

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, MAY 15, 2017

TIME: 7:00PM

AGENDA

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

PROCLAMATION

- 1. Bike/Walk to Work Day in Portsmouth

PRESENTATION

- 1. Artificial Turf at the Route 33 Athletic Complex

V. ACCEPTANCE OF MINUTES – MAY 1, 2017

VI. PUBLIC COMMENT SESSION

VII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Character Based Zoning Excess Community Space
- B. First Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Signs related to Public Parking in Private Parking Lots
- C. First Reading of Proposed Ordinance amending Chapter 1, Article XVII, Section 1.1704 Public Art - Exemption
- D. First Reading of Proposed Ordinance amending Chapter 7, Article I – Parking Meters, Section 7.105 – Parking – Designated Motorcycle Parking Area
- E. First Reading of Proposed Ordinance amending Chapter 7, Article V – Bicycle Regulations
- F. First Reading of Proposed Ordinance amending Chapter 7, Article XVII – Moped Regulations

VIII. CONSENT AGENDA

(ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)

- A. Acceptance of Fire Department Donation from Lynn, Ray & Nancy Siconolfi - \$100.00
(Anticipated action – move to accept and approve the donation to the Fire Department, as presented)

IX. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

(There are no items under this Section of the Agenda)

X. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action:

1. Report Back from Planning Board Re: Potential Release of City Interest in the Portions of Two Paper Streets (Moffat Street and Woodworth Avenue) adjoining property at 85 Woodworth Avenue (Richer) and Authorize Issuance of Building Permit for Property off Swett Avenue, Moffat Street and Woodworth Avenue (Calkins)
2. Request for Qualifications Re: Thomas J. McIntyre Federal Property
3. Prescott Park Sound Management Plan
4. Referral to Planning Board Re: S & G Realty Boundary Line Agreement and Easement

City Manager's Informational Items

1. Events Listing
2. PS21 Vaughan Mall Green Initiative
3. Report Back Re: Cost Estimate for a Contracted Curbside Residential Composting Pilot Program for a Neighborhood
4. City Council FY18 Budget Work Sessions
5. Report Back Re: Charter Questions
6. City Council Rules Re: Public Comment and Public Hearings

B. ASSISTANT MAYOR SPLAINE

1. *Appointments to Boards & Commissions (***Sample motion – move that in addition to newspaper advertising of appointments to be made by the City Council of any kind on city Boards, Commissions, and Committees to be filled during the next three months, they will also be highlighted in the City of Portsmouth WEBSITE, and posted at the Library, on City Hall bulletin boards, and in each City Council Agenda, and the Agendas of those Boards, Commissions and Committees where such vacancies will occur. Additionally, at each City Council meeting the City Clerk will announce upcoming vacancies for the next three months***)

C. COUNCILOR LOWN

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the May 4, 2017 meeting (***Sample motion – move to accept and approve the action sheet and minutes of the May 4, 2017 Parking & Traffic Safety Committee meeting***)

D. COUNCILOR SPEAR

1. Thinking Fast and Slow (*Essay attached*)

XI. MISCELLANEOUS/UNFINISHED BUSINESS

XII. ADJOURNMENT

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

**Indicates Verbal Report*

INFORMATIONAL ITEMS

1. Notification that the minutes of the February 16, 2017 and March 16, 2017 meetings of the Planning Board 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.

The Council Chambers
City Hall
Portsmouth, New Hampshire

A Proclamation

Whereas:

May is National Bike Month and bicycling is an integral part of Portsmouth's multi-modal transportation system; and

Whereas:

Portsmouth is one of several municipalities participating in New Hampshire's 15th annual Bike/Walk to Work Day; and

Whereas:

Last year, there was a record turnout of bicycle and pedestrian commuters who took to the streets of the Seacoast aboard their bikes or in their walking shoes and visited one of eight commuter breakfasts in the region; and

Whereas:

This year, there will be various locations offering free breakfast to participants who also will be fitting a workout into a busy day, reducing their pollution footprint, and avoiding traffic jams; and

Whereas:

The goals of Bike/Walk to Work Day are to promote bicycling and walking as safe ways to get to work, decrease traffic congestion, improve air quality, and raise public awareness of opportunities to improve bicycle and pedestrian facilities in the Seacoast; and

Whereas:

If the average person biked or walked to work once every two weeks instead of driving, we could prevent the pollution of close to one billion gallons of gasoline from entering the atmosphere every year.

Now, therefore, I, Jack Blalock, Mayor of the City of Portsmouth, on behalf of the members of the City Council and the citizens of Portsmouth, do hereby proclaim Friday, May 19, 2017, as

Bike/Walk to Work Day in Portsmouth

and encourage all citizens to celebrate by leaving their motor vehicles at home and making a healthy commute by walking or riding their bicycles.

Given with my hand and the
Seal of the City of Portsmouth,
on this 15th day of May, 2017.

Jack Blalock, Mayor of Portsmouth



City of Portsmouth

Department of Public Works



MEMORANDUM

TO: Nancy Colbert-Puff, Deputy City Manager

FROM: Peter Rice, Director of Public Works

DATE: January 19, 2017

SUBJECT: Route 33 Recreation Field

As you may recall, at the November 10, 2016 Recreation Board meeting the Recreation Board received public comment concerning the safety of using crumb rubber in-fill as part of the new artificial turf field at the old Stump Dump off of Route 33.

In-fill material is integral to an artificial turf field and the type of in-fill can impact the performance of the field and safety of the players using the field. Crumb rubber has been the dominate in-fill material used in artificial fields because its performance is similar to natural grass fields and its ease of maintenance. Our high school football field has crumb rubber in-fill.

Recently there has been concern over the safety of this type of in-fill resulting in the development of alternative in-fill materials. Given these concerns our consultant Weston and Sampson Engineers performed a detailed review of the available science to confirm crumb rubber is an acceptable in-fill material for this project and to propose a potential alternative in-fill material if it is decided not to use crumb rubber.

The findings of this evaluation were presented to the City's Recreation Board at its January 18, 2017 meeting (see attached memo). In summary, the reports and studies by leading experts determined crumb rubber in-fill is safe for children and adults and is not associated with elevated health risks. In addition, our consultant recommended EDPM as an alternative in-fill material if it is decided not to use crumb rubber. EDPM is used in children's playground mats and has similar performance characteristics to crumb rubber.

The recreational field design is underway and is anticipated to be bid for construction in late March. The bid documents will include crumb rubber in-fill as the base bid with EDPM as an alternative in-fill bid item.

MEMORANDUM

TO: Peter Rice, Dan Hartrey

FROM: Michael Moonan

DATE: November 30, 2016

SUBJECT: Route 33 Recreation Field Project - Response to concerns regarding Synthetic Turf Infills

Weston & Sampson acknowledges the concerns regarding the proposed crumb rubber infill for the new synthetic turf field at the Route 33 site. These concerns are warranted given the recent media exposure regarding crumb rubber infill. During the upcoming bidding process we and the city have decided to obtain bids for the projects using a crumb rubber/sand blend infill as a base bid and an alternative infill as a bid alternate.

We have reviewed alternative infills and are proposing the use of EPDM infill as an alternate to crumb rubber. This infill provides the same performance characteristics as crumb rubber and can be installed with the same system. Any material used in recreational playing field construction, whether it is organic or synthetic requires testing to ensure its safety. EPDM is a “raw” material but still would need to be tested.

As mentioned in our prior memo many studies from third party agencies, Universities and scientific labs have been conducted. These studies tested crumb rubber and compared them to the very stringent EN 71-3 European Union Toy Standards, U.S. ASTM toy standard, EPA standards for soils and California’s Proposition 65 which protects state drinking water from chemical contaminants. According to these studies properly specified, clean and tested crumb rubber from a reputable source is considered safe for consumer use. These are the same standards we will use to measure any alternative infill also. All of these standards are higher than those used for native soil in natural turf athletic fields and home landscapes.

We will also continue to monitor the anticipated report from the U.S. Environmental Protection Agency (EPA), the Centers for Disease Control and Prevention/Agency for Toxic Substances and Disease Registry (ATSDR), and the U.S. Consumer Product Safety Commission (CPSC) multi-agency action plan to study key environmental human health questions related to crumb rubber infill expected to be released within the next few months. The results of this study will help guide the city with its decision on this matter.

Organic infills have been considered for the project however they have their drawbacks. Some are imported from foreign countries that do not have as stringent pesticide regulations as the United States and have been found to have high levels of pesticide that have been banned in the US. This material would also need to be provided by a reputable manufacturer and tested for undesirable chemicals. The material also requires a shock pad under the turf, higher levels of maintenance and watering in order to provide the required performance.

Other communities have had similar concerns over crumb rubber infill, the following two examples are quotes from independent reviews of the material.

From the State of Connecticut Department of Public Health letter to Local Health Departments and Districts, January 20, 2015:

“Various media outlets have continued to run this story and a number of local health departments have inquired as to its validity. Since many Connecticut towns have installed or are considering artificial turf fields an elevated cancer risk would be an important consideration. However, this news story is still based upon very preliminary information and does not change CTDPH’s position that outdoor artificial turf fields do not represent an elevated health risk.”

The Connecticut Department of Public Health has evaluated the potential exposures and risks from athletic use of artificial turf fields. Our study of 5 fields in Connecticut in 2010-2011 was a comprehensive investigation of releases from the fields during active play. This study was conducted as a joint project with CT DEEP and the University of CT Health Center and was peer-reviewed by the Connecticut Academy of Science and Engineering. Our study did not find a large amount of vapor or particle release from the fields confirming prior reports from Europe and the US. We put these exposures into a public health context by performing a risk assessment. Our risk assessment did not find elevated cancer risk. These results have been published as a set of 3 articles in a peer review journal and are available on the DPH artificial turf webpage (<http://www.ct.gov/dph/cwp/view.asp?a=3140&q=464068>).”

Town of Lynnfield, Massachusetts Field Study Committee after reviewing proposed crumb rubber for their High School athletic fields:

“The Field Study Committee for the Town of Lynnfield spent over two and one half years exploring the complex issues of field availability and usability in our community. The committee spent hundreds of hours in meetings and thousands of hours researching artificial turf fields and what the best solution would be for the Town of Lynnfield.”

The members of this committee are all parents and we are all coaches who have children that have previously played on artificial turf fields and will be playing on the new fields. We spent a significant amount of time examining the alleged hazards of these fields including

the safety of the field surface, the toxicity of the chemicals that are contained and emitted from these fields, the problem of field contamination from potential health and environmental effects. It was the conclusion of the committee that based on all available data (and there is a lot of data available) these artificial turf surfaces are safe for children of all ages.

As part of our research we relied upon studies that were funded by the Synthetic Turf Council, FIFA (the governing body for soccer in the world), and other organizations from around the world that had produced extensive information regarding artificial turf fields and the use of crumb rubber as infill material. However, the most credible studies that we explored were those conducted by government organizations and academic institutions. We gave them great credence because they are independent organizations without any predisposition or agenda in their research. In addition, in most cases these organizations are specifically tasked with the protection of health and safety for their particular entity or their research was specifically designed to measure all sides of this issue without a political agenda.”

It is our belief, based on all of the information we could locate that these fields are considered safe by leading experts for children and adults. All of the information that is published on this subject and contains supporting statistical or chemical analysis reaches the same conclusion. That position was summarized best in the documentation by the Connecticut Department of Public Health when they stated: “The use of outdoor and indoor artificial turf fields is not associated with elevated health risks.”

Attachment 1 - The EPA has developed a [Tire Crumb and Synthetic Turf Field Literature and Report List \(Nov. 2015\)](#). It is an extensive, although not exhaustive, survey of the literature from the past 12 years.

ATTACHMENT 1 - Tire Crumb and Synthetic Turf Field Literature and Report List as of Nov. 2015 from the EPA.

The views expressed in all these studies and reports do not necessarily reflect the views or policies of the US Environmental Protection Agency. The purpose of this list is to provide the public with a list of studies and reports that have addressed the topic of tire crumb, it may not be fully up-to-date or comprehensive. Links are provided when available.

