 28th day of April, 2016.

  
Jerome Stellmach

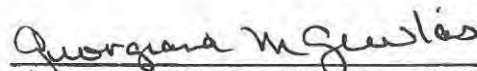
State of New Hampshire  
County of Rockingham

Then personally appeared before me on this 28th day of April, 2016, the said Jerome Stellmach and acknowledged the foregoing to be his voluntary act and deed.

  
Notary Public/Justice of the Peace  
Commission expiration:

Executed this 25<sup>th</sup> day of April, 2016.



  
Georgiana M. Gewlas (f/k/a Georgiana Stellmach)

BK 5710 PG 0078

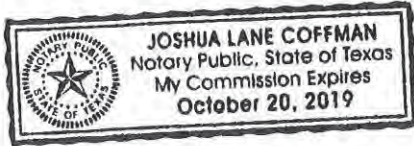
State of Texas

County of Tarrant

April 25, 2016

Georgiana M.  
~~Stellmach~~ f/k/a

Then personally appeared before me on this 25 day of April, 2016 the above said Georgiana Stellmach and acknowledged the foregoing to be her voluntary act and deed.



Josh Coffman  
Notary Public/Justice of the Peace  
Commission expiration:



EXHIBIT  
H

1247 032

# Know all men by these presents

that I, Regina A. Birt, of Portsmouth in the County of Rockingham and State of New Hampshire

for and in consideration of the sum of -- One Dollar and other valuable considerations -- to me in hand, before the delivery hereof, well and truly paid by Stephen C. Crowley of said Portsmouth

the receipt whereof I do hereby acknowledge, have given, granted, bargained, sold, and by these presents do give, grant, bargain, sell, alien, encoff, convey and confirm unto the said Stephen C. Crowley and his heirs and assigns forever

All my right, title, and interest in and to the following described real estate:

Lots No. 55 and 64 on Plan 58 in Plans in Appraisers' Office, City Hall, Portsmouth, New Hampshire.

Being the same premises conveyed to me by deed of Cornelius Hobbs, dated January 15, 1948, and recorded in Rockingham Registry of Deeds, Book 1080, Page 64.

Said premises being more particularly bounded and described as follows:  
Beginning on the Southerly side of Sims Avenue in said Portsmouth, at land of John Rooney, thence running Westerly by Sims Avenue fifty (50) feet to Fletcher Street; thence turning and running Southerly by Fletcher Street two hundred twenty seven and three tenths (227.3) feet to land of Rosa McKernan et. al.; thence turning and running Easterly by said McKernan land one hundred (100) feet to land of Raphael Blomquist; thence turning and running Northerly by said Blomquist land one hundred thirty and seven tenths (130.7) feet to land of John Rooney; thence turning and running Westerly by said Rooney land fifty (50) feet; thence turning and running still by said Rooney land Northerly one hundred (100) feet to the point of beginning.

Del. C. Giff

US Res stamp 8/10

106

110





To have and to hold the said granted premises, with all the privileges and appurtenances thereunto belonging, to Stephen C. Crowley <sup>1247 033</sup> the said grantee and his heirs and assigns, to their own use and behoof forever.

And I the said grantor and my heirs, executors and administrators, do hereby covenant, grant and agree, to and with the said grantee and his heirs and assigns, that until the delivery hereof, I am the lawful owner of the said premises, am seized and possessed thereof in my own right in fee simple; and have full power and lawful authority to grant and convey the same in manner aforesaid; that the said premises are free and clear from all and every incumbrance whatsoever;

and that I and my heirs, executors and administrators, shall and will warrant and defend the same to the said grantee and his heirs and assigns, against the lawful claims and demands of any person or persons whomsoever.


And I, Regina A. Birt, am a widow.

~~For consideration aforesaid, the hereby releases to the said grantee, my right of dower in the~~

And we do each of us hereby release all rights of homestead secured to us, or either of us under and by virtue of any law of the State of New Hampshire and all other rights and interest therein.

In witness whereof, I have hereunto set my hand and seal, this third day of June in the year of our Lord 1952.

Signed, sealed and delivered in presence of

Charles J. Griffin } Regina A. Birt. 

State of New Hampshire } Rockingham, June 3 A. D. 1952

Personally appeared the above named Regina A. Birt and acknowledged the foregoing to be her voluntary act and deed — Before me:

Charles J. Griffin  
Notary Public — Justice of the Peace

Received and recorded June 4, 10:05 A.M., 1952

106

EXHIBIT

I

Know all Men by these Presents

Tax Col's.  
Deed  
Rowe, Col  
to  
C. of Ports.  
Del. to  
City Clerk

That I, Albert J. Rowe Collector of Taxes for the City of Portsmouth, in the County of Rockingham and State of New Hampshire, for the year 1934 by the authority in me vested by the laws of the State, and in consideration of ONE DOLLAR to me paid by The City of Portsmouth

Do hereby sell and convey to the said City of Portsmouth, its successors and assigns, a certain tract or parcel of land situated in the City of Portsmouth aforesaid; taxed by the Assessors in 1934 to Monica Holland, and described in the Invoice Book as

Land on Sagamore Ave., 16.77 acres more or less.

A more particular description of said property is understood to be as follows:-

Lot 10 on plan 227 as shown by the Appraisers' Records at City Hall, Portsmouth, N. H.

The whole of the above real estate was bought by The City of Portsmouth at a Tax Collector's sale held at the City Clerk's Office, City Hall in said City of Portsmouth, New Hampshire, on the Twenty-ninth day of March, 1935

To have and to hold the said Premises, with the appurtenances, to the said City of Portsmouth, its successors and assigns forever. And I hereby covenant with the said The City of Portsmouth that in making sale of the same I have in all things complied with the law, and that I have good right, so far as that right may depend upon the regularity of my own proceedings, to sell and convey the same in the manner aforesaid.

In Witness Whereof, I have hereunto set my hand and seal, this Fourth day of October, in the year of our Lord one thousand nine hundred and Thirty-seven

Signed, Sealed and Delivered in the presence of:

Philip H. Sanderson  
Kathryn T. Henson  
John J. Henson

Albert J. Rowe (L.S.)  
Collector

State of New Hampshire, Rockingham SS. October 4, 1937.

Personally appeared Albert J. Rowe above named, and acknowledged the foregoing instrument to be his voluntary act and deed. Before me

Philip H. Sanderson  
Justice of the Peace

Received and Recorded October 13, 1:20 P.M., 1937.

*John W. A. Green, Register*

Tax Col's.  
Deed  
Rowe, Col.  
to  
C. of Ports.  
Del. to  
City Clerk

Know all Men by these Presents

That I, Albert J. Rowe Collector of Taxes for the City of Portsmouth, in the County of Rockingham and State of New Hampshire, for the year 1934 by the authority in me vested by the laws of the State, and in consideration of ONE DOLLAR to me paid by The City of Portsmouth

Do hereby sell and convey to the said City of Portsmouth, its successors and assigns, a certain tract or parcel of land situated in the City of Portsmouth aforesaid; taxed by the Assessors in 1934 to Desrosiers & Davies, and described in the Invoice Book as

Lots 55, 64 and 65 on plan 58 in Daniels Park, consisting of 17,910 sq. feet more or less.

A more particular description of said property is understood to be as follows:-

Lots 55, 64 and 65, Plan-58 as shown by the Appraisers' Records at City Hall, Portsmouth, N. H.

The whole of the above real estate was bought by The City of Portsmouth at a Tax Collector's sale held at the City Clerk's Office, City Hall in said City of Portsmouth, New Hampshire, on the Twenty-ninth day of March, 1935

To have and to hold the said Premises, with the appurtenances, to the said City of Portsmouth, its successors and assigns forever. and I hereby covenant with the said City



of Portsmouth that in making sale of the same I have in all things complied with the law, and that I have good right, so far as that right may depend upon the regularity of my own proceedings, to sell and convey the same in manner aforesaid.

In Witness Whereof, I have hereunto set my hand and seal, this Fourth day of October, in the year of our Lord one thousand nine hundred and Thirty-seven

Signed, Sealed and Delivered in the presence of:

Leo Liberson  
Philip H. Sanderson  
Kathryn T. Henson

Albert J Rowe (L.S.)  
Collector

State of New Hampshire, Rockingham SS. October 4, 1937.

Personally appeared Albert J. Rowe above named, and acknowledged the foregoing instrument to be his voluntary act and deed.

Before me

Leo Liberson

Justice of the Peace

Received and Recorded October 13, 1:20 P.M., 1937.

*John W. A. Green Register*

Tax Col's.  
Deed

Rowe, Col.  
to  
C. of Ports.  
Del. to  
City Clerk

Know all Men by these Presents

That I, Albert J. Rowe Collector of Taxes for the City of Portsmouth, in the County of Rockingham and State of New Hampshire, for the year 1934 by the authority in me vested by the laws of the State, and in consideration of ONE DOLLAR to me paid by The City of Portsmouth

Do hereby sell and convey to the said City of Portsmouth, its successors and assigns, a certain tract or parcel of land situated in the City of Portsmouth aforesaid; taxed by the Assessors in 1934 to Desrosiers & Davies, and described in the Invoice Book as Shack & L on Marne Ave.

A more particular description of said property is understood to be as follows:-

Lot-9 Map-99 as shown by the Appraisers' Records at City Hall, Portsmouth, N. H.

The whole of the above real estate was bought by The City of Portsmouth at a Tax Collector's sale held at the City Clerk's Office, City Hall in said City of Portsmouth, New Hampshire, on the Twenty-ninth day of March, 1935

To have and to hold the said Premises, with the appurtenances, to the said City of Portsmouth, its successors and assigns forever. And I hereby covenant with the said City of Portsmouth that in making sale of the same I have in all things complied with the law, and that I have good right, so far as that right may depend upon the regularity of my own proceedings, to sell and convey the same in the manner aforesaid.

In Witness Whereof, I have hereunto set my hand and seal, this Fourth day of October, in the year of our Lord one thousand nine hundred and Thirty-seven

Signed, Sealed and Delivered in the presence of:

Philip H. Sanderson  
Kathryn T. Henson  
John J. Henson

Albert J Rowe (L.S.)  
Collector

State of New Hampshire, Rockingham SS. October 4, 1937.

Personally appeared Albert J. Rowe above named, and acknowledged the foregoing instrument to be his voluntary act and deed.

Before me

Philip H. Sanderson  
Justice of the Peace

Received and Recorded October 13, 1:20 P.M., 1937.

*John W. A. Green Register*



Hi Kelly,

I have attached a resolution that a group of concerned Portsmouth citizens have drafted and are hoping to get on the agenda for discussion at the upcoming council meeting. We have already submitted an online request and received a positive response from Jim Splaine and Rebecca Perkins.

Thank you,  
Christina Dubin

336 Miller Ave.  
978-223-5035

Sent from my iPhone

**Proposed Resolution:**

**A Resolution by the Portsmouth City Council regarding Schiller Station**

**WHEREAS, the operation of coal fired power plants has an ongoing negative impact on air quality; Schiller Station emits mercury, particulate matter (soot), sulfur dioxide and nitrogen oxide; and<sup>12</sup>**

**WHEREAS, mercury is toxic to the central and peripheral nervous systems, particulate matter can impact the heart and lungs, sulfur dioxide and nitrogen oxide can impact the lungs. NOx gases react to form smog and acid rain as well as being central to the formation of fine particles (PM) and ground level ozone, both of which are associated with adverse health effects; and**

**WHEREAS, when possible we desire to protect our residents, families and elders from asthma triggers, toxins and cancer risks; and**

**WHEREAS, we decided as a community with the completion of the 2005 Master Plan to become more sustainable and ecologically friendly in order to safeguard its future. The City Council voted unanimously to declare Portsmouth an Eco-Municipality in 2007 and signed a resolution which fully acknowledges Portsmouth's commitment and desire to become more sustainable; and**

**WHEREAS, the draft Master Plan "Portsmouth 2015" states our city has embraced tourism, the arts, and technology and that due to density future growth in Portsmouth will need to come from redevelopment of existing commercial and industrial areas that public or private developers can repurpose and rebuild with more density; and<sup>3</sup>**

**WHEREAS, Schiller Station's coal fired units are old; they were installed between 1947 and 1957 and**

**WHEREAS, older as well as newer coal-fired power plants, like Schiller Station, have been losing market share and revenue in the New England electricity market to the point that many plant owners have suffered large financial losses, written off billions in value and/or have retired coal-fired power plants; and**

**WHEREAS, Schiller Station is up for auction and potential bidders will look to our city leaders for guidance.**

**Now therefore, be it hereby RESOLVED BY THE PORTSMOUTH CITY COUNCIL:**

- 1. The City calls upon potential bidders to phase out the coal-fired electricity generation at Schiller Station at the earliest possible date;**
- 2. The City calls upon potential bidders to not repower Schiller Station with a carbon, methane or trash based fuel.**
- 3. The City Encourages potential bidders who will consider repowering the site with renewable energy and/or mixed use that will bring jobs and economic development.**
- 4. The City Clerk Is Authorized And Directed To Provide Copies Of This Resolution To Our City's State And Federal Elected Officials , The Public Utilities Commission, and PSNH.**

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<sup>1</sup> [https://oaspub.epa.gov/enviro/P2\\_EF\\_Query.p2\\_report?FacilityId=03801PBLCSGOSLI&ChemicalId=N458&ReportingYear=2014&DocCtrlNum=&Opt=0](https://oaspub.epa.gov/enviro/P2_EF_Query.p2_report?FacilityId=03801PBLCSGOSLI&ChemicalId=N458&ReportingYear=2014&DocCtrlNum=&Opt=0)

<sup>2</sup> <https://ghgdata.epa.gov/ghgp/service/facilityDetail/2015?id=1000730&ds=E&et=&popup=true>

<sup>3</sup> [http://planportsmouth.com/masterplan/160526\\_Draft%20Master%20Plan.pdf](http://planportsmouth.com/masterplan/160526_Draft%20Master%20Plan.pdf)

**CITY OF PORTSMOUTH  
PORTSMOUTH, NH 03801**

**Office of the City Manager**

**Date:** January 5, 2017  
**To:** Honorable Mayor Jack Blalock and City Council Members  
**From:** John P. Bohenko, City Manager   
**Re:** City Manager's Comments on January 9, 2017 City Council Agenda

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**6:00 p.m. Non-Meeting Re: Strategy or Negotiations With Respect to Collective Bargaining - RSA 91-A:2,I (a) – Portsmouth AFSCME 1386 Tentative Agreement**

For details on this matter, please refer to the confidential envelope inserted in the inside pocket of your binder.

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***Work Session:***

**6:15 p.m.**

1. **FY18 Budget Process and Proposed Budget Guidelines.** On Monday evening, I am requesting a Work Session at 6:15 p.m. to discuss the FY18 Budget process and proposed budget guidelines. The JBC is established for the purposes of advising the City Manager and the City Council on issues pertaining to the development of the Annual Budget.

**7 Voting Members**

- Mayor Jack Blalock
- (2) City Councilors - Eric Spear and Joshua Cyr
- (2) School Board Members - Nancy Novelline Clayburgh and Roseann Vozella-Clark
- Fire Commission Member – Jennifer Matthes
- Police Commission Member - Joseph Onosko



## **5 Non-voting Ex-officio Members**

- City Manager John P. Bohenko
- Finance Director Judie Belanger
- Superintendent of Schools Steve Zadravec
- Fire Chief Steven Achilles
- Police Chief David Mara

## **Charge of the JBC**

- The JBC shall advise the City Manager and City Council on the adoption of guidelines for the preparation of the proposed FY18 budget by January 9, 2017.
- City Staff will provide information to the Committee on factors impacting the development of the municipal budget.
  - Health Insurance rates
  - Retirement rates
  - Contractual Obligation impacts
  - Any and all other costs which would impact the Operating Budget
- JBC Agenda Format
  - Anticipated to have one meeting a month from September through March
  - Agenda to be put together by the Mayor and City Manager with input from various departments and elected officials
  - At the beginning of each meeting, opportunity for any elected official to bring up a topic and speak to it
  - At the end of each meeting, opportunity for citizens to speak
- The Committee shall not assume responsibilities of the City Manager or the City Council as outlined in the City Charter.

On Thursday, December 14, 2016 after reviewing the FY 2018 budget projections, the JBC is recommending to the City Council a goal for the Operating Budget by no more than 4% increase in FY18.

At the Work Session on Monday evening, Finance Director Judie Belanger and Acting City Manager Nancy Colbert Puff will present salient points with regard to the budget process as well as estimated budget numbers for Fiscal Year 2018.

*Action on this matter will take place under Mayor Blalock's name.*

## ***Presentations:***

1. **Comprehensive Annual Financial Report (CAFR) – Melanson, Heath & Company, P.C.** Scott McIntire of Melanson, Heath & Company, P.C. will report on the Annual Audit and Financial Statements for the Year Ending June 30, 2016. [On the inside cover of your packet, I am providing you with a copy of the City's Comprehensive Annual Financial Report \(CAFR\)](#), which includes the financial statements for the fiscal year ending June 30, 2016 (Annual Audit). The Fiscal Year 2016 Audit was prepared by the firm of Melanson, Heath & Company, P.C. Also, [enclosed on the inside cover of your packet is the Management Letter](#) for the year ending June 30, 2016, prepared by our auditor. On Monday evening, Scott McIntire from Melanson, Heath & Company will be in attendance to make a presentation on the CAFR, which is available at <http://cityofportsmouth.com/finance/CAFR16.pdf>.
2. **Update Re: 150 Greenleaf Avenue.** On Monday evening, City staff will present an overview as it relates to the 150 Greenleaf Avenue Toyota case.
3. **Update Re: Peirce Island Wastewater Treatment Facility; Combined Sewer Overflows (CSO's).** City Engineer Terry Desmarais will update the City Council regarding the following two items:
  - 1) Peirce Island Wastewater Treatment Facility
  - 2) Combined Sewer Overflows

For your information, I have [attached](#) a copy of the draft PowerPoint.