- [Leaching of DOC, DN and Inorganic Constituents from Scrap Tires](#)
Selbes M., Yilmaz O., Khan A.A., Karanfil T. (2015). Chemosphere. 139:617-23.
- [Environmental and Health Impacts of Artificial Turf: A Review](#)
Cheng H., Hu Y., Reinhard M. (2014). Environ Sci Technol. 48(4):2114-29.
- [Environmental Sanitary Risk Analysis Procedure Applied to Artificial Turf Sports Fields](#)
Ruffino et al. (2013). Environ Sci Pollut Res Int.
- [New Approach to the Ecotoxicological Risk Assessment of Artificial Outdoor Sporting Grounds](#)
Krüger O., Kalbe U., Richter E., Egeler P., Römbke J., Berger W. (2013). Environ Pollut. 175:69-74.
- [Artificial Turf Football Fields: Environmental and Mutagenicity Assessment](#)
Schilirò T., Traversi D., Degan R., Pignata C., Alessandria L., Scozia D., Bono R., Gilli G. (2013). Arch Environ Contam Toxicol. 64(1):1-11.
- [Bioaccessibility and Risk Exposure to Metals and SVOCs in Artificial Turf Field Fill Materials and Fibers](#)
Pavilonis B.T., Weisel C.P., Buckley B., Lioy P.J. (2013). Risk Anal.
- [Review of the Human Health & Ecological Safety of Exposure to Recycled Tire Rubber Found at Playgrounds and Synthetic Turf Fields Exit](#)
Cardno Chem Risk. (2013). Prepared for: Rubber Manufacturers Association, Washington, DC.
- [Health Risk Assessment of Lead Ingestion Exposure by Particle Sizes in Crumb Rubber on Artificial Turf Considering Bioavailability](#)
Kim S., Yan J.Y., Kim H.H., Yeo I.Y., Shin D.C., Lim Y.W. (2012). Environ Health Toxicol. 27:e2012005.
- [Zinc Leaching from Tire Crumb Rubber](#)
Rhodes E.P., Ren Z., Mays D.C. (2012). Environ Sci Technol. 46(23):12856-63.
- [Comparison of Batch and Column Tests for the Elution of Artificial Turf System Components](#)
Krüger O., Kalbe U., Berger W., Nordhauß K., Christoph G., Walzel H.P. (2012). Environ Sci Technol. 46(24):13085-92

- [Design of a New Test Chamber for Evaluation of the Toxicity of Rubber Infill](#)
Gomes JF, Mota HI, Bordado JC, Baião M, Sarmento GM, Fernandes J, Pampulim VM, Custódio ML, Veloso I. (2011). Toxicol Mech Methods. 21(8):622-7
- [An Evaluation of Potential Exposure to Lead and Other Metals as the Result of Aerosolized Particulate Matter from Artificial Turf Playing Fields](#)
Shalat, S.L. (2011). Submitted to the New Jersey Department of Environmental Protection
- [Artificial-Turf Playing Fields: Contents of Metals, PAHs, PCBs, PCDDs and PCDFs, Inhalation Exposure to PAHs and Related Preliminary Risk Assessment](#)
Menichini et al. (2011). Sci Total Environ. 409(23):4950-7.
- [Human Health Risk Assessment of Synthetic Turf Fields Based Upon Investigation of Five Fields in Connecticut](#)
Ginsberg et al. (2011). J Toxicol Environ Health A. 74(17):1150-74.
- [Synthetic Turf Field Investigation in Connecticut](#)
Simcox et al. (2011). J Toxicol Environ Health A. 74(17):1133-49.
- [Benzothiazole Toxicity Assessment in Support of Synthetic Turf Field Human Health Risk Assessment Exit](#)
Ginsberg et al. (2011). J Toxicol Environ Health A. 74(17):1175-83.
- [Hydroxypyrene in Urine of Football Players After Playing on Artificial Sports Fields with Tire Crumb Infill](#)
Van Rooij and Jongeneelen. (2010). Int Arch Occup Environ Health. 83(1):105-10.
- [Risk Assessment of Artificial Turf Fields](#)
Connecticut Department of Energy & Environmental Protection. (2010). Connecticut Departments of Public Health and Environmental Protection and the Connecticut Agricultural Research Station.
- [Toxicological Assessment of Coated Versus Uncoated Rubber Granulates Obtained from Used Tires for Use in Sport Facilities](#)
Gomes et al. (2010). J Air Waste Manag Assoc. 60(6):741-6.
- [Characterization of Substances Released from Crumb Rubber Material Used on Artificial Turf Fields](#)
Li et al. (2010). Chemosphere. 80(3):279-85.
- [Evaluating and Regulating Lead in Synthetic Turf](#)
Gregory Van Ulirsch, Kevin Gleason, Shawn Gerstenberger, Daphne B. Moffett, Glenn Pulliam, Tariq Ahmed, Jerald Fagliano. (2010). Environ Health Perspect. 118(10): 1345–1349.
- [Safety Study of Artificial Turf Containing Crumb Rubber Infill Made from Recycled Tires: Measurements of Chemicals and Particulates in the Air, Bacteria in the Turf, and Skin](#)

[Abrasions Caused by Contact with the Surface](#)

California Office of Environmental Health Hazard Assessment. (2010). Prepared for the California Department of Resources Recycling and Recovery.

- [An Assessment of Chemical Leaching, Releases to Air and Temperature at Crumb-Rubber Infilled Synthetic Turf Fields](#)
Lim L., Walker R. (2009). New York State Department of Environmental Conservation, New York State Department of Health.
- [A Scoping-Level Field Monitoring Study of Synthetic Turf Fields and Playgrounds](#)
Highsmith R., Thomas K.W., Williams R.W. (2009). EPA/600/R-09/135. National Exposure Research Laboratory, U.S. Environmental Protection Agency.
- [Air Quality Survey of Synthetic Turf Fields Containing Crumb Rubber Infill](#)
Vetrano, K.M., Ritter G. (2009). Prepared by TRC for the New York City Department of Mental Health and Hygiene, New York, NY.
- [New Jersey Investigation of Artificial Turf and Human Health Concerns Exit](#)
New Jersey Department of Health and Senior Services. (2008). Fact Sheet. Consumer and Environmental Health Services. Epidemiology, Environmental and Occupational Health. Trenton, NJ.
- [A Review of the Potential Health and Safety Risks from Synthetic Turf Fields Containing Crumb Rubber Infill](#)
Denly E., Rutkowski K., Vetrano K.M. (2008). Prepared by TRC for the New York City Department of Mental Health and Hygiene, New York, NY.
- [Synthetic Turf: Health Debate Takes Root](#)
Claudio L. (2008). Environ Health Perspect 116(3): A116–A122.
- [Artificial Turf: Safe or Out on Ball Fields Around the World](#)
Lioy P., Weisel C. (2008). Editorial. J of Expos Anal Environ Epidemiol. 18:533-534
- [Hazardous Chemicals in Synthetic Turf Materials and their Bioaccessibility in Digestive Fluids](#)
Zhang et al. (2008). J Expo Sci Environ Epidemiol. 18(6):600-7.
- [Mapping, Emissions and Environmental and Health Assessment of Chemical Substances in Artificial Turf Exit](#)
Nilsson N.H., Malmgren-Hansen B., Thomsen U.S. (2008). Danish Ministry of the Environment, Environmental Protection Agency.
- [Evaluation of Health Effects of Recycled Waste Tires in Playgrounds and Track Products](#)
California Office of Environmental Health Hazard Assessment. (2007). Prepared for the California Integrated Waste Management Board.

- [Examination of Crumb Rubber Produced from Recycled Tires](#)
Incorvia Mattina M.J., Isleyen M., Berger W., Ozdemir S. (2007). The Connecticut Agricultural Research Station, New Haven, CT.
- [Artificial Turf: Exposures to Ground-Up Rubber Tires - Athletic Fields - Playgrounds - Gardening Mulch](#)
Environment & Human Health Inc. (2007).
- [Environmental and Health Evaluation of the Use of Elastomer Granulates \(Virgin and from Used Tyres\) as Filling in Third-Generation Artificial Turf](#) [Exit](#)
Moretto. (2007). France, ALIAPUR in partnership with Fieldturf Tarkett and the ADEME (Environmental French Agency).
- [Preliminary Assessment of the Toxicity from Exposure to Crumb Rubber: Its Use in Playgrounds and Artificial Turf Playing Fields](#) [Exit](#)
LeDoux T. (2007). Division of Science, Research and Technology. New Jersey Department of Environmental Protection.
- [A Case Study of Tire Crumb Use on Playgrounds: Risk Analysis and Communication When Major Clinical Knowledge Gaps Exists](#)
Anderson et al. (2006). Environ Health Perspect.114(1):1-3.
- [A Survey of Microbial Populations in Infilled Synthetic Turf Fields](#) [Exit](#)
McNitt A.S., Petrunak D., Serensits T. (2006). Penn State University, College of Agricultural Sciences, Department of Plant Science.
- [Artificial Turf Pitches: An Assessment of Health Risks for Football Players and the Environment](#) [Exit](#)
Norwegian Institute of Public Health and the Radium Hospital. (2006). Norwegian Institute of Public Health and the Radium Hospital, Oslo, Norway.
- [Measurement of Air Pollution in Indoor Artificial Turf Halls](#) [Exit](#)
Dye C., Bjerke A, Schmidbauer N., Mano S. (2006). Norwegian Pollution Control Authority/Norwegian Institute for Air Research, State Programme for Pollution Monitoring.
- [Toxicological Evaluation for the Hazard Assessment of Tire Crumb for Use in Public Playgrounds](#)
Birkholz et al. (2003). J Air Waste Manag, 53:903-07.

Associated Press

[Review: No indication crumb-rubber playfields cause cancer](#)

1/18/17

Health officials in Washington state say there's no indication synthetic turf playfields made of recycled rubber cause cancer in young people.

The Department of Health issued a report Wednesday that said if the crumb-rubber fields did so, there would be a lot more ill soccer players in Washington.

A University of Washington women's soccer coach, Amy Griffin, raised concerns after learning of several goalies who developed blood cancers. She eventually compiled a list of 53 soccer players who had developed cancer since the mid-1990s.

The review suggested soccer players actually get cancer less than the general population. Dr. Cathy Wasserman, a state epidemiologist, says if people are worried about exposure to carcinogenic chemicals from the rubber pellets, they can wash their hands or shower after playing.

The federal Centers for Disease Control and Environmental Protection Agency are also studying the fields' safety.

###

HeraldNet (Washington)

[State-led study finds no connection between crumb rubber, cancer](#)

SHARON SALYER

1/19/17

There's no evidence that playing on crumb rubber sports fields has caused soccer players to get cancer, state health officials said Wednesday — a finding that's unlikely to settle the ongoing controversy over the safety artificial turf fields.

"We're recommending that people who enjoy soccer continue to play soccer regardless of the type of surface," said Cathy Wasserman, state epidemiologist for noninfectious disease for the state Department of Health.

Health officials acknowledged that a study they conducted about the issue was limited in scope. "Our investigation is one piece," Wasserman said. It was a comparison of cancer rates among soccer players with cancer rates among people in the same age group in Washington.

A separate national study is now under way looking at issues such as the toxicity of crumb rubber and exposure to it, she said. The state agency will continue to monitor studies on the safety of the fields, Wasserman said.

In the meantime, "we're not seeing the crumb rubber is causing a public health concern," said Lauren Jenks, who directs the state health department's office of environmental public health sciences.

"It's reasonable to install crumb rubber fields," she said.

It is an issue that has drawn angst in Edmonds and other communities in the region in recent years.

The padding in the crumb rubber fields is made from ground-up used tires. Opponents of crumb rubber sports fields point to a list of hazardous chemicals in tires, including heavy metals and substances linked to cancer.

The state health department decided to undertake its study after Amy Griffin, a University of Washington soccer coach, compiled a list of 53 people who played on the artificial turf and who were later diagnosed with cancer, such as leukemia, non-Hodgkin's and Hodgkin's lymphoma.

The state study examined a subset of this group, 27 people between 6 to 24 years old who were diagnosed with cancer during the years 2002 to 2015.

One of the cases was that of Austen Everett, who trained with Griffin, the UW soccer coach. Everett was a goalkeeper for Seattle's Bishop Blanchet High School and played on teams at the University of

California Santa Barbara and the University of Miami in Florida. She was diagnosed with non-Hodgkins lymphoma as a college junior in 2008. She died four years later when she was 25.

On Tuesday evening, state health officials met with some of the families involved in the study, including Everett's mother, June Leahy, of Seattle, to present their findings.

Leahy said she has always believed that crumb rubber played a role in her daughter's cancer and the results of the study didn't change that.

"To say I am disappointed is an understatement," she said. "We're all hopeful that the tire crumb will get the intense scrutiny it deserves."

That would include examining the material content and toxins in the crumb rubber; how the materials break down; the particles and dust created by the fields; the gasses created by crumb rubber; ingestion of the tiny rubber particles and skin contact, she said.

"Those are the issues that should have been included in a study like this," Leahy said.

A national investigation of the possible health effects of playing on crumb rubber fields is now under way, conducted by the federal Environmental Protection Agency, the Centers for Disease Control and Prevention and the Consumer Product Safety Commission. An update on the study was posted in December, but it said a final conclusion won't be reached until later this year.

The first synthetic turf fields were installed in the 1960s. Currently, there are up to 13,000 synthetic turf sports fields nationally, with 1,200 to 1,500 new installations each year, according to the December report.

State health officials said that precautions that have been advised in the past when playing on crumb rubber fields should continue to minimize potential exposure to the field's chemicals.

They include: always washing hands after playing on the field and before eating; taking off shoes, sports equipment and uniforms outside or in the garage to prevent tracking crumb rubber into the house; showering after play; quickly cleaning any cuts or scrapes to help prevent infection and not swallowing any bits of crumb rubber they come into contact with during play.

In Snohomish County, opposition to crumb rubber athletic fields has been greatest in Edmonds. It was triggered by a \$4.2 million Edmonds School District project to construct two synthetic turf athletic fields at the former Woodway High School. The fields opened in the fall of 2015.

A few months later, the Edmonds City Council approved a ban on the installation of synthetic turf play fields made from crumb rubber on any publicly owned athletic field until July 11. The action covers school district-owned properties.

###

Seattle Times (Washington)

[Are crumb-rubber fields safe? Report of blood cancer for soccer players led to investigation](#)

Matt Pentz

1/18/17

A Washington State Department of Health investigation has found that artificial-crumb-rubber fields are not causing increased rates of cancer in local soccer players, officials announced Wednesday.

The issue was brought to light in 2009 by University of Washington associate women's soccer coach Amy Griffin, who became concerned when several goalkeepers developed blood cancers at around the same time. Griffin compiled a list of players with cancer, a number that had grown to 53 people by 2016.

But the study, which was limited to people meeting the case definition between 2002 and 2015 — the former being the year these types of artificial turf fields began popping up in the state — found that exposure did not pose a higher risk.

“As a result of our investigation, we found that the number of players ... was less than expected, given rates of cancer given Washington residents of similar ages,” said Dr. Cathy Wasserman, state epidemiologist for noninfectious conditions.

The investigation also ruled out that any one position on the field is at higher risk. There was a specific concern about goalkeepers, given how often they come in direct contact with the surface of the playing field, but neither people with a history of playing soccer nor goalkeepers specifically had an increased rate of cancer diagnoses.

There were a handful of caveats.

Wasserman was quick to acknowledge that the study was merely a first step, an investigation rather than a formal study. The scope was limited to whether this specific group of soccer players was displaying higher rates of cancer than those expected in the general population.

The study did not include any testing of soccer fields, and the results could not rule out with 100 percent certainty that certain chemicals within synthetic turf can cause cancer. Gaps remain in understanding the chemicals, their toxicity and concerns about the dosages.

“Yes, there are gaps in our knowledge,” Wasserman said. “We have to make recommendations based on the knowledge today.”

Added Lauren Jenks, the director of office of environmental public health sciences: “‘Not appearing to cause cancer’ is not the same thing as ‘entirely safe.’”

The report offered a handful of tips for parents to reduce kids' exposure to the chemicals within crumb rubber:

- Wash hands after playing on the field and before eating.
- Take off cleats, sports equipment and soiled uniforms outside or in the garage to prevent tracking crumb rubber in the house.
- Shower after play and quickly clean any cuts or scrapes to help prevent infection.
- Athletes who accidentally get crumb rubber in their mouths should not swallow it.

Due to the results of the study, the state's recommendation is that parents should be aware of the issue but not concerned.

"What is different as a result of this study is a little bit more reassurance," Jenks said. "There are still limitations, but based on what we know, if you enjoy playing soccer, you should keep playing soccer."

The state does not plan to continue investigating this matter, though it is supportive of ongoing studies elsewhere in the country.

"We do support those other efforts, and we will be following their results," Wasserman said.

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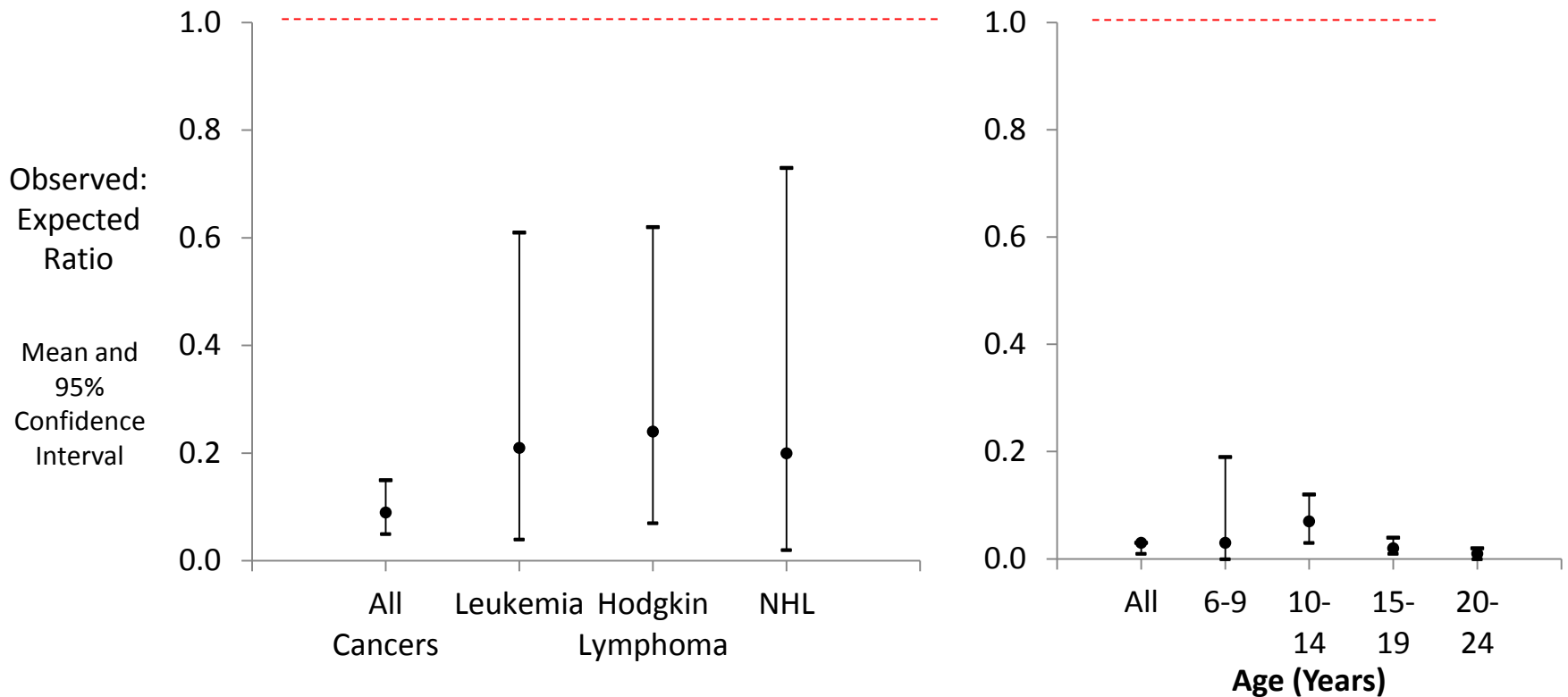
Washington State Department of Health

Investigation of Reported Cancer in Soccer Players in Washington State - January 2017

<http://www.doh.wa.gov/CommunityandEnvironment/Schools/EnvironmentalHealth/SyntheticTurf>

Washington state **goalkeepers** diagnosed with leukemia or lymphoma during 2002-2015 at age 10-24

All Washington state soccer players diagnosed with leukemia or lymphoma during 2002-2015 at age 6-24



“We conclude that the number of cancer cases ... is much less than was expected to occur among soccer players in Washington”

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, MAY 1, 2017

PORTSMOUTH, NH
TIME: 7:00PM

I. CALL TO ORDER

Mayor Blalock called the meeting to order at 7:00 p.m.

II. ROLL CALL

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

Absent: Councilor Perkins

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

The City Council led in the Pledge of Allegiance to the Flag.

PROCLAMATIONS

1. Police Week in Portsmouth – Peace Officers' Memorial Day

Mayor Blalock read the Proclamation declaring the week of May 14th as Police Week and May 15th as Peace Officers Memorial Day. Chief Mara thanked Mayor Blalock and the City Council for recognizing the Police Department during these very important events.

2. Small Business Week

Nancy Carmer, Economic Development Program Manager, thanked Mayor Blalock for recognizing Small Business Week in the City of Portsmouth. She reported that all events are listed on the City's website under Economic Development as well as on the Chamber of Commerce website.

Mayor Blalock read the Proclamation declaring the week of April 30th as Small Business Week. Deb Moore and Robert Gagnon of Optima Bank accepted the Proclamation with thanks and appreciation for recognizing and celebrating Small Business Week.

PRESENTATION

1. One Sky Community Services, Chris Muns, CEO

Mr. Muns provided a brief presentation regarding One Sky Community Services. He spoke to their establishment as a non-profit in 1983 and commitment to assisting those with disabilities and brain injuries. He said services are provided to 107 families currently in the City of Portsmouth. Mr. Muns informed the City Council that request for services has increased by 58%.

V. ACCEPTANCE OF MINUTES – APRIL 17, 2017

Councilor Lown moved to accept and approve the minutes of the April 17, 2017 City Council meeting. Seconded by Councilor Pearson and voted.

VI. PUBLIC COMMENT SESSION

Mayor Blalock spoke to the new system that is in place which will let each speaker know when they have reached the 3 minute limit for speaking during public comment. The device will also change color to alert the speaker when you have 30 seconds remaining.

Jason Walls said he does not come to City Council meetings but he wanted to speak regarding the abuse that is happening with the public comment session with individuals speaking over the time limit. He said that this is obstructing the City from moving forward. He said things are changing and small time politics will end.

Roy Helse spoke to the letter to the editor regarding some people feeling nothing changes by coming here to speak during the public comment session.

Pat Bagley said we know we overpaid for the Foundry land and now we can expect \$4-\$6 million dollars over budget for the construction costs. She addressed the items that maybe eliminated from the project. She also spoke to no one speaking regarding the liner buildings anymore. Ms. Bagley said the garage will not remedy the parking situation. She recommended walking away from the deal and the parking garage.

Kathleen Cavalaro said she would be giving her time to Brian Kelly.

Brian Kelly said he feels that the public comment session needs to change. He said people need to speak the truth as these comments are being entered into the record. He also said there is a feeling of intimidation speaking at public comment. He provided a copy of what he proposes as a change to the public comment rule.

David Calkins spoke to the issuance of building permits and release of Woodworth Avenue and Moffat Street. He said his attorney submitted a letter on this matter and he would like to create a private drive for his development. He would like the original request delayed in order to hear the request for the additional building permit together.

Jane Zill spoke to the Sagamore Avenue sewer project and said the City needs to focus on what is in the best interest of the public. She also addressed the increase in the cost for the new parking garage and said the cost per parking space in Portsmouth is higher than Honolulu, Hawaii and San Francisco, California.

Esther Kennedy gave her time to Jane Zill for her to finish her comments.

Jane Zill said that residents have spent tens of thousands of dollars to put in new septic systems in the Sagamore Avenue area. She said the City's approach to the sewer project is an issue.

Ben Anderson, Prescott Park Arts Festival (PPAF), said he was disappointed with people speaking false statements at the last Prescott Park meeting. He provided a list of 54 items that have been addressed by the PPAF and has affected them financially. He provided the City Clerk with a copy of the list for the record.

Brian Kelly speaking for the second time, said that public comment session should be equally allowed. He said that public comment has been amended three times since its adoption and he recommends to amend it further.

Councilor Lown moved to suspend the rules in order to take up Item XII. A.1. – A.3. - Request for Approval of Proposed Employment Agreement between the City of Portsmouth Fire Commission and Fire Chief Steven E. Achilles - Request for Approval of Proposed Employment Agreement between the City of Portsmouth Fire Commission and Deputy Fire Chief James B. Heinz - Request for Approval of Proposed Employment Agreement between the City of Portsmouth Fire Commission and Deputy Fire Chief Carl F. Roediger. Seconded by Assistant Mayor Splaine and voted.

XII. A.1. - Request for Approval of Proposed Employment Agreement between the City of Portsmouth Fire Commission and Fire Chief Steven E. Achilles

Councilor Spear moved to accept the proposed Employment Agreement between the Portsmouth Fire Commission and Fire Chief Steven E. Achilles, to expire on June 30, 2020. Seconded by Councilor Cyr and voted.

XII. A.2. - Request for Approval of Proposed Employment Agreement between the City of Portsmouth Fire Commission and Deputy Fire Chief James B. Heinz

Councilor Lown moved to accept the proposed Employment Agreement between the Portsmouth Fire Commission and Deputy Fire Chief James B. Heinz, to expire on June 30, 2020. Seconded by Assistant Mayor Splaine and voted.

XII. A.3. - Request for Approval of Proposed Employment Agreement between the City of Portsmouth Fire Commission and Deputy Fire Chief Carl F. Roediger

Councilor Lown moved to accept the proposed Employment Agreement between the Portsmouth Fire Commission and Deputy Fire Chief Carl F. Roediger, to expire on June 30, 2020. Seconded by Assistant Mayor Splaine and voted.

Assistant Mayor Splaine moved to suspend the rules in order to take up Item XII. A.8. – Report Back from Planning Board Re: Happny Sewer Easement for Relocated Brick Box Sewer. Seconded by Councilor Lown and voted.

XII. A.8. – Report Back from Planning Board Re: Happny Sewer Easement for Relocated Brick Box Sewer

City Manager Bohenko said this is a proposal to acquire from Peter Happny a sewer easement off Rock Street in connection with the construction of the new municipal parking garage; and to convey to Mr. Happny a narrow strip of City-owned land adjoining Rock Street Park.

Councilor Lown moved to accept the Planning Board’s recommendation, and further, authorize the City Manager to proceed with the execution of the appropriate documents regarding this matter. Seconded by Councilor Dwyer and voted.

VII. PUBLIC HEARINGS

- A. RESOLUTION APPROPRIATING THE SUM OF FOUR HUNDRED FOUR THOUSAND SEVEN HUNDRED DOLLARS AND FORTY CENTS (\$404,790.40) FOR THE FOUNDRY PLACE SEWER LINE PROJECT

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

Patricia Bagley said she does not understand the public hearing because there is not enough information on this matter.

Esther Kennedy said information should be provided before public comment is received on this public hearing. She asked what is being done to outline this as an historic site and where is the City in this process.

Paige Trace spoke to a meeting held between the EPA and City at which the State was not present relating to the 106 Process. She addressed the brick box and said it was originally owned by Frank Jones. Ms. Trace also requested further information on this matter and said she finds it interesting the resolution before the City Council is down to the penny.

Mark Brighton said he is confused on the appropriation as it extends back to 2016. He addressed the possibility of the new municipal parking garage being \$4-\$6 million dollars over budget.

Patricia Bailey said this process is backwards and the residents are only receiving minimal information on the resolutions presented this evening.

Jane Zill said she agrees with Ms. Bagley that the process is backwards. She said that this is supposed to be a citizen lead government.

With no further speakers, Mayor Blalock declared the public hearing close.

B. RESOLUTION APPROPRIATING THE SUM OF FOUR HUNDRED EIGHTY SEVEN THOUSAND NINE HUNDRED FIFTY FOUR DOLLARS AND TWENTY CENTS (\$487,954.20) FOR THE FOUNDRY PLACE WATER LINE PROJECT

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

City Manager Bohenko explained in detail bond premiums and par value. He stated that the amount of the resolution is down to the penny because if it was not you would have to carry any extra funds on the balance sheet. City Manager Bohenko spoke to the positives of having bond premiums and stated that our bonds go rather quickly in the market place.

Public Works Director Rice spoke on the request for allocations on the bond premium. He also spoke to the garage design process being a public process. He said there is a 106 Process and that does not preclude us from making changes to the project. He explained that the sewer line would be moved from under the building and that the water line is a loop and would have very little impact on the water coming into the City.