## ***Acceptance of Grants and Donations:***

1. **Acceptance of Donation to the Portsmouth Fire Department.** The Portsmouth Fire Department has received a donation in the amount of \$500.00 from Newburyport Five Cents Savings Bank.

*I recommend the City Council move to accept and approve the donation from the Newburyport Five Cents Savings Bank. Action on this matter should take place under Section VII of the Agenda.*

## ***Items Which Require Action Under Other Sections of the Agenda:***

1. **Second Reading of Proposed Ordinance Amendments.**
  - 1.1 **Second Reading of Proposed Ordinance amending Chapter 7, Article II – Taxis, Section 7.201 – 7.217 (Tabled Second Reading at the December 19, 2016 City Council Meeting).** As a result of the December 5<sup>th</sup> City Council meeting, under Section VIII of the Agenda, I am bringing back the [attached](#) redlined version

of the proposed new Taxi Ordinance. This version incorporates the proposed motions that were shared with the City Council at the last meeting and takes into account several comments made during the public hearing.

In summary, the redline changes address the following items:

- a. Deletion of driver fees;
- b. Deletion of signage and requirement of fixed light;
- c. Making the ordinance more consistent with State law regarding background checks and disqualifying conduct;
- d. Correcting a typo;
- e. Deleting the requirement that the state inspection must be done by a manufacturer's dealer; and
- f. Changing from five minutes to fifteen minutes the time that a taxi may remain in a taxi stand.

*I recommend that City Council move the following motions:*

- 1) *Move to remove from the table;*
- 2) *Move to adopt all those changes shown in the redline version of the taxi ordinance as distributed in the City Council agenda packet for this meeting; and, further,*
- 3) *Move to pass second reading and schedule a third and final reading of the proposed Ordinance at the January 23, 2017 City Council meeting.*

*Action on this matter should take place under Section VIII of the Agenda*

## 2. **Third and Final Reading of Proposed Ordinance Amendments.**

- 2.1 **Third Reading of Proposed Zoning Ordinance Amendments (“Zoning Omnibus, Part 1”)**. As a result of the December 19<sup>th</sup> City Council meeting, under Section VIII of the Agenda, I am bringing back for third and final reading seven proposed Zoning Ordinance amendments ([see attached documents](#)). The proposed amendments address a variety of issues throughout the Zoning Ordinance, ranging from simple housekeeping matters to implementation of the new State mandate regarding accessory dwelling units. The City Council will be acting on each of the seven proposed ordinances separately.

**B. Third reading of proposed ordinance amending Chapter 10 – Zoning Ordinance, Articles 2, 3, 11 and 15, to implement housekeeping changes relative to conformance with state law, nonconforming buildings and structures, setbacks requirements for parking areas, and the definition of “structure”.**

This ordinance will amend and update four provisions in the Zoning Ordinance:

- Article 2 – Administration and Enforcement: Extend the life of variances and special exceptions from 1 year to 2 years, to conform to a change in state law.
- Article 3 – Nonconforming Lots, Buildings, Structures and Uses: Revise one provision relating to changes to nonconforming buildings and structures, and delete three other provisions, in order to eliminate inconsistencies and clarify the intent.
- Article 11 – Site Development Standards: Off-Street Parking: Add the Gateway district to two tables of setback requirements for off-street parking areas. (These tables were not updated when the Gateway district was established.)
- Article 15 – Definitions: Amend the definition of “structure” to exclude fences up to 4 feet in height.

*I recommend the City Council move to pass third and final reading of the proposed ordinance. Action on this matter should take place under Section VIII of the Agenda.*

**C. Third reading of proposed ordinance amending Chapter 10 – Zoning Ordinance, Articles 5 and 15, to revise and clarify provisions related to yards (i.e., setbacks), exceptions to yard requirements, and projections into required yards; and to clarify the definition of “building coverage”.**

This ordinance revises and clarifies several provisions relating to yards, exceptions to yard requirements, and projections into required yards; and amends the definition of “building coverage” to clarify items that are exempted from the definition.

*I recommend the City Council move to pass third and final reading of the proposed ordinance. Action on this matter should take place under Section VIII of the Agenda.*



- D. **Third reading of proposed ordinance amending Chapter 10 – Zoning Ordinance, Article 5, Section 10.521, to reduce the maximum building height from 35 feet to 30 feet in Residential districts and from 40 feet to 35 feet in the Mixed Residential districts.**

This ordinance is intended as a first step in addressing concerns about infill residential development that is out of scale with the surrounding neighborhood. As amended at the December 19<sup>th</sup> meeting, the proposed ordinance will add definitions for the terms “flat roof” and “sloped roof,” and will reduce maximum allowed building heights for buildings with flat roofs from 35 feet to 30 feet in Single Residence and General Residence districts, and from 40 feet to 30 feet in Mixed Residential zoning districts.

*I recommend the City Council move to pass third and final reading of the proposed ordinance. Action on this matter should take place under Section VIII of the Agenda.*

- E. **Third reading of proposed ordinance amending Chapter 10 – Zoning Ordinance, Articles 4, 8 and 15, to allow accessory dwelling units and garden cottages by conditional use permit from the Planning Board, and to establish standards and procedures for such uses, in order to comply with a new State law.**

This ordinance makes additions to Articles 4 (Table of Uses), 8 (Supplemental Use Standards) and 15 (Definitions) in response to a new State law (SB 146, codified at RSA 674:71-73). Under the new law, if the City does not enact an accessory dwelling unit ordinance by June 1, 2017, attached accessory dwelling units will automatically be allowed in all zoning districts throughout the City, without requiring any approval by a land use board. Therefore, it is important that the Council adopt an ordinance conforming to the new statutory provisions before that date.

In accordance with the new law, the ordinance authorizes the Planning Board to grant a conditional use permit for an attached accessory dwelling unit in any zoning district that permits single-family dwellings. The statute defines “accessory dwelling unit” as a unit that is “within or attached to a single-family dwelling.” The ordinance further states that “attached to” means “sharing a common wall for at least 25 percent of the length of the side of the single-family dwelling.”

In addition to attached accessory dwelling units, under the state law communities may, but are not required to, allow detached accessory dwelling units, i.e., units in a separate structure from the primary dwelling unit. If detached units are permitted, they are subject to all local regulations that apply to a single-family dwelling. Among other things, this means that an existing garage or carriage house that is in violation of a zoning provision, such as a

setback requirement, could not be converted to a detached accessory dwelling unit.

In many cases converting an existing accessory structure into a small dwelling unit would be more appropriate for a neighborhood than building an addition onto the primary dwelling. Moreover, a unit created by converting an existing garage or carriage house might be more likely to be affordable than a unit created by an addition or new construction. To encourage such conversions in lieu of new construction, the ordinance establishes a separate category of dwelling unit called “garden cottage.” As defined in the proposed ordinance and further described in Section 10.815, a garden cottage is a smaller unit created by conversion of an existing accessory unit. By creating a second unit on the lot, the garden cottage makes the lot no longer eligible for an attached or detached ADU.

Under the ordinance, both an accessory dwelling unit and a garden cottage require a conditional use permit from the Planning Board and an annual certificate of use from the Planning Department demonstrating continued compliance with all standards.

At the December 19<sup>th</sup> meeting, the City Council made three amendments to the proposed ordinance:

- Added two provisions authorizing the Planning Board to modify dimensional and parking standards through the conditional use permit process (Sec. 10.814.80 and 10.815.60);
- Increased the maximum allowable size of a garden cottage from 500 sq. ft. to 600 sq. ft. (Sec. 10.815.32).

*I recommend the City Council move to pass third and final reading of the proposed ordinance. Action on this matter should take place under Section VIII of the Agenda.*

- F. **Third reading of proposed ordinance amending Chapter 10 – Zoning Ordinance, Articles 5A and 6, regarding the Historic District, to reference Design Guidelines adopted by the Historic District Commission, to revised and expand the list of activities that are exempted from HDC review, and to clarify that exempted uses are subject to administrative review and approval.**

This proposed Ordinance, recommended by the Historic District Commission, will make the following changes to the Historic District provisions of the Zoning Ordinances:

- In Sections 10.632.30 (new) and 10.635.70 (amended), add references to the Design Guidelines recently developed by the Historic District

Commission; and in Article 5A – Character Districts, delete Section 10.5A45 – Interim Architectural Design Guidelines, as these interim guidelines are being replaced by permanent guidelines.

- In Section 10.633.20, revise 15 provisions regarding exemptions from HDC review, and add 3 additional exemptions, to reduce burdens on property owners proposing minor changes.
- Also in Section 10.633.20, clarify that exempted activities, while not requiring a public hearing, are subject to administrative review and approval.

*I recommend the City Council move to pass third and final reading of the proposed ordinance. Action on this matter should take place under Section VIII of the Agenda.*

- G. Third reading of proposed ordinance amending Chapter 10 – Zoning Ordinance, Article 10, Section 10.1010 – Wetlands Protection, to expand the jurisdictional wetlands to include a portion of the Piscataqua River shorefront north of the I-95 bridge, to clarify the existing allowance for expansion of a single- or two-family dwelling, and to require restoration of a vegetated buffer strip to the extent feasible.**

This proposed Ordinance, recommended by the Conservation Commission, will make the following changes to the Wetlands Protection provisions of the Zoning Ordinance:

- In Section 10.1013, expand the jurisdictional areas to include a portion of the Piscataqua River shorefront north of the I-95 bridge.
- In Section 10.1016.10(4)(a), clarify that the existing allowance for a 25 percent expansion of a single- or two-family dwelling is cumulative from the effective date of the Ordinance (i.e., January 1, 2010).
- In Section 10.1017.50, add a sixth criterion for approval of a conditional use permit, requiring restoration of the vegetated buffer strip to a natural state to the extent feasible.

*I recommend the City Council move to pass third and final reading of the proposed ordinance. Action on this matter should take place under Section VIII of the Agenda.*

H. **Third reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance, Article 12 – Signs, to limit the type and manner of illumination of signs using “direct illumination,” such as LED or plasma signs.**

In addition to internal and external illumination, the Zoning Ordinance allows signs to be illuminated by “direct illumination,” which means that the lighting elements comprise the sign. Examples include neon and LED signs. This proposed Ordinance limits such signs to not more than three colors on a dark background, in order to preclude signs that are similar to television or video displays. In addition, the proposed Ordinance amends the definition of “changeable sign” by changing the word “illustrations” to “symbols”, for the same purpose.

*I recommend the City Council move to pass third and final reading of the proposed ordinance. Action on this matter should take place under Section VIII of the Agenda.*

### **Consent Agenda:**

1. **Request for License to Install Projecting Sign.** Attached under Section IX of the Agenda is a request for a projecting sign license (see attached memorandum from Rick Taintor, Planning Director):

- Nancy Morgan, owner of Nancy Morgan Art for property located at 238 State Street.

*I recommend the City Council move to approve the aforementioned Projecting Sign License as recommended by the Planning Director and, further, authorize the City Manager to execute this License Agreement for this request. Action on this item should take place under Section IX of the Agenda.*

2. **Acceptance of Donation to the Coalition Legal Fund.** The City of Portsmouth has received the following donation to the Coalition Legal Fund, which will be utilized to continue our fight to eliminate the statewide property tax:

- Town of Carroll                      \$1,000.00

*I would recommend the City Council move to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund. Action on this matter should take place under Section IX of the Agenda.*



## ***City Manager's Items Which Require Action:***

1. **Update Re: Federal McIntyre Building.** Since the Council's August 15<sup>th</sup> public input session regarding the topic of the City's pursuit of a public-private partnership to redevelop the 2.1 acre McIntyre Federal property at 62 Daniel Street and construct a new federal building in the downtown, two new factors have influenced our on-going discussions with the GSA:
  - The GSA's needs have changed – due to reduced space requirements, the GSA has determined it is no longer cost efficient to construct a new federal facility and instead is pursuing lease options for its existing tenants (approx. 30,000 s.f. needed in total); and
  - The McIntyre building (1966) has been determined, as part of the proposed Portsmouth National Register District, to be eligible for listing on the National Register. Prepared as part of mitigation for the replacement of the Memorial Bridge, a complete draft of the proposed nomination was presented to the community in May, 2016 and in July, voted to be forwarded to the National Park Service for register listing. Because the property is now considered a historic resource, the GSA must take this into consideration as it seeks to transfer the property.

This fall, in accordance with standard GSA tenant relocation practices, the GSA began a search for leasable space in the downtown. And, knowing the City's interest in the McIntyre Building and with the property now considered a historic resource, the GSA suggested the City consider the "Historic Monument" program as a method to acquire the property. Briefly, the Historic Monument program is one way the GSA may transfer property for public uses to state and local agencies, at a discount of up to 100% market value. Below is taken from the GSA's web site program description (emphasis added):

"Title 40 U.S.C. 550(h) authorizes conveyance to any State, political subdivision, instrumentalities thereof, or municipality, of all the right, title, and interest of the United States in and to any surplus real and related personal property which in the determination of the **Secretary of the Interior is suitable and desirable for use as a historic monument for the benefit of the public.** Conveyances of property for historic monument purposes under this authority shall be made **without monetary consideration to the United States:** Provided, that no property shall be determined under this authority to be suitable or desirable for use as an historic monument except in conformity with the recommendation of the National Park Advisory Board established under section 3 of the Act of Congress approved August 21, 1935 (16 U.S.C. 463) and only so much of any such property shall be so determined to be suitable or desirable for such use as is necessary for the preservation and proper observation of its historic features. Property conveyed for historic monument purposes **may under certain circumstances be used for revenue producing activities to support the historic monument. All income exceeding the cost of repairs, rehabilitation, and maintenance shall be used for public historic preservation, park, or recreational purposes.** Deeds conveying any surplus real

property under this authority shall be used and maintained for the purposes for which it was conveyed in perpetuity and may contain such additional terms, reservations, restrictions, and conditions.”

The first step in the GSA disposal process began on October 26<sup>th</sup>, when it published a 30-day excess screening to notify other federal agencies of the building’s availability. That notice resulted in the Portsmouth Naval Shipyard submitting a letter of interest to the GSA, which it quickly rescinded. At the same time, the GSA sent a “Title 5” checklist to the office of Housing and Urban Development (HUD) for a determination of homeless suitability.

In accordance with the McKinney Act, the GSA published notice of the McIntyre’s availability for homeless use on December 12<sup>th</sup>, which began a 60-day response period. At the same time, the GSA also issued a “Notice of Surplus Determination,” which allows public agencies (including qualified non-profits) to submit an application for transfer of the property via two disposal methods: 1) through the Historic Monument program or 2) through a negotiated sale for public purposes.

The deadline to respond with a letter of interest is February 10, 2017.

The City’s primary objectives in pursuing ownership of the property is three-fold:

- To capitalize on the rare opportunity to shape redevelopment of a downtown block in the City’s best interests by promoting public/non-profit/commercial use of its ground floor, re-connecting the site with Daniel, Penhallow, and Bow Streets via new pedestrian ways, introduction of open space and public parking uses, and revitalizing the area with new uses;
- To ensure against redevelopment of the site that does not meet the city’s economic development goals; and
- To accomplish the above in a fiscally prudent manner, through a public-private partnership.

Submission of a letter of interest is a first step towards achieving this future, with no obligation until an application is submitted. According to its notice, upon receipt the GSA will then notify the City as to the timeframe for submission of a formal application.

*Move to submit the letter of interest under the Historic Monument Program.*

2. **Report Back Re: Revenue Projections from Adjusted Parking Fees**. As a report back to City Council, Staff will present revenue projections from extending hours of parking enforcement from 7:00 PM to 11:00 PM as well as increasing on-street meter rates and other potential rate changes. Staff will discuss these projections in the context of future budget needs related to the operation of the Parking and Transportation Division.

*Move to instruct the City Attorney, pursuant to the Department of Public Works Director's recommendation, to draft an Ordinance, and further, authorize the Acting City Manager to bring back the Ordinance for first reading at the January 23, 2017 City Council meeting.*

3. **Report Back Re: Atlantic Heights Emergency Access.** At its meeting on November 21, 2016, the City Council voted to refer to the Planning Board a proposal to accept an easement from Eversource in order to create a new emergency access route out of the Atlantic Heights neighborhood. The proposed easement is shown on the [attached plan](#).

At its meeting on December 15, 2016, the Planning Board voted unanimously to recommend in favor of accepting the proposed easement.

*I recommend the City Council move to accept the recommendation of the Planning Board, as submitted.*

4. **Acceptance of Street Re: New Parking Garage.** In connection with the development of the new municipal parking garage, the City will construct a new public street extending from Bridge Street, near the corner of Deer Street, to Rock Street Park. In addition to providing needed access to the garage, the new street will serve as legal frontage for a proposed private development opposite the garage by Deer Street Associates. Because of concerns about through traffic potentially impacting residential neighborhoods, the new street is not intended to accommodate through traffic at this time, but a connection to the current end of Rock Street is required for emergency access. The proposed street design has been reviewed by the Technical Advisory Committee and will be considered by the Planning Board at its meeting on January 19<sup>th</sup>.