City Manager Bohenko said information is raw that goes out on proposed costs and in the next few weeks we will go out to bid on the project. He said it was important to us to have a Building Committee on the new garage.

Councilor Dwyer said that the Portsmouth Herald has a large responsibility to have a headline correct. She said we should start resolutions with simple words to state that this is to apply "bond premium to".

City Manager Bohenko said we use bond premiums on a regular basis.

Mayor Blalock called for speakers to come forward to speak to the resolution.

Rick Becksted said that the Parking Garage Building Committee should have their meetings televised for the public to view. He asked Mayor Blalock and the City Council that any Committee of great importance be televised for the public. He spoke to bond premiums and his understanding of them.

Patricia Bagley said she did not get her information from the public hearing. She said the over runs on the new municipal parking garage are all estimates at this time. She stated that pre-cast bids are coming in on June 2nd which will provide additional information.

City Manager Bohenko reported that last month we recorded 22 meetings and that we are in the process of getting Conference Room A ready for telecasting meetings.

Mark Brighton asked about par value for the bond premiums and said the information needs to be explained and kept simple. He said he gets his information from the middle of news articles and not the headlines.

Esther Kennedy asked where we are with historic documentation on this process.

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

VIII. APPROVAL OF GRANTS AND DONATIONS

- A. A grant in the amount of \$500,000.00 from the New Hampshire Department of Justice for the New Hampshire ICAC Task Force, "Project Forensic Shield", contingent upon state approval of the funds

Councilor Spear moved to approve and accept the grant and to authorize the City Manager to sign the grant documents. Seconded by Councilor Pearson.

Chief Mara explained that this grant is for internet crimes against children and that it is a two-year grant with \$250,000.00 received each year. He further stated that this is a federal grant.

Motion passed.

Councilor Lown moved to suspend the rules in order to take up Item XII. A.9. – Agreements for Prescott Park: NH Art Association Agreement and the Gundalow Company. Seconded by Assistant Mayor Splaine and voted.

XII. A.9. – Agreements for Prescott Park NH Art Association Agreement and the Gundalow Company

Assistant City Manager Moore said there are two agreements before you this evening for approval. He stated the Prescott Park Master Plan calls for the City Manager to take over the management control of Prescott Park. He stated that the City Manager has been working with the two organizations and the Prescott Park Arts Festival in planning for their 2017 operations in the Park. He said in addition to the Park operations for the 2017 season, the Blue Ribbon Prescott Park Policy Advisory Committee will assist the City Manager in developing license agreements which, according to the Master Plan, are to be negotiated in preparation for the 2018 season. Assistant City Manager Moore said there will be a new public art exhibit on the ground and that the Gundalow enhancement will have a presence in the Sheafe Building. He said these are all in keeping with the Prescott Park Master Plan.

Councilor's Dwyer and Spear spoke about the sale of art work and other various items at the Gundalow for the 2017 season.

Councilor Pearson recommended the NH Art Association hold a meeting with Art-Speak. City Manager Bohenko said he would make a note of this.

Motion passed.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Adoption of Resolution Appropriating the sum of Four Hundred Four Thousand Seven Hundred Ninety Dollars and Forty Cents (\$404,790.40) for the foundry Place Sewer Line Project

Councilor Dwyer moved to adopt the Resolution Appropriating from Bond Premium the sum of Four Hundred Four Thousand Seven Hundred Ninety Dollars and Forty Cents (\$404,790.40) to be applied to the Foundry Place Sewer Line Project. Seconded by Councilor Spear.

Finance Director Belanger said all resolutions are compiled and written and the underwriters make them more marketable to the bond writers and go by the lowest true interest cost for premiums.

Councilor Lown said the higher bond rating we obtain the better rate and bond premiums we receive.

Finance Director Belanger said some communities have to pay for insurance on bonds, but we do not because of our triple A rating. She reported that we have received over \$14 million dollars in bond premiums.

Councilor Pearson stated that there are minutes of all meetings which are posted on the website for the public to review.

On a unanimous roll call vote 8-0, motion passed.

- B. Adoption of Resolution Appropriating the sum of Four Hundred Eighty Seven Thousand Nine Hundred Fifty Four Dollars and Twenty Cents (\$487,954.20) for the Foundry Place Water Line Project

Councilor Dwyer moved to adopt the Resolution from Bond Premium the sum of Four Hundred Eighty Seven Thousand Nine Hundred Fifty Four Dollars and Twenty Cents (\$487,954.20) to be Applied to the Foundry Place Water Line Project. Seconded by Councilor Spear.

On a unanimous roll call vote 8-0, motion passed.

At 8:55 p.m., Mayor Blalock called a brief recess. At 9:10 p.m., Mayor Blalock called the meeting back to order.

X. CONSENT AGENDA

Assistant Mayor Splaine requested to vote of Item X.A. – separately – Letter from Crystal Paradis, Seacoast Outright requesting permission to hold the 3rd Annual Portsmouth Pride event on Saturday, June 24, 2017.

- A. Letter from Crystal Paradis, Seacoast Outright requesting permission to hold the 3rd Annual Portsmouth Pride event on Saturday, June 24, 2017

Assistant Mayor Splaine moved to refer to the City Manager with authority to act. Seconded by Councilor Denton and voted.

B. Letter from Mike Young, Portsmouth Babe Ruth Baseball requesting to install seasonal signage at Leary Field from May 14, 2017 through August 20, 2017 ***(Anticipated action – mover to refer to the City Manager with power)***

C. Request for License to Install Projecting Sign:

Don Oakes owner of Sea Bags for property located at 129 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 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***

D. Letter from Josh Pierce, Seacoast Area Bicycle Riders, requesting permission to host a commuter breakfast from 7:00 a.m. – 10:00 a.m. on Friday, May 19, 2017 at Popovers on Market Square. SABR also respectfully requests that the Portsmouth City Council officially recognize May 19th as Bike/Walk to Work Day in Portsmouth ***(Anticipated action – mover to refer to the City Manager with power)***

E. Police Department Donations:

- a. Donation in the amount of \$400.00 from Mr. & Mrs. David Brown
- b. Donation in the amount of \$200.00 from Mr. Jason Page

(Anticipated action – mover to accept the donations to the Police Explorer Cadet Academy Scholarships)

Assistant Mayor Splaine voted to adopt the Consent Agenda. Seconded by Councilor Dwyer and voted.

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Catherine McCauley requesting the City to transfer title to half of the “paper street” known as Oak Street that abuts 43 Mangrove Street

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

- B. Letter from Attorney Derek Durbin regarding request to authorize the issuance of building permits on private drive off of Swett Avenue, Moffat Street and Woodworth Avenue pursuant to RSA 674:41, I(d) and request to continue Richer request (85 Woodworth Avenue) to release the City’s interests in portions of Moffat Street and Woodworth Avenue

Councilor Dwyer moved to suspend the rules in order to take up Item XII. A.7. – Report Back from Planning Board Re: Release of City Interest in a Portion of Woodworth Avenue. Seconded by Councilor Dwyer and voted.

XII. A.7. – Report Back from Planning Board Re: Release of City Interest in a Portion of Woodworth Avenue

City Manager Bohenko said the items should be postpone to allow for consultation with the Legal Department and report back to the City Council.

Councilor Dwyer said David Calkins was correct that this issues need to be decided together.

Planning Director Walker said she recommends tabling the items and bringing them back together. She said she would like to have a discussion with the Legal Department on how to proceed with these requests.

Councilor Spear moved to postpone to allow for consultation with the Legal Department and report back to the City Council at the May 15, 2017 meeting. Seconded by Councilor Dwyer and voted.

Councilor Dwyer requested that City Attorney Sullivan provide an explanation on ownership of Paper Streets. City Attorney Sullivan said that the Paper Street issue can be complicated and he will provide a report back on the matter.

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

4. Adoption of Complete Street Demonstration Project Policy (Tactical Urbanism Policy)

Assistant Mayor Splaine moved to adopt the aforementioned Policy, as amended. Seconded by Councilor Dwyer and voted.

5. Request to Establish First Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Character Based Zoning Excess Community Space

Councilor Spear moved to accept the Planning Board’s recommendation, and further, establish a first reading of the proposed Ordinance at the May 15, 2017 City Council meeting. Seconded by Councilor Pearson.

Planning Board Recommendations

- *When a developer proposed to contribute unimproved land in lieu of a confirming community space, require the application to include a complete site plan and design for the future community space*
- *In 10.5A46.23(2)(a) of the draft amendment [to be redesignated as (b)], insert the word “excess” before the words “unimproved land” to clarify the intent*
- *Reduce the maximum term of a Prospective Development Incentive Agreement from 15 years to 10 years*
- *Insert a new provision requiring the grant of a conditional use permit by the Planning Board in order for a developer to be able to use the excess community space to support a future project, regardless of whether the future project would need a conditional use permit otherwise*

Planning Director Walker provided a description of the recommendations and stated that this ordinance amendment would allow excess community space provided by a development in an Incentive Overlay District to be credited for use in another development in the same Incentive Overlay District.

Councilor Dwyer said that these are all good amendments with reducing the maximum term of a Prospective Development Incentive Agreement from 15 years to 10 years. Planning Director Walker said that this is a term to make sure development happens in that period of time.

Councilor Spear said in the case of a community space the part of an area that could build in is that a good thing for the developer. Planning Director Walker said community space has to meet the terms in the current zoning ordinance and the definitions are clear.

City Manager Bohenko said that this gives us access to the water.

Motion passed. Assistant Mayor Splaine voted opposed.

6. Request to Establish First Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Signs related to Public Parking in Private Parking Lots

City Manager Bohenko said we wanted to work through private lots for public parking.
Councilor Spear moved to accept the Planning Board's recommendation, and further, establish a first reading of the proposed Ordinance at the May 15, 2017 City Council meeting. Seconded by Councilor Dwyer and voted.

10. Annual Renewal of Boarding House Permits
 - a) 278 Cabot Street
 - b) 350-352 Hanover Street

City Manager Bohenko reported that these people have complied.

Councilor Spear moved to approve the Boarding House permit for 278 Cabot Street and 350-352 Hanover Street for a one year permit to expire May 2, 2018. Seconded by Councilor Cyr and voted.

11. License Request for Completion of Work at 233 Vaughan Street

City Manager Bohenko explained the request for an encumbrance permit to utilize a portion of Green Street.

Councilor Cyr moved to authorize the City Manager to negotiate and enter into a license with Chinburg Builders to facilitate completion of construction activities at 233 Vaughan Street. Seconded by Councilor Lown.

Councilor Cyr clarified the intent is Green Street would still be passable. City Manager Bohenko said that is the intent.

Motion passed.

12. Request to Establish First Reading of Proposed Ordinance amending Chapter 1, Article XVII, Section 1.1704 – Exemption (Not on Agenda)

City Manager Bohenko said that Councilor Pearson would like this matter brought forward this evening as it was left off the agenda in error.

Councilor Pearson said the public art commitment can't adjust the time line and one way to avoid the concurrency would be to amend the ordinance. She said the City Council could pull the project but it must be done when the funds are appropriated.

City Manager Bohenko said this will be brought back for first reading at the May 15, 2017 City Council meeting.

Councilor Pearson moved to establish a first reading of the proposed Ordinance at the May 15, 2017 City Council meeting. Seconded by Councilor Spear.

Councilor Spear asked if this applies to the garage. City Manager Bohenko said that this would be prospective.

Councilor Spear said when a new City Council comes in they could strip the funding.

Councilor Dwyer said these things happen in committee. She said public art will be in the Portsmouth Middle School. She said the Committee did not have a majority vote in the beginning. City Manager Bohenko said the committee on the garage is advisory and it would be his decision.

Councilor Spear said he supports the \$150,000.00 for the new parking garage. He said the percent for art will get rid of it entirely and appropriate funds during the budget.

Motion passed.

City Manager Bohenko reminded the City Council of the Budget Presentations meeting will be held on Saturday, May 6th at 8:00 a.m. in the Levenson Room of the Library. He also announced that the City Council will be holding a public hearing on the budget on Wednesday, May 10, 2017 at 6:30 p.m. in the Eileen Dondero Foley Council Chambers of City Hall. He also indicated that the Hodgson Brook Site Walk is scheduled for Tuesday, May 23, 2017 at 3:30 p.m.

B. MAYOR BLALOCK

1. Appointments to be Voted:
 - Reappointment of Barbara McMillan to the Conservation Commission
 - Reappointment of Steve Miller to the Conservation Commission
 - Reappointment of Allison Tanner to the Conservation Commission

Assistant Mayor Splaine moved to reappoint Barbara McMillan, Steve Miller and Allison Tanner to the Conservation Commission until April 1, 2020. Seconded by Councilor Spear and voted.

2. Sister Cities Blue Ribbon Committee

Mayor Blalock spoke to our Sister Cities and the two current requests we have received from France and Korea. He stated he would like to establish a Sister Cities Blue Ribbon Committee to keep in touch with our current Sister Cities and reviewing future requests.

Assistant Mayor Splaine moved to have Mayor Blalock establish a Sister Cities Blue Ribbon Committee. Seconded by Councilor Dwyer and voted.

City Manager Bohenko spoke to the International Organization we belong to and the value has come from students traveling to other countries. He said we need a Committee to look at visiting Sister Cities, reviewing new requests and discussions with Sister Cities Organizations.

Assistant Mayor Splaine said that the organization is world-wide and of value to the City. He spoke to his visit to Sverdlovsk, Russia and being the first delegation to visit. He said he would like to see Sister Cities continue.

Mayor Blalock said it is a cultural exchange.

Motion passed.