[Attached is a letter](#) from Peter Rice, Director of Public Works, requesting that the City Council refer the proposed construction and acceptance to the Planning Board for a report, as required by the City Ordinances. Also [attached are a plan showing the proposed right of way and street alignment, and a second exhibit](#) showing the proposed right of way in relation to surrounding development.

*I recommend that the City Council vote to refer the proposed street construction and acceptance to the Planning Board for a report back.*

### ***Informational Items:***

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on December 19, 2016. In addition, this can be found on the City's website.







# CITY OF PORTSMOUTH

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Municipal Complex  
1 Junkins Avenue  
Portsmouth, New Hampshire 03801  
(603) 431-2000

January 4, 2017

Mayor Jack Blalock and City Council  
City Hall  
Portsmouth, NH 03801

RE: Proposed Construction and Acceptance of a Public Way

Dear Mayor Blalock and City Councilors:

Attached is a plan showing the proposed right-of-way and alignment of a public street to be constructed off Bridge Street to provide access to the City's new parking garage, as well as to provide frontage and access for a proposed private development opposite the garage by Deer Street Associates. In accordance with the City Ordinances, Chapter 11, Article VI, I request that the City Council refer the proposed construction and acceptance of this public way to the Planning Board for a report.

Sincerely,

Peter Rice  
Director of Public Works

Attachments



**PLAN REFERENCES:**

1. PLAN OF THE ROCK FIELD IN THE TOWN OF P-O-R-T-S-M-O-U-T-H BY BENJAMIN SHERMAN, DATED 1815. RCRD 00562
2. PLAN OF LAND FOR NETTY AND GERALD TAUBE, AUGUST 2004 BY MILLETTE, SPRAGUE & COLWELL. RCRD D-32051
3. KEARSARGE MILL CONDOMINIUMS, HANOVER STREET, PORTSMOUTH, NH, BY KIMBALL CHASE DATED 2/16/07. RCRD D-34716
4. BOUNDARY LINE AGREEMENT PLAN, KEARSARGE MILL CONDOMINIUMS, PORTSMOUTH, NH, BY JONES & BEACH ENGINEERS, INC. DATED 4/10/97. RCRD D-25421
5. EASEMENT PLAN, TAX MAP 164 - LOT 4, BOSTON & MAINE CORPORATION TO THE CITY OF PORTSMOUTH OFF BREWSTER STREET, PORTSMOUTH, NH, BY AMBIT ENGINEERING, INC. DATED 4/19/03. RCRD D-37720
6. SUBDIVISION OF LAND OF PORTSMOUTH MFG. AND POWER CO., PORTSMOUTH, NH BY JOHN W. DURGIN DATED NOV. 1925. RCRD #0358
7. LAND IN PORTSMOUTH, NH PORTS. MFG. & POWER CO. TO HAROLD S. WOODS. BY JOHN W. DURGIN DATED NOV. 1926. RCRD #00389
8. LOT LINE REVISION PLAN FOR JOHN AHLGREN, PETER HAPPNY AND BOSTON AND MAINE CORPORATION, LANGDON STREET, MCDONOUGH STREET & BREWSTER STREET, PORTSMOUTH, NH, BY DOUCET SURVEY, INC. RCRD D-31107
9. PLAN OF LAND IN PORTSMOUTH, NH, PORTSMOUTH MFG. & POWER CO. TO FRANK E. BROOKS BY JOHN W. DURGIN DATED FEB. 1918. RCRD #078
10. PLAN OF LAND FOR DEER STREET ASSOCIATES, DEER & BRIDGE STREETS AND MAPLEWOOD AVENUE, PORTSMOUTH AVENUE BY AMBIT SURVEY, DATED SEPTEMBER 1993. RCRD D-22543
11. KEARSARGE (sp) MILLS CONDOMINIUM PLANS FOR MAYFAIR REALTY TRUST, CAMBRIDGE (sp) TRUST BY KIMBALL CHASE COMPANY, INC. APRIL 1986. RCRD D-14855
12. BOUNDARY SURVEY FOR CITY OF PORTSMOUTH, MAP 138, LOT 56 BY ALEX ROSS, CIVIL ENGINEERING SERVICES, SEPTEMBER 2003. RCRD D-31069
13. CONSOLIDATION & SUBDIVISION PLAN, TAX MAP 125, LOT 17 & TAX MAP 138, LOT 62, DEER STREET ASSOCIATES BY AMBIT ENGINEERING, INC. DATED JULY 2015, FINAL REVISION DATE MAY 18, 2016. RCRD D-39699
14. CONDOMINIUM SITE PLAN FOR HANOVER PLACE CONDOMINIUM, 349 HANOVER STREET, PORTSMOUTH NH, BY MILLETTE, SPRAGUE AND COLWELL, INC. DATED 12/20/05. RCRD D-33379
15. KEARSARGE MILL CONDOMINIUMS, HANOVER STREET, PORTSMOUTH, NH, BY KIMBALL CHASE DATED 2/16/07. RCRD D-34716
16. TAX MAP 125 LOT 14 & MAP 138 LOT 62, PROPERTY OF HILL HANOVER GROUP, LLC, HILL, HANOVER & AUTUMN STREETS, PORTSMOUTH, NH, BY MSC, INC. DATED 10/10/2008. NOT RECORDED.
17. PLAN OF LAND IN PORTSMOUTH, NH, PORTSMOUTH MFG. & POWER CO. TO FRANK E. BROOKS BY JOHN W. DURGIN DATED FEB. 1918. RCRD #078
18. CONDOMINIUM SITE PLAN, 136 HILL STREET CONDOMINIUM, PORTSMOUTH, NH, TAX MAP 125 LOT 11, BY ANDOVER CONSULTANTS, INC. DATED JULY 12, 2007. RCRD C-34853
19. LAND IN PORTSMOUTH, NH, BOSTON & MAINE RAILROAD TO ROGER E. MOULTON AND CHESTER GOODWIN. DATED MARCH 1950. RCRD 01684
20. PROPOSED PROPERTY TRANSFER, TAX MAP 125 - LOT 17, BOSTON & MAINE TO DEER STREET LIMITED PARTNERSHIP, 165 DEER STREET, PORTSMOUTH, NH BY AMBIT ENGINEERING, INC. DATED 6/13/13. RCRD D-37797
21. PLAN OF LAND FOR DEER STREET ASSOCIATES, DEER & BRIDGE STREETS AND MAPLEWOOD AVENUE, PORTSMOUTH AVENUE BY AMBIT SURVEY DATED SEPTEMBER 1993. RCRD D-22543
22. PROPOSED ROADWAY ALIGNMENT AND LAND TRANSFER PLAN, CITY OF PORTSMOUTH TO DEER STREET ASSOCIATES. RCRD D-39700

**LEGEND:**

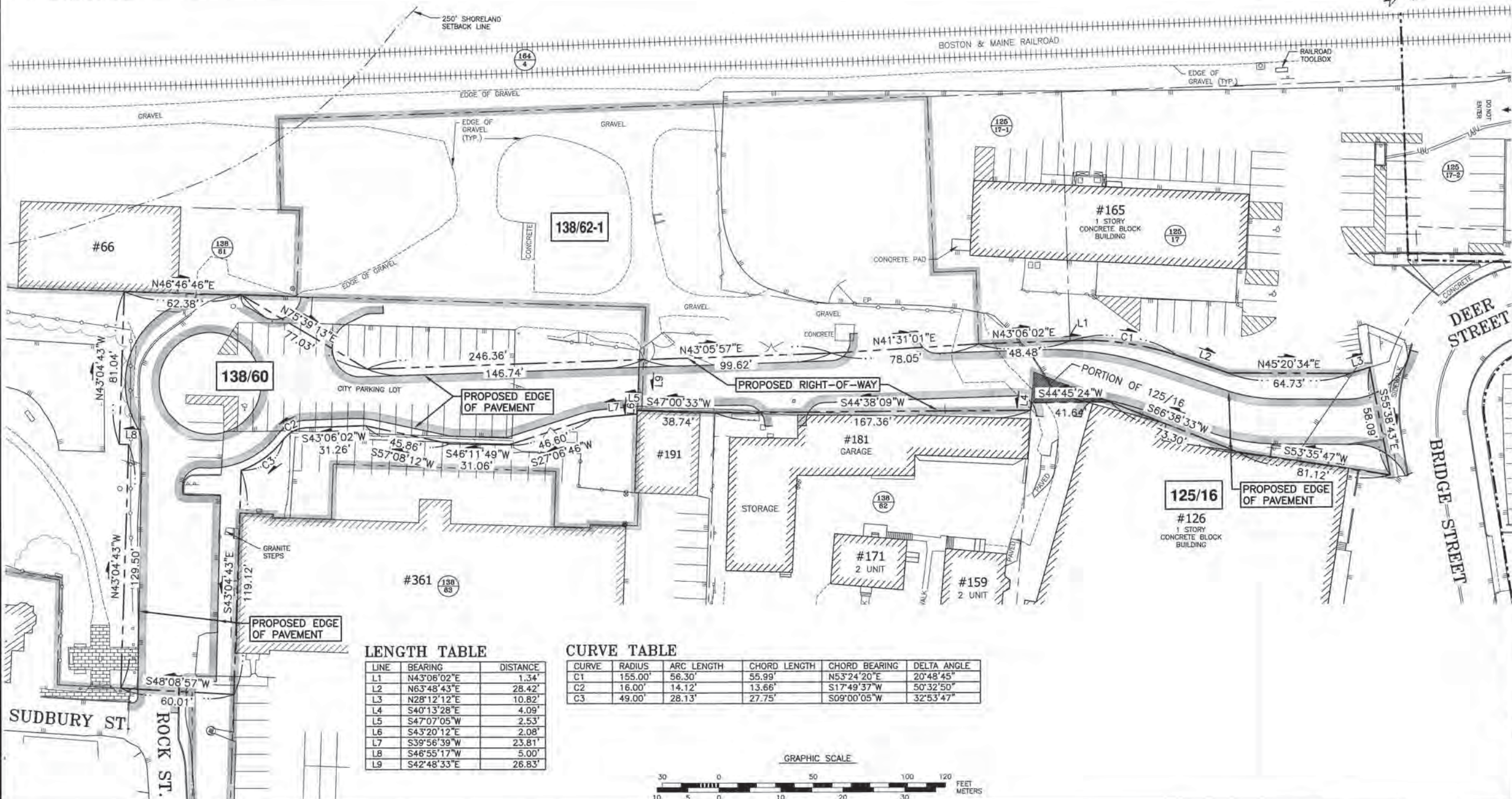
- N/F NOW OR FORMERLY
- RP RECORD OF PROBATE
- RCRD ROCKINGHAM COUNTY REGISTRY OF DEEDS
- RR SPK RAILROAD SPIKE
- MAP 11/LOT 21
- IR FND IRON ROD FOUND
- IP FND IRON PIPE FOUND
- IR SET IRON ROD SET
- DH FND DRILL HOLE FOUND
- DH SET DRILL HOLE SET
- NHNB NHDOT BOUND FOUND
- HTB TOWN BOUND
- BND w/DH BOUND WITH DRILL HOLE
- 1ST BND w/DH STONE BOUND WITH DRILL HOLE

**ABUTTERS LIST**

126/2 N/F THIRTY MAPLEWOOD, LLC 30 MAPLEWOOD AVENUE PORTSMOUTH, N.H. 03801 5099/2424	128/17-1 N/F DEER STREET ASSOCIATES PO BOX 100 YORK HARBOR, ME 03911 3395/2669, 5534/2077, 5453/138	138/81 N/F PETER HAPPNY 66 ROCK STREET PORTSMOUTH, N.H. 03801 2302/1079 D-31107	164/4 N/F BOSTON & MAINE CORPORATION IRON HORSE PARK HIGH STREET NORTH BILLERICA, MA 01862
125/17-2 N/F DEER STREET ASSOCIATES PO BOX 100 YORK HARBOR, ME 03911 3395/2669, 5534/2077, 5453/138	138/62 N/F DEER STREET ASSOCIATES PO BOX 100 YORK HARBOR, ME 03911 5518/2744	138/63 N/F KEARSARGE MILL CONDOMINIUM ASSOCIATION 191 HILL STREET PORTSMOUTH, N.H. 03801 2596/1585 D-14855	125/17 N/F DEER STREET ASSOCIATES PO BOX 100 YORK HARBOR, ME 03911 3395/2669, 5534/2077, 5453/138

**AMBIT ENGINEERING, INC.**  
Civil Engineers & Land Surveyors  
200 Griffin Road - Unit 3  
Portsmouth, N.H. 03801-7114  
Tel (603) 430-9282  
Fax (603) 436-2315

- NOTES:**
- 1) PROPOSED RIGHT-OF-WAY CONSISTS OF LAND SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 138 AS LOTS 60 AND 62-1 & ASSESSOR'S MAP 125 LOT 16.
  - 2) OWNERS OF RECORD:  
CITY OF PORTSMOUTH  
1 JUNKINS AVENUE  
PORTSMOUTH, NH 03801  
2267/1105, 5751/1470  
  
JOHN W. GRAY REVOCABLE TRUST & BRADFORD A. GRAY REVOCABLE TRUST  
579 SAGAMORE AVENUE, UNIT 100  
PORTSMOUTH, NH 03801  
3895/643
  - 3) PARCELS ARE NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 330150295E, EFFECTIVE DATE MAY 17, 2005.
  - 4) PROPOSED RIGHT-OF-WAY AREA:  
36,004 S.F.  
0.8265 ACRES  
AREA FROM TAX MAP 138 LOT 60  
21,963 S.F.  
0.5042 ACRES  
AREA FROM TAX MAP 138 LOT 62-1  
13,705 S.F.  
0.3146 ACRES  
AREA FROM TAX MAP 125 LOT 16  
336 S.F.  
0.0077 ACRES
  - 5) PROPOSED IMPROVEMENTS FROM PLANS DATED DECEMBER 19, 2016 BY TIGHE & BOND.
  - 6) BUILDINGS ON THE SUBJECT PROPERTIES TO BE DEMOLISHED HAVE BEEN REMOVED FROM THIS PLAN.
  - 7) THE PURPOSE OF THIS PLAN IS TO SHOW A PROPOSED RIGHT-OF-WAY.
  - 8) HORIZONTAL DATUM AND BASIS OF BEARING IS NEW HAMPSHIRE STATE PLANE NAD83(2011); BASIS OF HORIZONTAL DATUM IS RTK GPS OBSERVATIONS.

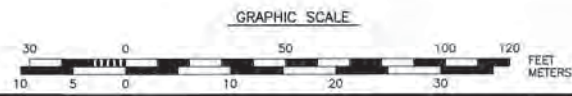


**LENGTH TABLE**

LINE	BEARING	DISTANCE
L1	N43°06'02"E	1.34'
L2	N63°48'43"E	28.42'
L3	N28°12'12"E	10.82'
L4	S40°13'28"E	4.09'
L5	S47°07'05"W	2.53'
L6	S43°20'12"E	2.08'
L7	S39°56'39"W	23.81'
L8	S46°55'17"W	5.00'
L9	S42°48'33"E	26.83'

**CURVE TABLE**

CURVE	RADIUS	ARC LENGTH	CHORD LENGTH	CHORD BEARING	DELTA ANGLE
C1	155.00'	56.30'	55.99'	N53°24'20"E	20°48'45"
C2	16.00'	14.12'	13.66'	S17°49'37"W	50°32'50"
C3	49.00'	28.13'	27.75'	S09°00'05"W	32°53'47"



**PROPOSED CITY OF PORTSMOUTH RIGHT-OF-WAY PORTSMOUTH, N.H.**

NO.	DESCRIPTION	DATE
1	ISSUED FOR APPROVAL	1/4/17
0	ISSUED FOR COMMENT	12/29/16

REVISIONS

SCALE: 1" = 30' DECEMBER 2016

**RIGHT-OF-WAY PLAN**

**C2**







Run: 1/05/17  
8:35AM

## Event Listing by Date

Page: 1

Starting Date: 12/19/2016

Ending Date: 12/31/2017

Start End	Type Description	Location	Requestor	Vote Date
12/31/2016 12/31/2016	FESTIVAL Barbara Massar is the contact for this event. This event begins at 4:00 p.m. to Midnight	Downtown - Various Locations throughout Market Squ	First Night - Pro Portsmouth	9/ 6/2016
1/ 1/2017 1/ 1/2017	RACE Michael Rennebu is the contact for this event. Cell #603-969-9783 Race Start: 11:00 a.m. Registration: 9:00 a.m.	Portsmouth Middle School	Great Bay Services	12/ 7/2015
3/18/2017 3/18/2017	ROAD RACE Starting at Peirce Island		St. Patrick School - Clover R	11/21/2016
3/26/2017 3/26/2017	ROAD RACE Starts at Traip Academy in Kittery, ME thru town Donald Allison is the contact for this event.		Eastern States 20 Mile	12/ 5/2016
4/ 8/2017 4/ 8/2017	WALK This event begins and ends at Little Harbour School. Begins at 10:00 a.m.	Little Harbour School	National Multiple Sclerosis So	11/21/2016
5/ 6/2017 5/ 6/2017	WALK Jenelle Dolan, Development Specialist is the contact for this event. Tel. 978-729-5849	Little Harbour Elementary School	March of Dimes	7/11/2016
5/ 7/2017 5/ 7/2017	EVENTS Barbara Massar is the contact for this event. This event begins at Noon to 4:00 p.m.	Pleasant Street - State Street - Market Square	Children's Day - Pro Portsmout	9/ 6/2016
5/ 7/2017 5/ 7/2017	RIDE Melissa Walden, Associate of Development is the contact. This event begins at 7:00 a.m. at Redhook Brewery.	Start at Redhook Brewery	American Lung Association	10/ 3/2016
5/13/2017 5/13/2017	RACE Contact: Carolyn Ostrom, NH Community Relations, Specialist - 617-501-2728 costrom@vtnhkomen.org Ed Harvey, Race Director 603-862-1246 Edmund.Harvey@unh.edu	Strawbery Banke	Susan G. Komen Foundation	8/15/2016
5/28/2017 5/28/2017	FUND Lilia-Potter-Schwartz is the contact for this event. This is a triathlon at begins at Portsmouth High School	Portsmouth High School	Education to All Children	12/ 5/2016
6/10/2017 6/10/2017	FESTIVAL Barbara Massar is the contact for this event. This event begins at 9:00 a.m. to 4:00 p.m.	Market Square	Market Square Day - Pro Portsm	9/ 6/2016