C. ASSISTANT MAYOR SPLAINE

1. Options and process by the City Council and by citizen-initiative for adding provisions regarding (1), campaign financial disclosure of donations and spending; (2), conflict of interest restriction; and (3), ethical standards for elected and appointed city officials and administrators into the City Charter for the November 7, 2017 City Election

Assistant Mayor Splaine said we need to all be on the same page when it comes to citizen-initiatives. He requested the answers to the following questions:

- What are the deadlines for place City Charter amendments on the ballot for citizens to vote;
- What are the restrictions or limitations concerning the types of issues that maybe voted on considering that efforts two-years ago were confusing specifically for City Council initiated Charter amendments. What is the required schedule and process;
- For Citizen initiative Charter amendments what are the petition requirements and deadlines

He requested that the City Attorney report back possibly at the May 15, 2017 City Council meeting. City Attorney Sullivan said the citizen-initiative is very complex but he would provide a report back at the May 15, 2017 City Council meeting.

D. COUNCILOR DWYER

1. City Council Rules Re: Public Comment and Public Hearings

Councilor Dwyer said she has received comments from several residents on both these items. She said it is difficult to sit until 9:00 p.m. to start deliberations on the main portion of the agenda.

Councilor Dwyer moved that residents, business owners and other taxpayers of the City of Portsmouth will speak prior to other speakers at public comments, within existing guidelines for public comment and further that residents, business owners, and other taxpayers of the City of Portsmouth will follow current rules regarding time allotments at Public Hearing. Others will be limited to 5 minutes for just one round of comments. Seconded by Assistant Mayor Splaine.

Assistant Mayor Splaine said he wrote the original public comment session rules back in 1990. He said the rules are clear but he is also interested in Brian Kelly's proposal and would like to have it on for the next City Council meeting. He said we adopted a policy dealing with civility and these changes create a strong and clear public comment process.

Councilor Spear said he would like to change the public hearing process to limit the first round comments have a time limit and the second round is residents, business owners and taxpayers. Mayor Blalock said he would not have a second round of speakers at a public hearing. He said he agrees with the spirit of the motion proposed. He said we should limit speaking times for public hearings.

Assistant Mayor Splaine said the Planning Board has that standard. He said we should have Councilor Spear's suggestion in writing and consider some others at another time.

Councilor Dwyer said she wants to make sure we allow everyone to speak.

Councilor Denton said at some point we should move public comment to a different night.

Councilor Pearson said she would like the conversation to continue.

Councilor Lown said we are not approving what is said, it is just the reflection of comments. He said the people can be limited and the Mayor has the power to limit individuals, that is at the control of the Mayor.

Councilor Spear moved to amend the motion that speakers cannot relinquish their time to other speakers. Seconded by Councilor Lown.

Assistant Mayor Splaine said he would rather leave that to the discretion of the Mayor.

Mayor Blalock said he is opposed to people relinquishing their time to others.

City Attorney Sullivan said before a vote is taken on the main motion a suspension of rules needs to take place to allow to vote on this matter this evening in accordance with the Rules and Orders of the City Council.

Councilor Dwyer moved to suspend the rules in order to take action on these motions this evening. Seconded by Councilor Pearson and voted.

The City Council voted to pass the amendment to the motion.

The City Council voted to pass the main motion, as amended.

E. COUNCILOR LOWN

1. Parking and Traffic Safety Committee Action Sheet and Minutes of April 6, 2017 meeting

Councilor Lown reported the newly proposed motorcycle ordinance identified the first parking space on Pleasant Street at Market Square as motorcycle parking. He said this would occur only between April 1 and November 30. He further stated that all motorcycles would be required to pay the parking meter fees for the hours of enforcement. He also reported on the newly proposed moped ordinance would allow mopeds to park on sidewalks, like bicycles, as long as they have a license plate to clearly identify them as a moped or they display a permit issued by the City of Portsmouth, identifying the vehicle as complying with the definition of a moped. He also said the new proposed bicycle ordinance changes would bring them into conformance with current state laws and local policies.

Councilor Pearson said she understands that we asked for staff to look at resident parking. City Manager Bohenko said after the second garage is open we will look at those concepts with the 72 hour parking and would like to look at it with Parking & Traffic Safety to make a section for 72 hour parking. He said we want to put out a survey and determine what we have for parking in the City.

Councilor Dwyer said we need to know what we have on our plate and what we are looking at. She said we need to look at parking principles and parking plans.

Councilor Lown said what if we just had a work session on this matter.

Mayor Blalock said we need some guidance and feedback. He said we need a work session on this matter.

Councilor Lown asked City Manager Bohenko to work with Mayor Blalock on establishing a work session on this matter.

Councilor Lown moved to approve the motorcycle, moped and bicycle ordinances as written. Seconded by Councilor Dwyer and voted.

Councilor Lown moved to remove Item #8 – Report Back on Bartlett Street and Thornton Street intersection from the Action Sheet and further approve the remainder of the action sheet and minutes of the Parking and Traffic Safety Committee meeting of April 6, 2017. Seconded by Assistant Mayor Splaine and voted.

F. COUNCILOR SPEAR

1. Charter Amendment Timeline

Councilor Spear requested to have Charter amendments on for the June 5, 2017 City Council meeting. He said he would like to have discussion of the Police and Fire Commissions at the June 5, 2017 City Council meeting.

G. COUNCILOR DENTON

1. Conservation Commission

Councilor Denton said he would like to discuss at the Retreat on June 3, 2017 if we could have a City Council sit on the Conservation Commission. He said the Commission calls for 7 members to serve and there is currently a vacancy on the Commission and the Council should look at this matter. He said it would require an ordinance amendment.

Councilor Dwyer said we can discuss this at the Retreat. She said the Commission is advisory to the Planning Board. She further stated they do not meet together very often now and they are more scientific.

Mayor Blalock said the question is can a City Councilor serve on the Conservation Commission.

City Attorney Sullivan said he reviewed state and local laws and nothing speaks directly to having a City Councilor but if the City Council would like to have the ordinance amended they should allow for an ex-officio to serve on the Conservation Commission.

Mayor Blalock said we do not want to politicalize the Conservation Commission.

Councilor Denton said he would not bring this matter forward for further discussion.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

XIV. ADJOURNMENT

At 10:45 p.m., Assistant Mayor Splaine moved to adjourn. Seconded by Councilor Spear and voted.



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

MEMORANDUM

TO: John P. Bohenko, City Manager
FROM: Rick Taintor, Planning Director *RT.*
DATE: April 24, 2017
RE: Proposed Zoning Ordinance amendment to allow excess community space provided by a development in an Incentive Overlay District to be credited for use in another development in the same Incentive Overlay District

Under amendments to the Character-Based Zoning enacted in January 2017, proposed developments in the North End and West End Incentive Overlay Districts are eligible to build with greater building footprint (coverage) or height, or with reduced off-street parking, in return for providing either workforce housing or community space (which must be in the form of specific types itemized in the ordinance, such as parks, plazas, greenways, etc.). The Planning Department has drafted a proposed amendment to allow for “banking” the community space incentives, in order to allow community spaces to be created before a specific development project has been identified. The proposed amendment has been drafted to address a specific development proposal and a planned City open space project, but it also has broader potential applicability in the North End and West End.

At its meeting on April 3, 2017, the City Council voted to refer the draft zoning amendment to the Planning Board for a report.

Background – Proposed Vaughan Street Hotel and Waterfront Park

Cathartes is proposing to develop a new hotel at 225 and 299 Vaughan Street, two parcels that are currently occupied by Sanel Auto Parts and a municipal parking lot. Cathartes also owns an adjacent parcel that extends behind 3S Artspace to North Mill Pond. In order to gain additional building footprint area for the planned hotel, Cathartes proposes to develop the land on North Mill Pond into a public waterfront park, employing an existing provision at Section 10.5A43.43 of the Zoning Ordinance.

The site of the proposed waterfront park is part of the North Mill Pond Path, a multi-use path that the Planning Department has proposed for connecting Market Street to Maplewood Avenue, with an eventual extension down to Bartlett Street. The portion of the North Mill Pond Path between Market Street and Maplewood Avenue is also shown in the North End Vision Plan prepared by TPUDC, and is identified in the Capital Improvement Plan for funding in Fiscal Year 2018. Cathartes’ proposed project, which includes the central portion of the path, is thus timely and would help the City to create this important amenity at lower public cost than without the developer’s involvement.

Under the applicable provision of the Zoning Ordinance, the Planning Board may grant a conditional use permit to allow an increase in building footprint from 20,000 to 40,000 square feet if

at least 30% of the total property area is assigned and improved as community space. The proposed waterfront park has a total area of 43,326 square feet (0.99 acre), which is more area than is needed to provide the building footprint incentive for the proposed hotel. While Cathartes is willing to work with the City to move the North Mill Pond Path project forward, the developer does not want to give up the additional incentive potential that the excess land could provide for a future development. Thus, the developer and the City have a common interest in creating a mechanism to allow the transfer of land for public use to be credited to a future development project.

Proposed Amendment

The draft Zoning Ordinance amendment would authorize the Planning Board to allow a contribution of excess community space to be credited toward a future development project that may not yet be identified and could be carried out either by the current developer or by another landowner in the area. The proposed amendment includes the following provisions:

- If authorized by a conditional use permit from the Planning Board, a developer may convey land to the City for community space and credit that conveyance toward incentives for a future development project in the same overlay district.
- If the developer conveys the land without creating an improved community space (such as a park, plaza, greenway, etc.), the City may build the community space and charge the cost back to the future development project.
- The terms of the conditional use permit will be enshrined in an agreement between the developer and the Planning Department (similar to the agreements that are executed for any approved site plan or subdivision).

While the proposed amendment has been developed in order to allow a specific City project to be funded in part by a specific private development proposal, staff believe that it could have broader applications in the future. For example, during the discussions about the character-based zoning for the West End, some residents raised concerns that the community space provisions could result in the creation of small unconnected green spaces on a project-by-project basis, but there was no mechanism allow multiple landowners to work together to provide larger, more meaningful public spaces. Given the right circumstances, the transferable development rights created by the proposed amendment could be that mechanism, facilitating the eventual creation of a neighborhood park or plaza for the West End.

Planning Board Report

The Planning Board held a public hearing on this draft amendment to the Zoning Ordinance at its meeting on April 20, 2017. The Board voted to recommend that the amendment be enacted with the following four changes:

1. When a developer proposes to contribute unimproved land in lieu of a conforming community space, require the application to include a complete site plan and design for the future community space.

2. In 10.5A46.23(2)(a) of the draft amendment [to be redesignated as (b)], insert the word “excess” before the words “unimproved land” to clarify the intent.
3. Reduce the maximum term of a Prospective Development Incentive Agreement from 15 years to 10 years.
4. Insert a new provision requiring the grant of a conditional use permit by the Planning Board in order for a developer to be able to use the excess community space to support a future project, regardless of whether the future project would need a conditional use permit otherwise.

The attached revised amendment incorporates the Planning Board’s recommended changes (additions underlined, deletions ~~struck through~~) and is the version that should be presented for first reading at the May 1st City Council meeting.

PROPOSED ZONING ORDINANCE AMENDMENT
As Recommended by the Planning Board on April 20, 2017
(Additions to 3/28/17 draft underlined; deletions ~~struck through~~)

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, Article 5A – Character-Based Zoning, Section 10.5A46 – Incentive Overlay Districts, be amended by inserting the following new Section 10.5A46.23:

- 10.5A46.23 When a proposed **development** in an Incentive Overlay District includes **community space** in excess of the amount required to support a proposed incentive under Section 10.5A43.43 or Sections 10.5A46.10 through 10.5A46.22, the Planning Board may grant a conditional use permit to allow the excess **community space** to be credited to the developer or its assigns for use in another **development** in the same Incentive Overlay District.
- (1) The conditional use permit shall specify the total amount of **community space** provided, the portion of such **community space** to be credited toward incentives in the proposed **development**, and the amount of excess **community space** that may be credited toward a future project in accordance with the standards set forth in Section 10.5A43.43 or Sections 10.5A46.10 through 10.5A46.22.
 - (2) The conditional use permit may allow for conveyance to the City of unimproved land in lieu of **community space** that conforms to the types shown in Figure 10.5A45.10, subject to the following:
 - (a) The application for a conditional use permit to credit unimproved land in lieu of **community space** shall include a complete site plan and design for the proposed **community space**.
 - (b) In order for a future **development** to receive incentive credit for the excess unimproved land, the future developer will be required to improve the land to be a conforming **community space** as determined by the Planning Board at the time of site plan approval, except as provided in (b) below.
 - (c) At any time after receiving title to such unimproved land, the City may, at its option, improve such land to be a conforming **community space**. If the City exercises this option, in order for a future **development** to receive the incentive credit, the

future developer shall pay to the City an amount representing the cost to the City of carrying out the improvements that were required to improve the land to be a conforming community space.

- (3) The terms of the conditional use permit shall be documented in a Prospective Development Incentive Agreement (PDIA) to be entered into between the developer and the Planning Department. The maximum term of a PDIA shall not exceed ~~fifteen (15)~~ ten (10) years, following which the rights to any unused incentive shall become null and void.
- (4) The only effect of a conditional use permit and PDIA under this section shall be to increase the allowable **building footprint** or **building height**, or to reduce the required **off-street parking**, in accordance with Section 10.5A43.43 or Sections 10.5A46.10 through 10.5A46.22.
- (5) The granting of a conditional use permit and the execution of a PDIA under this Section 10.5A46.23 shall not be deemed to supersede or waive any of the other provisions of this Article 5A or other applicable provisions of this Ordinance, nor shall such approval be considered to represent the granting of land use approval for any future **development**.
- (6) Future use of the excess **community space** to support a future project shall require the granting of a conditional use permit by the Planning Board, whether or not the **community space** is on the same parcel as the future project.