Run: 1/05/17  
8:35AM

## Event Listing by Date

Page: 2

Starting Date: 12/19/2016

Ending Date: 12/31/2017

Start End	Type Description	Location	Requestor	Vote Date
6/10/2017 6/10/2017	ROAD RACE Barbara Massar is the contact for this event. The road race starts at 9:00 a.m. in Market Square	Starts in Market Square	Market Square Road Race - Pro	9/ 6/2016
6/17/2017 6/17/2017	RACE Rain Date of June 18, 2017	Pleasant Street	Big Brothers Big Sisters of Ne	9/19/2016
6/24/2017 6/24/2017	MUSIC Barbara Massar is the contact for this event. This event begins at 5:00 p.m. to 9:30 p.m.	Market Square - Pleasant Street	Summer in the Street Music Ser	9/ 6/2016
7/ 1/2017 7/ 1/2017	MUSIC Barbara Massar is the contact for this event. This is part of the Summer in the Streets series begins at 5:00 p.m. and ends at 9:30 p.m.	Pleasant Street	Pro Portsmouth - Summer in the	9/ 6/2016
7/ 8/2017 7/ 8/2017	FESTIVAL Barbara Massar is the contact for this event. This event is part of the Summer in Street Series. It begins at 5:00 to 9:30 p.m.	Downtown - Pleasant Street	Pro Portsmouth - Summer in the	9/ 6/2016
7/15/2017 7/15/2017	BIKE TOUR Contact: Chris Vlangas 1-800-757-0203 Event begins at 7:30 a.m. from Shapleigh Middle School in Kittery.	From Kittery, ME to Route 1B to Rye back to Kitter	Cystic Fibrosis Foundation	11/21/2016
7/15/2017 7/15/2017	FESTIVAL Barbara Massar is the contact for this event. This event is part of the Summer in the Streets begins at 5:00 p.m. to 9:30 p.m.	Downtown - Pleasant Street - between State Street	Pro Portsmouth - Summer in the	9/ 6/2016
7/22/2017 7/22/2017	MUSIC Barbara Massar is the contact for this event. This is part of the Summer in the Streets series which begins at 5:00 p.m. and ends at 9:30 p.m.	Pleasant Street	Pro Portsmouth - Summer in the	9/ 6/2017
7/29/2017 7/29/2017	MUSIC Barbara Massar is the contact for this event. This event is part of the Summer in the Streets series which begins at 5:00 p.m. and ends at 9:30 p.m.	Pleasant Street	Pro Portsmouth - Summer in the	9/ 6/2016
9/17/2017 9/17/2017	RACE Jennie Halstead, Executive Director if the contact. This race begins at 7:30 a.m. with registration Start of the race: 9:00 a.m.	Portsmouth Middle School	My Brest Cancer Support	12/ 5/2016
9/24/2017 9/25/2017	RIDE	Along Route 1A	Granite State Wheelmen, Inc.	11/21/2016



# CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

## APPOINTMENT APPLICATION

*Instructions: Please print or type and complete all information.  
Please submit resume' along with this application.*

Committee: Historic District Commission **Initial applicant**

Name: Molly Bolster Telephone: 603-978-5296

Could you be contacted at work?  YES  NO If so, telephone # 603-978-5296 (cell)

Street address: 44 Gardner Street

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): marthabolster@gmail.com

How long have you been a resident of Portsmouth? since 2004

### Occupational background:

Executive Director (since 2003) of nonprofit

Gundalow Company [www.gundalow.org](http://www.gundalow.org)

Executive Director <sup>1996-2002</sup> Wentworth Coolidge Mansion

Member of NH Historic Resources Council since 2010

### Please list experience you have in respect to this Board/Commission:

My experience at the Wentworth Coolidge Mansion  
and on the NH Historic Resources Council have  
helped me understand the importance of  
preserving the community's historic  
buildings.



Have you contacted the chair of the Board/Commission to determine the time commitment involved? YES/NO NO

Would you be able to commit to attending all meetings? YES/NO

Reasons for wishing to serve: \_\_\_\_\_

① A desire to contribute my time/energy/skills to the HDC

② I hope I could be helpful to the process.

Please list any organizations, groups, or other committees you are involved in:

NH Historic Resources Council

Past board member Wentworth Gardner Mansion

Please list two character references not related to you or city staff members:  
(Portsmouth references preferred)

1) John Mayer ~~433-1261~~ jmayer.nh@gmail.com  
Name, address, telephone number

2) Charlie Bickford, 45 Gardner St. 433-1261  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

1. This application is for consideration and does not mean you will necessarily be appointed to this Board/Commission; and
2. The Mayor will review your application, may contact you, check your references, and determine any potential conflict of interests; and
3. This application may be forwarded to the City Council for consideration at the Mayor's discretion; and
4. If this application is forwarded to the City Council, they may consider the application and vote on it at the next scheduled meeting.
5. Application will be kept on file for one year from date of receipt.

Signature: Willy Bickford Date: 10/7/2016

If you do not receive the appointment you are requesting, would you be interested in serving on another board or commission? Yes \_\_\_\_\_ No X

Please submit application to the City Clerks Office, 1 Junkins Avenue, Portsmouth, NH 03801

# Memo

To: Assistant Mayor Splaine and City Council members  
From: Mayor Jack Blalock  
Date: December 21, 2016  
Re: City Manager's Reappointment to the PDA

---

City Manager Bohenko's term as our Representative to the Pease Development Authority is expiring in January. Mr. Bohenko has served in the City's best interest over the last twelve years and his knowledge of the inner workings of the Board continues to be a valuable asset to the City of Portsmouth. Therefore, it is my recommendation to appoint Mr. Bohenko as the City's Representative for another three-year term, January 1, 2017 through January 1, 2020.

Please be advised that this appointment requires one meeting for approval.

If you have any questions, please do not hesitate to contact me. Thank you for your consideration of my request.

cc: John P. Bohenko, City Manager  
Kelli L. Barnaby, City Clerk  
Robert P. Sullivan, City Attorney



Honorable Mayor Jack Blalock  
City Hall  
1 Junkins Avenue  
Portsmouth, NH  
03801

Dear Mayor Sir,

My family and I have made the decision that 2016 would be my last year serving on the Historic District Commission, therefore I am presenting my resignation as the Chairman of the Historic District Commission of our great city.

Maintaining the quality of a place as special as Portsmouth is very hard work, requiring dedication and patience, but I am sure that qualified and dedicated individuals will rise to serve vacancies.

At times this was not an easy assignment, and at times it was certainly very stressful, but I have very much enjoyed the good people that I have worked with, and I will remember my time on the HDC fondly.

It has been a great privilege to serve this community, and I thank everyone for the trust and responsibility to help protect this very special place we call Portsmouth.

Thank You and Happy New Year,

Joseph Almeida



October 26, 2016

Mayor Blalock,  
1 Junkins Avenue  
Portsmouth, NH 03801

Dear Mayor Blalock,

It is with mixed emotions that I submit to my letter of resignation from the Planning Board effective, March 1, 2017 (the February 16<sup>th</sup> meeting being my last). I am at a point in my life where I plan to spend more time with my wife and my family.

I am privileged to have served on this board for fourteen plus years, the past eleven years having served as Chair. Over the past fourteen years we have seen great changes to our beloved City and I am proud to have provided guidance and leadership to this board on these projects. I am so proud of whom we have become as a city. We, as a board, were able to oversee the development of the Norther Tier, Yoken's Common, and the African Burial Ground. All projects that were vital to the continued growth of this city. We continue to make positive strides in green initiatives, reinvesting in our infrastructure while maintaining and preserving our long storied history. All this while always putting the interests of the residents of Portsmouth first.

I am honored to have served under esteemed Mayor's Sirrell, Marchand, Ferrini, Spear and Lister as well as yourself. Having been a lifelong resident of Portsmouth, it has been a great experience for me to see how truly dedicated our City staff, employees and board members are. I will miss the city staff, City Manager and board members who work tirelessly to make this a great city to live and work in.