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

M E M O R A N D U M

TO: John P. Bohenko, City Manager
FROM: Rick Taintor, Planning Director *RT.*
DATE: April 24, 2017
RE: Proposed Zoning Ordinance amendment to exempt signs and other elements related to public parking in private parking lots from specific zoning standards when authorized under a permit from the Department of Public Works

At its March 6, 2017, meeting the City Council passed third reading on an ordinance relating to signs for public parking in a private parking lot. This ordinance was enacted as an amendment to the City Ordinances, Chapter 7, Article I – Parking Meters, and requires that any sign located at the entrance to a private parking lot receive a permit from the Department of Public Works.

Signs on private property are also regulated Article 12 of the Zoning Ordinance. In order to avoid duplication of reviews and potential conflicts between different City ordinances and department, staff recommends that signs relating to public parking on private lots be exempt from zoning regulation if the public parking use is allowed through a permit from DPW. This exemption would apply both to signs at the entrance to the lot and to any signs in the interior of the lot that relate to public parking.

In addition to the sign standards, the Zoning Ordinance also provides for Historic District Commission review of new structures (including ticket kiosks and freestanding signs) in the Historic District. Therefore, it is also recommended that such structures be exempt from HDC review if the public parking use has been allowed through a permit from DPW.

The Planning Department drafted the attached amendment to the Zoning Ordinance to implement these exemptions, and the City Council voted at its March 20th meeting to refer this proposed amendment to the Planning Board for a report.

At its meeting on April 20, 2017, the Planning Board voted unanimously to recommend that the Zoning Ordinance be amended as proposed.

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 6 – Overlay Districts, Section 10.630 – Historic District, subsection 10.633.20 – Exemptions from Certificate, insert a new item (27) as follows:

(27) Parking ticket kiosks, freestanding signs and other site elements related to public parking in private parking lots when authorized under a permit from the Department of Public Works.

B. In Article 12 – Signs, Section 10.1222 – Signs Not Requiring a Permit, amend Section 10.1222.20 to read as follows:

10.1222.20 Directional signs or information signs with a sign area up to 4 square feet, located so as not to create a traffic safety hazard or to block line of sight from a motor vehicle. ~~A directional sign with a sign area greater than 4 square feet requires a sign permit.~~ **A directional or information sign pertaining to public parking in a private parking lot that has been authorized under a permit from the Department of Public Works is exempt regardless of sign area.**

C. In Article 12 – Signs, Section 10.1290 – Sign Definitions, amend the definition of “Information sign” by changing the words “2 square feet” to **“4 square feet.”**

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 Chapter 1, Article XVII, Section 1.1704 – EXEMPTION of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

Section 1.1704: EXEMPTION

By a two-thirds (2/3) vote, the City Council may exempt a municipal building, such as a water or sewer plant, from the Public Art Commitment described in Section 1.1702 if the purpose of this ordinance would not be fulfilled due to the building's inaccessibility to the public, location, use or other factors." **Any Council determination to exempt a building under this provision shall be made no later than the final vote of the Council authorizing the funding for the project.**

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 take effect upon its passage.

APPROVED:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

ORDINANCE #
THE CITY OF PORTSMOUTH ORDAINS

That Chapter 7, Article I of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

Section 7.105: PARKING

C. DESIGNATED MOTORCYCLE PARKING AREA

The following location is established as an exclusive “Designated Motorcycle Parking Area” for the months of April 1st through November 30th only:

- 1. Pleasant Street: On the easterly side of Pleasant Street, beginning at a point 24 feet south of the extension of the southerly curb line of Market Square running southerly the distance of 24 feet.**

Motorcycles are subject to parking meter fees for the hours of enforcement as set forth in this Chapter.

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 take effect upon its passage.

APPROVED:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

ORDINANCE #
THE CITY OF PORTSMOUTH ORDAINS

That Chapter 7, Article V, Section 7.5 – BICYCLE REGULATIONS of the Ordinances of the City of Portsmouth be amended to read as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

~~Section 7.501: LICENSE REQUIRED~~

~~From and after the effective date of this Ordinance, it shall be unlawful for any person to operate or use a bicycle propelled by muscular power upon any of the streets or alleys or public highways of the City of Portsmouth without first procuring from the Police Department a license therefor.~~

~~Section 7.502: ISSUANCE OF LICENSES~~

~~The Police Department is hereby authorized and directed to issue licenses which shall be valid for the life of the bicycle.~~

~~Section 7.503: IDENTIFICATION TAGS – RECORD KEPT BY POLICE DEPARTMENT~~

~~The Police Department shall designate and provide identification tags for the use of the license and will direct the manner of placing such tags on the bicycle by the licensee. The Police Department shall keep a record of the name of the licensee, the number of the tag and a description of the bicycle so registered.~~

~~Section 7.504: LICENSE FEES – TRANSFERS~~

~~The license fee to be determined in accordance with Chapter 1, Article XVI or similar wording and said license shall be transferred whenever the ownership of said bicycle is transferred but no fee shall be charged for this transfer. All fees collected under this Ordinance shall be paid by the Police Department into the Treasury of the City of Portsmouth. The license fee may be waived at the discretion of the Police Department.~~

Section 7.5015: RIDING ON SIDEWALKS

No person shall ride or propel any bicycle **with wheels of 16” or more in diameter upon any sidewalk in the City of Portsmouth. This shall not prohibit operation of a bicycle on a path that is signed and marked as a designated shared-use path with a minimum width of 8’.**

Section 7.5026: MANNER AND SPEED OF OPERATION

No person shall ride or propel a bicycle **upon any public way** ~~upon a public street, alley or highway~~ except in a prudent and careful manner and at a reasonable rate of speed and must exercise due care around pedestrians and must yield to pedestrians.

Section 7.5037: EQUIPMENT REQUIRED

No person shall ride or propel a bicycle upon any public ~~way street, alley or highway~~ in the City of Portsmouth unless ~~the said bicycle is~~ **the steering, brakes, tires and other required equipment are in safe condition.** Helmets are required for all persons riding on or operating a bicycle under the age of sixteen. ~~equipped with a bell or horn (except siren) or other suitable warning device, and a brake in proper working order.~~

Section 7.5048: LIGHTS, WHEN REQUIRED

~~It shall be unlawful to ride or propel a bicycle on any street, alley or highway of the City of Portsmouth after darkness unless the same shall be equipped with sufficient light, attached to the front of said bicycle, visible from the front thereof for a distance of not less than 200 feet and properly lighted; no without a tail light, red in color, or in lieu thereof, a reflector attached and visible from the rear for a distance of not less than 200 feet.~~

Every bicycle operated upon a public way during darkness shall be equipped with a lamp emitting a white light visible from a distance of 300 feet in front of the bicycle and with a red reflector or red light on the rear, which shall be visible from a distance of 300 feet to the rear. Every bicycle operated upon a public way during darkness shall have reflectors on both pedals or wear reflector leg bands on operator's lower extremity or other reflectors on legs or shoes visible from 200 feet. Any person operating a bicycle during the period from one half hour before sunrise and one half hour after sunset must wear at least one item of reflective outerwear apparel such as a reflective vest, jacket, helmet or helmet strip.

Section 7.5059: OBSERVANCE OF TRAFFIC REGULATIONS

~~Persons riding bicycles shall observe all traffic signs and signals; shall stop at all stop signs and shall further observe all traffic rules and regulations applicable thereto; shall turn only at intersections and the operator shall signal for all such turns; he/she shall ride at the right hand side of the street, alley or highway; shall pass to the left when passing overtaken vehicles that are slower moving; shall pass to the right upon meeting other vehicles approaching in the opposite direction.~~

Every person riding a bicycle shall have all of the rights and be subject to all of the duties applicable to the driver of any other vehicle under the rules of the road, except as follows:

- A. A person propelling a bicycle may pass a slower-moving vehicle in the same lane provided such movement can be made with reasonable safety.
- B. A person propelling a bicycle may pass a stationary or stopped motor vehicle on the right.
- C. A person propelling a bicycle upon a way at a speed less than the normal speed of traffic moving in the same direction at that time and place shall remain on the right portion of the way as far as practicable except when it is unsafe or impractical to do so or where signage or pavement markings are provided which indicate that it is acceptable for bicycles to use the full lane.

Section 7.51406: HANDS ON HANDLEBARS

No person shall operate or propel any bicycle without having at least one of his/her hands upon the handlebars thereof.

Section 7.51407: RIDING ON HANDLEBARS

No person operating or propelling a bicycle having only one saddle shall carry any other person on said bicycle.

Section 7.51208: CLINGING TO VEHICLES

It shall be unlawful for any person while riding or propelling a bicycle to hold onto a moving bus, truck or any other vehicle.

Section 7.51309: RIDING ABREAST ON ROADWAYS

~~No person shall ride or propel a bicycle upon a public street, alley or highway in the City of Portsmouth abreast of any other person so riding or propelling a bicycle.~~

Persons riding bicycles 2 or more abreast on a public way shall not impede the normal and reasonable movement of traffic and, on a laned roadway shall ride within a single lane.

~~Section 7.514: TRANSFER OF ASSIGNED IDENTIFICATION TAG~~

~~It shall be unlawful for any person to attach or permit to be attached to a vehicle any registration tag assigned and issued by the Police Department to another vehicle.~~

~~Section 7.515: DEFACING OF IDENTIFICATION TAG~~

~~It shall be unlawful for any person to change, erase, or deface any number or numbers used for the identification of any bicycle.~~

Section 7.5106: UNATTENDED BICYCLES BICYCLE PARKING

~~All bicycles, when left unattended upon the streets, alleys or highways of the City of Portsmouth shall be parked in the same manner as prescribed for motor vehicles on that street, alley or highway. No bicycle shall be left unattended against or adjacent to any business establishment, building or apartment house in the City.~~

No person shall park a bicycle in a manner that:

- A. Impedes the flow of motor vehicle traffic on roadways or the normal and reasonable movements of pedestrian traffic, including but not limited to crosswalks, sidewalks, and building entrances.**
- B. Prevents or impedes the operation of or access to a parking meter, parking pay station, traffic control device.**
- C. Hinders or restricts access to handrails or ramps.**
- D. Hinders, obstructs or impedes the movement of a legally parked motor vehicle.**
- E. Bicycles shall not be parked on public roadways except in an area signed and otherwise designated for bicycle parking.**
- F. Bicycles shall not be secured to or parked against a tree.**
- G. At no time shall bicycles be secured or parked against a fire hydrant.**
- H. At no time shall bicycles be left unattended on private property without the consent of the owner or legal tenant.**
- I. Bicycles may park on a public way or on public property for a maximum consecutive time period of 72 hours except in an area signed and otherwise designated for long-term parking.**

Section 7.5117: PENALTIES

~~Upon a conviction of any offense under this ordinance, which alleges that a person has had one or more convictions under this ordinance within five (5) years preceding the date of the subsequent offense, the person shall be subject to the following penalties:~~

first offense	\$20
second offense	\$40

~~third and each subsequent \$60
offense~~

~~Any fine to which a violator is subject under this ordinance may be paid to the Clerk of Court of the Portsmouth District Court at any time prior to trial in any case charged under this ordinance.~~

Any person violating any provision of this ordinance shall be subject to a civil infraction of \$35, made payable to the Parking Clerk of the City of Portsmouth or the operator may be deprived of his/her bicycle until the provisions and requirements of this Chapter have been complied with.

Section 7.5182: APPLICABILITY

The foregoing Ordinances and rules and regulations herein contained shall apply to bicycles with wheels of 16 inches or more in diameter only.

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 take effect upon its passage.

APPROVED:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

ORDINANCE #
THE CITY OF PORTSMOUTH ORDAINS

That Chapter 7 of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

Article XVII MOPED REGULATIONS

Section 7.1701: DEFINITION

"Moped" shall mean a motor-driven cycle whose speed attainable in one mile is 30 miles per hour or less; if an internal combustion engine is used, the piston displacement shall not exceed 50 cubic centimeters and the power-drive system shall not require the operator to shift gears.

Section 7.1702: PARKING

Mopeds may park on public sidewalks, provided that they are not parked in a manner that:

- A. Impedes the flow of motor vehicle traffic on roadways or the normal and reasonable movements of pedestrian traffic, including but not limited to crosswalks, sidewalks, and building entrances.**
- B. Prevents or impedes the operation of or access to a parking meter, parking pay station, traffic control device.**
- C. Hinders or restricts access to handrails or ramps.**
- D. Hinders, obstructs or impedes the movement of a legally parked motor vehicle.**
- E. Mopeds shall not be secured to or parked against a tree.**
- F. At no time shall a moped be secured or parked against a fire hydrant.**
- G. At no time shall mopeds be left unattended on private property without the consent of the owner or legal tenant.**
- H. Mopeds may park on a public way or on public property for a maximum consecutive time period of 72 hours except in an area signed and otherwise designated for long-term parking.**

Section 7.1703:

A moped parked on a sidewalk shall display a license plate identifying the vehicle as a moped, or shall display a permit issued by the City of Portsmouth identifying the vehicle as complying with the definition of a moped as defined in Section 7.1701.

Section 7.1704 PENALTY

Whoever violates, or permits or allows anyone in control of their moped to violate this ordinance, shall forfeit to the City of Portsmouth the sum of twenty-five dollars (\$25.00). In the event that payment of such forfeiture amount is not made within thirty (30) days of the violation, forfeiture shall be in the sum of fifty dollars (\$50.00). In the event of failure to make such forfeiture the violator shall be subject of a fine of not more than one hundred dollars (\$100.00) upon conviction of the violation in the Portsmouth District Court.

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 take effect upon its passage.

APPROVED:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

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PORTSMOUTH, NH

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Portsmouth Fire

To The Portsmouth Fire Department.