In closing I would like to thank you, the City Manager and the late Mayor Sirrell who originally appointed me to the board back in 2002, to serve as your Chair. I would also like to sincerely thank all the board members that I served with through the years and those that continued to re-appoint me as Chair. I will miss them all greatly. I am honored to have served this great City in this capacity, one that I never took lightly or for granted and will continue to enjoy the efforts that all have made and continue to make. We are all so fortunate to call Portsmouth our home.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'John E. Ricci', written over a faint printed name.

John E. Ricci  
912 Sagamore Avenue  
Portsmouth, NH 03801.

OFFICE OF THE CITY CLERK  
CITY OF PORTSMOUTH, N.H.

**Kelli L. Barnaby, CMC/CNHMC**  
**City Clerk**  
**1 Junkins Avenue**  
**Portsmouth, NH 03801**  
**603-610-7207**  
**Fax: 603-610-4158**  
**Klbarnaby@cityofportsmouth.com**

# Memo

To: Mayor Blalock, City Council  
Leslie Stevens, School Board Chair  
Richard Gamester, Fire Commissioner Chair  
Brenna Cavanaugh, Police Commissioner Chair

From: Kelli L. Barnaby, City Clerk

Date: December 27, 2016

Re: Board of Ethics

---

In accordance with Chapter 1, Article VIII, Section 1.804 – Board of Ethics – establishes a method for appointing a Board of Ethics. It is required that the Board member shall be drawn at the first meeting of the calendar year of each of the governing bodies. One member each is selected by lot from the City Council, School Board, Police Commission and Fire Commission to serve on the Board of Ethics.

Once the selection by lot is completed, please notify me the name of the individual selected for my records.

If you should have any questions, please do not hesitate to contact the City Clerk's Office directly.

Thank you.

cc: John P. Bohenko, City Manager  
Robert P. Sullivan, City Attorney  
Stephen Zadravec, Superintendent of Schools  
Steven Achilles, Fire Chief  
David Mara, Police Chief

Wednesday, January 4, 2017

To: Portsmouth City Councilors  
From: Jim Splaine, Portsmouth Resident

At the City Council meeting for January 9, 2017, I will ask that we approve the following:

**Statement: The Portsmouth City Council Supports New Hampshire Legislation for Equality of Our Transgender Residents, and Banning So-Called Gay Conversion Therapy For Minors.**

(Also referred to as "prohibiting discrimination based on gender identity;" and "relative to conversion therapy seeking to change a person's sexual orientation.")

-----

New Hampshire has long been a leader in equality for our gay and lesbian citizens. In 1997, it adopted "sexual orientation" as part of the state's civil rights statutes, becoming just the 11th state to do so. Even today, over a dozen states do not have such a law. That followed a 1993 effort in Portsmouth to have our community treat our gay and lesbian citizens equally.

In 2007, New Hampshire became one of the earliest states to adopt Civil Unions, then in 2009 became just the 5th state -- and the first to do so exclusively through the legislative process without Court order or involvement -- to adopt gay and lesbian marriage under state law. Since House Bill 436 became effective on January 1, 2010, through December 31, 2016, 3,946 same-sex marriages have been celebrated, with more occurring weekly.

The Portsmouth City Council was a leader in New Hampshire in supporting transgender equality. On March 3, 2014, Portsmouth became the first community in our state formally calling on our transgender employees to be treated equally in the workplace and through our policies. That vote was unanimous, and followed a well-attended public comment session. Other communities have followed, with Somersworth approving such a policy this past week.

Two bills, yet to be prepared in final draft form, will be presented for consideration in the 2017-2018 Legislative Session. One will provide protections under state law for transgender residents, and the other will prohibit so-called "gay conversion therapy" for minors, under the age of 18.

I include in this memo a number of online resources to learn more about transgender equality and the concept of gay conversion therapy. I summarize as follows:



**PROTECTING OUR TRANSGENDER RESIDENTS:** Even though "sexual orientation" has been protected under our civil rights statutes since the late 1990s, those protections have not been provided to our citizens who are transgender. In 2010 I met with the N.H. Attorney General, accompanied by several others including Janson Wu, who is now Executive Director of GLAD, Legal Advocates & Defenders for the LGBTQ community. He had helped me in the drafting and passing of the marriage equality law in 2009. It was clear from that meeting, and subsequent actions, that transgender equality does not exist.

A January 4, 2017 news story in The Concord Monitor reported on a demonstration in support of transgender equality, with comments by Rep. Ed Butler, who had sponsored a similar bill in 2009, and who joined me on a panel discussion at Discover Portsmouth this past October:

"One New Hampshire lawmaker is trying to get the state to take concrete action against transgender discrimination during this upcoming legislative session.

Democratic state Rep. Ed Butler of Harts Location plans to file legislation that would update the New Hampshire Commission for Human Rights to make it so state residents cannot be fired from their work or excluded from housing for their gender identity and gender expression.

While New Hampshire citizens cannot be discriminated against for their age, sexual orientation or place of origin, no such protection exists for transgender and gender non-conforming individuals.

"There continues to be discrimination in a variety of different ways that trans people experience," Butler said. "Moving this bill forward and hopefully succeeding will help to provide protections that this quite vulnerable population needs."

*The N.H. Legislature should pass legislation protecting our transgender residents. It is the right thing to do.*

**PROHIBITING SO-CALLED "GAY CONVERSION THERAPY:"** The practice of having therapy for minors whose parents/guardians or others want to change their sexual orientation is bad practice, and some states have already banned it.

Banning conversion therapy for sexual orientation and gender identity for minors has been approved in California, Oregon, Illinois, New York, Vermont, and Rhode Island, as well as a number of cities including Miami, Cincinnati, Pittsburg, Washington, D.C. and Seattle. It is banned in Canada and in parts of other counties.

Such behavioral modification techniques are more seductive as marketing tools than effective.

A May 6, 2016 news story by New Hampshire Public Radio reported on House Bill 1661, which had passed the House and was being considered by the Senate. It had the endorsement of Governor Maggie Hassan:

"Sen. David Pierce, a Democrat from Lebanon, told his colleagues about his personal struggles with coming out. Pierce said allowing this practice in New Hampshire tells minors who question their sexuality that they need to be fixed.

"The evidence of success of these therapies is non-existent. People can change their behavior, they can change how they speak about it, but they cannot change their orientation, and why should we?," Pierce asked. "Why should anyone be asked to change who they are."

Sen. Martha Fuller Clark, a Democrat from Portsmouth, who's son is gay, agreed.

"We do not need to take a step backward to that time when people and young people were ashamed when their orientation was either homosexual or lesbian," Clark told her colleagues before the vote was delayed."

*New Hampshire should ban such conversion therapy services for minors. It's okay to be gay, bisexual, lesbian, or transgender.*

Assistant Mayor Splaine Item #X1.C.1 - Addendum

**For more information and background:**

Transgender equality:

Portsmouth Herald editorial supporting City Council endorsement of Transgender Equality:  
<http://www.seacoastonline.com/article/20140302/OPINION/403020325>

Comments at City Council public hearing by GLAD (Legal Advocates & Defenders for the LGBTQ community) of Boston:

<http://www.seacoastonline.com/article/20140226/NEWS/140229785>

Portsmouth Herald summary (news story) of City Council meeting of March 3, 2014, as Council unanimously adopts Transgender protections for city employees:

<http://www.seacoastonline.com/article/20140303/NEWS/140309936>

Freedom

New Hampshire (Transgender Equality):

[freedomnewhampshire.org](http://freedomnewhampshire.org)

Freedom New Hampshire (Transgender Equality) Facebook Page:

<https://www.facebook.com/FreedomNewHampshire/?fref=nf>

May 5, 2016 news story of openly-gay N.H. State Senator preventing killing of so-called gay conversion therapy bill:

<http://www.unionleader.com/NH-Senate-puts-off-vote-on-conversion-therapy>

June 13, 2016 State Senate action on so-called gay conversion therapy legislation (story):

[http://www.caledonianrecord.com/news/regional/senate-stalls-ban-on-gay-conversion-therapy-for-minors/article\\_e5a0fc3a-9870-54da-97fe-2b03031e7c77.html](http://www.caledonianrecord.com/news/regional/senate-stalls-ban-on-gay-conversion-therapy-for-minors/article_e5a0fc3a-9870-54da-97fe-2b03031e7c77.html)

Portsmouth Herald report in October, 2016 of Rep. Ed Butler's appearance at Discover Portsmouth, discussing transgender equality:

<http://www.seacoastonline.com/news/20161030/documenting-seacoasts-lgbt-community>

Link to "Seacoast Currents" on Portsmouth Community Radio, WSCA 106.1 FM, Thursday, December 22, 2016, with Larry Drake, Kathleen Sommich, Kathleen Cavalaro, Gerri Cannon, and Jim Splaine discussing transgender equality and so-called gay conversion ban therapy:

<https://spinitron.com/radio/playlist.php?station=wsc&sv=1&playlist=6107#here>

Resource information on transgender and LGBTQ issues:

GLAD.org