Our daughter, Lynn Siconolfi, was a tenant at 276 State Street, Apt 10.

I'm writing this card on behalf of Lynn and ourselves, her parents, we don't know where to begin.

Thank you so much for risking your own safety fighting this terrible fire and making sure all the tenants including our daughter was safe. We are so thankful that no one was injured or worse in the fire.

We would also like to send a special thank you to the firefighter who accompanied us into Lynn's apartment the day after the fire. Lynn's apartment was the only one I believe that had access from the alley side.

She was able to retrieve a few special items that meant the world to her. A little glass green dog that was her Grandpa's. A necklace that we gave her and a picture

**Thank you,
thank you.**

and once again,
thank you.

of her beloved Grandfather with Babe Ruth. These are the little things in life that mean so much!

I've enclosed a gift card. Please use it towards a meal or whatever you would like.

Please also extend our thanks to the lovely woman at your front desk. She was so nice. Again thank you from the bottom of our hearts!
Love, Lynn, Ray & Nancy Siconolfi


Siconolfi —
10 Rainbow Terrace
West Orange, N.J.
07052

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: May 11, 2017

To: Honorable Mayor Jack Blalock and City Council Members

From: John P. Bohenko, City Manager 

Re: City Manager's Comments on May 15, 2017 City Council Agenda

Presentation:

1. **Artificial Turf at the Route 33 Athletic Complex.** Public Works Director Peter Rice with the City's consultants Weston and Sampson (Gene Bolinger, Michael Moonan and Toxicologist Marie Rudiman) and Haley and Aldrich (Toxicologist Steve Clough) will be updating the City Council as to the status of the Route 33 artificial turf field project. The presentation will focus on the infill selection and how the recommendation was developed. [Attached is the previous memorandum](#) presented to the City Council. Additional information will be presented on Monday evening.

Items Which Require Action Under Other Sections of the Agenda:

1. **First Reading of Proposed Ordinances.**
 - 1.1 **First Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Character-Based Zoning Excess Community Space.** As a result of the May 1, 2017 City Council meeting, under Section VII of the Agenda, I am bringing back for first reading the [attached proposed Ordinance](#) amending Chapter 10 – Zoning Ordinance, Character-Based Zoning Excess Community Space.

As you will recall, at the April 3, 2017 City Council meeting, the Council voted to refer the draft zoning amendment to the Planning Board for report back. This proposed Zoning Ordinance amendment would allow excess community space provided by a development in an Incentive Overlay District to be credited for use in another development in the same Incentive Overlay District. [Attached for your information is a memorandum from former Planning Director Rick Taintor](#)

explaining the background of the proposed Vaughan Street Hotel and Waterfront Park as well as the provisions of the proposed amendment.

The Planning Board held a public hearing on this draft amendment to the Zoning Ordinance at its meeting on April 20, 2017. The Board voted to recommend that the amendment be enacted with the following four changes:

1. When a developer proposed to contribute unimproved land in lieu of a confirming community space, require the application to include a complete site plan and design for the future community space.
2. In 10.5A46.23(2)(a) of the draft amendment [to be re-designated as (b)], insert the word “excess” before the words “unimproved land” to clarify the intent.
3. Reduce the maximum term of a Prospective Development Incentive Agreement from 15 years to 10 years.
4. Insert a new provision requiring the grant of a conditional use permit by the Planning Board in order for a developer to be able to use the excess community space to support a future project, regardless of whether the future project would need a conditional use permit otherwise.

The attached revised amendment incorporates the Planning Board’s recommended changes (additions underlined, deletions ~~struck through~~).

Therefore, I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the June 5, 2017 City Council meeting, as presented. Action on this matter should take place under Section VII of the Agenda

- 1.2 **First Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Signs related to Public Parking in Private Parking Lots.** As a result of the May 1, 2017 City Council meeting, under Section VII of the Agenda, I am bringing back for first reading the [attached proposed Ordinance](#) amending Chapter 10 – Zoning ordinance, Signs related to Public Parking in Private Parking Lots.

At its March 6, 2017 meeting the City Council passed third reading on an ordinance relating to signs for public parking in a private parking lot. This ordinance was enacted as an amendment to the City Ordinances, Chapter 7, Article I – Parking Meters, and requires that any sign located at the entrance to a private parking lot receive a permit from the Department of Public Works.

[Attached is a memorandum from former Planning Director Rick Taintor](#) which outlines the reasons for an amendment to the Zoning Ordinance to exempt signs and other elements related to public parking in private parking lots from specific

zoning standards when authorized under a permit from the Department of Public Works.

The Planning Department drafted the [attached amendment to the Zoning Ordinance](#) to implement these exemptions, and the City Council voted at its March 20th meeting to refer this proposed amendment to the Planning Board for report back.

At its meeting on April 20, 2017, the Planning Board voted unanimously to recommend that the Zoning Ordinance be amended as proposed.

Therefore, I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the June 5, 2017 City Council meeting, as presented. Action on this matter should take place under Section VII of the Agenda

1.3 **First Reading of Proposed Ordinance amending Chapter 1, Article XVII, Section 1.1704 Public Art - Exemption.** As requested by Councilor Nancy Pearson, under Section VII of the Agenda, [attached is a proposed Ordinance](#) amending Chapter 1, Article XVII, Section 1.1704 Public Art – Exemption.

City Attorney Robert Sullivan meet with Councilor Nancy Pearson on April 11, 2017 regarding the inclusion of a public art component to school construction projects, reference ordinances of the City of Portsmouth, Chapter 1, Article XVII.

In particular, 1.1702 **PUBLIC ART COMMITMENT** requires that, “One (1%) percent of the bid price or negotiated contract price for the construction of all new municipal buildings or for the renovation of existing municipal buildings, in which the bid price or negotiated price shall be in excess of Two Million (\$2,000,000.00) Dollars up to Fifteen Million (\$15,000,000.00) Dollars (expressed in terms of actual construction costs exclusive of design and engineering fees), shall be contributed to the Public Art Trust for the purpose of funding public art.”

The ordinance contains further provisions which determine how public art will be selected and the public arts funds expended on that selection.

There is also a provision in the ordinance which allows the City Council to exempt a municipal building under appropriate circumstances.

Insofar as school buildings are owned by the municipality and construction or renovation of them is funded by the City Council, it would appear that this ordinance would apply to school buildings, such as the Little Harbour School.

I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the June 5, 2017 City Council meeting. Action on this matter should take place under Section VII of the Agenda

- 1.4 **First Reading of Proposed Ordinance amending Chapter 7, Article I Parking Meters, Section 7.105: Parking - Designated Motorcycle Parking Area.** As you are aware, the City Council approved the Parking and Traffic Safety Committee meeting minutes of April 6, 2017. The Committee approved the proposed Ordinance amending Chapter 7, Article I Parking Meters, Section 7.105: Parking C. Designated Motorcycle Parking Area (see [Ordinance under Section VII of the Agenda](#)). I am requesting the City Council authorize the City Manager to bring back for public hearing and second reading the proposed Ordinance at the June 5, 2017 City Council meeting.

Therefore, I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the June 5, 2017 City Council meeting. Action on this matter should take place under Section VII of the Agenda

- 1.5 **First Reading of Proposed Ordinance amending Chapter 7, Article V Bicycle Regulations.** As you are aware, the City Council approved the Parking and Traffic Safety Committee meeting minutes of April 6, 2017. The Committee approved the proposed Ordinance amending Chapter 7, Article V Bicycle Regulations (see [Ordinance under Section VII of the Agenda](#)). I am requesting the City Council authorize the City Manager to bring back for public hearing and second reading the proposed Ordinance at the June 5, 2017 City Council meeting.

Therefore, I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the June 5, 2017 City Council meeting. Action on this matter should take place under Section VII of the Agenda

- 1.6 **First Reading of Proposed Ordinance amending Chapter 7, Article XVII Moped Regulations.** As you are aware, the City Council approved the Parking and Traffic Safety Committee meeting minutes of April 6, 2017. The Committee approved the proposed Ordinance amending Chapter 7, Article XVII Moped Regulations (see [Ordinance under Section VII of the Agenda](#)). I am requesting the City Council authorize the City Manager to bring back for public hearing and second reading the proposed Ordinance at the June 5, 2017 City Council meeting.

Therefore, I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the June 5, 2017 City Council meeting. Action on this matter should take place under Section VII of the Agenda

Consent Agenda:

1. **Acceptance of Fire Department Donation.** The Fire Department received a donation in the amount of \$100.00 from Lynn, Ray and Nancy Siconolfi expressing their appreciation for the life safety services provided by the firefighters to her daughter and other tenants during the State Street fire. [See attached letter.](#)

I recommend the City Council move to accept and approve the donation to the Fire Department, as presented.

City Manager's Items Which Require Action:

1. **Report Back from Planning Board Re: Potential Release of City Interest in the Portions of Two Paper Streets (Moffat Street and Woodworth Avenue) adjoining property at 85 Woodworth Avenue (Richer) and Authorize Issuance of Building Permit for Property off Swett Avenue, Moffat Street and Woodworth Avenue (Calkins).** In the [attached letter](#) to the City Council received April 26, 2017, Attorney Durbin, representing Mr. David Calkins, requested authorization for the issuance of building permits for construction of single family homes on lots located off of Swett Avenue, Moffat Street, and Woodworth Avenue. Pursuant to RSA 674:41(d), the City Council must first refer this request to the Planning Board for review and comment. In the same letter Attorney Durbin included a request for the City Council to postpone voting on Raymond and Maryrose [Richer's attached request](#) for release of interest in portions of two paper streets that abut Mr. Calkins' lots and to consider Mr. Calkins' building permit request and the Richer's request at the same time. On May 1st, the City Council voted to postpone the Richer's request in order to consider both of these items at the same time. The area proposed by Mr. Calkins for a two-lot subdivision as well as the portion of the paper streets requested by the Richer's are shown on the [attached map](#).

Also, attached is a [memorandum from Planning Director Juliet Walker](#) explaining the background regarding this matter. Once the Planning Board reports back on Attorney Durbin's letter, we will bring back both items for City Council consideration at a later date.

I recommend the City Council move to refer the request from Attorney Durbin on behalf of David Calkins to authorize the issuance of building permits on a private drive off of Swett Ave, Moffat St, and Woodworth Ave pursuant to RSA 674:41(d) to the Planning Board for review and comment.

2. **Request for Qualifications Re: Thomas J. McIntyre Federal Property.** Attached is a draft **Request for Qualifications (RFQ)** to solicit developer interest in forming a public-private partnership with the City to undertake the reuse and redevelopment of the Thomas J. McIntyre property, in conjunction with the Historic Monument program.

At a meeting with representatives of the General Services Administration (GSA) late last month, we discussed the process and timeline detailed in our letter of interest to the GSA. This process allows for the City to seek interest from qualified developers, and select preferred entities to then develop more specific proposals for the City's consideration by the end of the summer. The RFQ calls for submittals to be due in early June, with subsequent City Council evaluation.

I recommend the City Council move to approve the release of the Request for Qualifications (RFQ) regarding the McIntyre Federal Property.

3. **Prescott Park Sound Management Plan.** As you are aware, the City staff has been preparing for the 2017 season in Prescott Park. This has included entering into new agreements with The Gundalow Company and the NH Arts Association as well as clarifying and documenting operational parameters with the Prescott Park Arts Festival.

In particular, the City staff has been working to address concerns related to sound levels associated with Park activities and performances in the Park, which have been raised by many members of the public, including Park neighbors as well as patrons. This issue was discussed during the Prescott Park Master Planning process; addressed in the Master Plan and the Prescott Park Arts Festival has agreed to work with the City to implement a "sound management plan" for the coming season.

City staff believes reliable and consistent data is needed in order to monitor sound levels and make good policy decisions going forward. On Monday night, Assistant City Manager David Moore will describe the staff's proposal and request for \$5,000 in funding from contingency in order to implement the plan.

I recommend the City Council move to authorize the City Manager to expend \$5,000 in contingency funds in order to move forward with the Prescott Park Sound Management Plan.

4. **Referral to Planning Board Re: S & G Realty Boundary Line Agreement and Easement.** S & G Realty owns property located on Chevrolet Avenue and seeks to construct a three unit residential structure. S & G Realty has already received necessary variances from the Zoning Board of Adjustment, and the project is presently in the site review process.

S & G Realty has proposed resolving a discrepancy in the boundary line between S & G Realty's property and property owned by the City, property which constitutes a portion of Chevrolet Avenue. Two surveys have been done in the area with differing results.

Representatives of the Public Works Department and the Legal Department have met with counsel for S & G Realty, Attorney Bernard Pelech, to discuss a Boundary Line Agreement and Easement to resolve the title discrepancies. The proposed Boundary Line Agreement and Easement would benefit the City by allowing the City to gain additional rights by both fee and easement to better maintain the City's sewer and drainage infrastructure in Chevrolet Avenue which runs along the edge of S & G Realty's boundary.

[Attached is the correspondence from Attorney Pelech](#) along with two boundary exhibits, one showing existing conditions, and the other showing the proposed site layout. The proposed new boundary and easement area are noted in green. The Planning Board will be reviewing the site plan at its upcoming May meeting, and it would be appropriate at that time for the Planning Board to recommend, or not, this proposed Boundary Line Agreement and Easement.

I recommend the City Council move to refer the request of S & G Realty for Boundary Line Agreement and Easement to the Planning Board for its recommendation.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on May 1, 2017. In addition, this can be found on the City's website.
2. **PS21 Vaughan Mall Green Initiative.** [Attached for your information is a News Release from PS21 – Portsmouth Smart Growth for 21st Century](#), entitled “Creating Vaughan Mall Green” – an event on May 20, 2017 will bring volunteers and city together to create an inviting, ecological community space in Vaughan Mall.
3. **Report Back Re: Cost Estimate for a Contracted Curbside Residential Composting Pilot Program for a Neighborhood.** For your information, [attached is a memorandum from Jacob Levenson, Solid Waste Sustainability Coordinator](#), regarding residential food waste curbside collection pilot program costs.
4. **City Council FY18 Budget Work Sessions.** For your information, [attached are Agendas](#) for the following City Council FY18 Budget Work Sessions:
 - a) Wednesday, May 17th – Water/Sewer Budget at 6:30 p.m.
 - b) Monday, May 22nd – FY18 Budget Review at 6:30 p.m.

Both meetings will be held in the Eileen Dondero Foley Council Chambers.

5. **Report Back Re: Charter Questions.** As you will recall at the May 1, 2017 City Council meeting, Assistant Mayor Splaine requested a report back from City Attorney Robert Sullivan regarding the following four questions related to the Charter Amendment process:

- 1) What are deadlines of placing City Charter amendments for citizens to vote?
- 2) What are the restrictions or limitations concerning the types of issues that may be voted on, considering that efforts to put some Charter amendments on the ballot two years ago were unsuccessful?
- 3) Specifically for City Council – initiated Charter amendments, what is the required schedule and process?
- 4) Specifically for citizen – initiated Charter amendments, what are the petition requirements and deadlines?

For your information, [attached is a memorandum from City Attorney Robert Sullivan](#) opining to the four questions.

6. **City Council Rules Re: Public Comment and Public Hearings.** I have [attached for your information a memorandum from City Clerk Kelli Barnaby](#) regarding City Council Rules regarding Public Comment Session and Public Hearings that was voted on by the City Council at the May 1, 2017 City Council meeting.

M E M O R A N D U M

TO: John P. Bohenko, City Manager
FROM: Juliet T. H. Walker, Planning Director *JTW*
DATE: May 10, 2017
RE: Request from Attorney Derek Durbin to Authorize Issuance of Building Permit for property off of Swett Avenue, Moffat Street, and Woodworth Avenue
Request of Raymond and Maryrose Richer for the City to release any interest it may have in the portions of two paper streets (Moffat Street and Woodworth Avenue) adjoining their property at 85 Woodworth Avenue

In a letter to the City Council received April 26, 2017, Attorney Durbin, representing Mr. David Calkins, requested authorization for the issuance of building permits for construction of single family homes on lots located off of Swett Avenue, Moffat Street, and Woodworth Avenue. In the same letter Attorney Durbin included a request for the City Council to postpone voting on the Richer's request for release of interest in portions of two paper streets that abut Mr. Calkins' lots and consider Mr. Calkins' building permit request and the Richers request at the same time.

Therefore, in response to the request from Attorney Durbin received on April 26, 2017 regarding the request to authorize the issuance of building permits on a private drive off of Swett Ave, Moffat St, and Woodworth Ave pursuant to RSA 674:41(d), the Planning Department recommends that the City Council vote to refer this request for a building permit to the Planning Board for review and comment at this time.

The Planning Department also recommends postponing consideration of the Richer's request until the City Council has received a report back from the Planning Board regarding the building permit request from Mr. Calkin as referenced above.

Background

Request from Attorney Derek Durbin to Authorize Issuance of Building Permit for property off of Swett Avenue, Moffat Street, and Woodworth Avenue

The original subdivision proposal called for extending Woodworth and Swett Avenues to the paper street portion of Moffat Street, and constructing a street within the Moffat Street layout to create frontage for the new lots. The Zoning Board of Adjustment originally granted variances for reduced lot area and street frontage for this project in February. Because the City has never accepted this portion of Moffat Street, as originally proposed the subdivision would require the consent of the abutting owners in order to be considered by the Planning Board.

Possibly in response to this proposed subdivision, the owners of abutting property at the end of the Moffat Street cul-de-sac petitioned the City Council to release paper street portions of Moffat Street and Woodworth Avenue that abut their two parcels. The City Council granted their request at its March 6 meeting.

Another property owner, Raymond and Maryrose Richer requested that the City release to them its interest in the paper street portions of Woodworth Avenue and Moffat Street adjoining their property at 85 Woodworth Avenue. On March 20, the City Council voted to refer this request to the Planning Board for a report back. This matter is discussed further below.

Without the consent of the abutting property owners, the proposed subdivision road as previously proposed by the application would no longer be possible and at least one of the proposed lots would not have any street frontage. Therefore, in April the applicant applied for and received relief from the Zoning Board of Adjustment for creation of a buildable lot with no frontage on a public way.

Although the applicant has received relief from the Zoning Board of Adjustment for creation of a residential lot with no street frontage, the Planning Department has advised the applicant that the applicant will also need to get approval from the City Council because of a state statute related to street access (RSA 674:40 and 674:41). This law prohibits the issuance of a building permit unless the lot has access to a street that meets one of the following criteria (simplified):

- has been accepted by the City
- is shown on the City's official map (which we don't have)
- is shown on an approved subdivision plan
- is shown on a "street plat" approved by the planning board
- is a class VI highway
- is a private road, provided that the City Council has voted to authorize the issuance of building permits on said private road

After consultation with the Legal Department, the Planning Department has determined that the applicant cannot build on the lots as proposed without a City Council vote. Furthermore, RSA 674:41 requires that the City Council receive review and comment from the Planning Board prior to authorizing a building permit.

Request of Raymond and Maryrose Richer for the City to release any interest it may have in the portions of two paper streets (Moffat Street and Woodworth Avenue) adjoining their property at 85 Woodworth Avenue

The owners of property at 85 Woodworth Avenue are requesting that the City release its interest, if any, in the portions of two paper streets abutting their lot. At its March 20th meeting, the City Council voted to refer this request to the Planning Board for a public hearing and a report back. On April 20th, the Planning Board voted as follows:

Voted to recommend that the City release any interest it may have in the paper streets abutting 85 Woodworth Avenue, as shown on the exhibit titled "Woodworth Ave / Moffat St / Swett Ave", prepared by the Planning Department for this meeting, with the following exception:

1. *The area between the end of the accepted portion of Woodworth Avenue and the intersection with Moffat Street shall be reserved for snow storage.*

Attached to this memorandum is a map showing the portions of Woodworth Avenue and Moffat Street that the Planning Board recommended to be released at this time, along with two other segments of the same streets that were released by vote of the City Council on March 6th.

The status of “paper streets” in the City is an issue that arises from time to time, usually when the owners of an abutting parcel wishes to expand their property, or when a developer wishes to construct a public street within the paper street alignment. When these requests are referred to the Planning Board for comment, the Planning Department generally relies on legal analysis presented by the owner to determine the status of the paper street. Such requests are typically also reviewed with the City Attorney to confirm any legal interpretation, and with the Department of Public Works to identify any City interest that may exist in the paper streets (such as sewer or stormwater infrastructure).

The present case is somewhat different in that there are two competing interests (the Richers and Mr. Calkins) in these paper streets and neither party has presented a legal analysis to support their positions.

In order to provide the Planning Board with the information necessary to evaluate the Richers’ request, the Planning Department researched the history of the paper streets in the area and consulted with the Legal Department about the applicability of New Hampshire statutes to these paper streets.

A paper street is one which shows on a plan, especially the City tax map, but which does not exist on the ground. The most common way for that situation to come about is when a street is “dedicated” to public use by a landowner recording a plan showing the street. This happened frequently in the days before planning board approval was required for the recording of plans. A street so dedicated becomes a public street only when “accepted” by the City. The acceptance can be formal, often by vote of the City Council, or by implication based on City use and maintenance of the street.

For a street dedicated (shown on a recorded plan) before 1969, the dedication was automatically terminated if the City did not accept the street within 20 years.¹ The owners of lots fronting on those paper streets may have implied easements to use the paper streets for access and development, but such easements do not override local zoning and subdivision regulations.

The lots and streets in this area originated in a 1902 subdivision plan of “Prospect Park”. Several of the streets in the subdivision were partially constructed and accepted by the City, and a number of lots were developed. However, the area east of the Moffat Street cul-de-sac has remained undeveloped because of the extensive wetlands and challenging topography. As a result, the dedications of the paper streets in this area terminated in 1922. While the City is being asked to formally release any interest it has in these paper streets, it is the Planning Department’s opinion that no evidence has been shown that the City has any interest in these streets. In which case the vote would not necessarily have any impact, except to clarify the record.

¹ “In summary, if a paper street was dedicated by the owner between 1893 and 1969, the dedication ended automatically unless acceptance by the municipality occurred within 20 years.” *A Hard Road to Travel: New Hampshire Law of Local Highways, Streets, and Trails* (2015: New Hampshire Municipal Association), page 44.

being asked to formally release any interest it has in these paper streets, it is the Planning Department's opinion that no evidence has been shown that the City has any interest in these streets. In which case the vote would not necessarily have any impact, except to clarify the record.

DURBIN LAW OFFICES, P.L.L.C

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Derek R. Durbin, Esq.
derek@durbinlawoffices.com

BY: HAND-DELIVERY

Portsmouth City Council
Attn: Jack Blaylock, Mayor
1 Junkins Avenue
Portsmouth, NH 03801

RE: Request to authorize the issuance of building permits on private drive off of Swett Avenue, Moffat Street and Woodworth Avenue pursuant to RSA 674:41, I(d)

Request to Continue Richer request (85 Woodworth Ave.) to release the City's interests in portions of Moffat Street and Woodworth Avenue

Dear Mayor Blalock,

Please accept the following request to the City Council to authorize the issuance of building permits for the construction of single family homes off of Swett Avenue, Moffat Street and Woodworth Avenue, pursuant to RSA 674:41, I(d). This request is being submitted in conjunction with a lot consolidation plan that will be soon be submitted to the Planning Board. The Applicant, David Calkins, a city resident, is proposing to consolidate five (5) lots located off of the aforementioned streets into two (2) larger lots to accommodate the development of two (2) single family homes. The situation is rather unusual in that portions of the streets upon which the lots have frontage were never constructed by the City. Therefore, they are so-called "paper streets" which are depicted on the City's tax maps, but were never constructed as originally laid out. The subject lots and streets were dedicated as part of a subdivision created in 1902 known as "Prospect Park". Due to the lack of frontage on a public way, Mr. Calkins is proposing to access the two (2) consolidated lots from a private drive or driveway.

It is the City Legal Department's opinion, from discussions with the Mr. Calkins and his representatives, that in order for the lots to be accessed and built upon as conceptually proposed (from a private drive), the City Council must first authorize the issuance of building permits pursuant to the language of RSA 674:41, I(d). See Exhibit A. While it is my legal opinion that this statute may not apply under the circumstances presented by Mr. Calkins' development plans, Mr. Calkins has agreed voluntarily to submit to the process outlined in the statute requiring City Council authorization.



It is important to note that as of last night, the Board of Adjustment has unanimously granted all of the required variance relief for the proposed consolidated lots to be developed as proposed. Mr. Calkins in consultation with his engineer and surveyor, are presently in the process of refining the lot consolidation plans for submission to TAC and the Planning Board.

Ultimately, RSA 674:41, I(d) requires that the City Council first refer Mr. Calkins request to the Planning Board for review and comment before it can authorize the issuance of building permits. Mr. Calkins would respectfully request that the City Council refer the matter to the Planning Board at its regularly scheduled meeting on Monday, May 1st.

In a separate but interrelated matter, Mr. Calkins would also respectfully request that the City Council delay its deliberations on a request brought forward by the Richers, owners of 85 Woodworth Avenue, seeking a release of the City's interest in abutting portions of Moffat Street and Woodworth Avenue. It is anticipated that the Richers' release request will be on the agenda for the May 1, 2017 meeting, as it was recommended for approval by the Planning Board during its meeting last week.

The Richers' property is located directly across the street from the lots that Mr. Calkins is seeking to consolidate and develop. *See Exhibit B.* If the release were to be granted, it would effectively eliminate one or more potential access ways to the subject lots and the ability to create any future public connector between Swett and Woodworth Avenues, something that the Public Works Department has expressed a desire in and which Mr. Calkins has attempted to accommodate.

The Richers' request was brought forward to the City Council only after Mr. Calkins initially applied for variance relief from the Board of Adjustment in January. Therefore, there is no prejudice to the Richers in the Council continuing their request to a future meeting when Mr. Calkins request can be discussed and deliberated on at the same time. Mr. Calkins submits that this is the most fair and equitable approach that the City Council can take in addressing the potentially competing interests involved with the two requests.

We thank you for your time and consideration of these important matters.

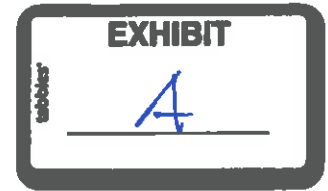
Sincerely,



Derek R. Durbin, Esq.

CC: Robert Sullivan, Esq.

TITLE LXIV PLANNING AND ZONING



CHAPTER 674 LOCAL LAND USE PLANNING AND REGULATORY POWERS

Regulation of Subdivision of Land

Section 674:41

674:41 Erection of Buildings on Streets; Appeals. –

I. From and after the time when a planning board shall expressly have been granted the authority to approve or disapprove plats by a municipality, as described in RSA 674:35, no building shall be erected on any lot within any part of the municipality nor shall a building permit be issued for the erection of a building unless the street giving access to the lot upon which such building is proposed to be placed:

(a) Shall have been accepted or opened as, or shall otherwise have received the legal status of, a class V or better highway prior to that time; or

(b) Corresponds in its location and lines with:

- (1) A street shown on the official map; or
- (2) A street on a subdivision plat approved by the planning board; or
- (3) A street on a street plat made by and adopted by the planning board; or
- (4) A street located and accepted by the local legislative body of the municipality, after submission to the planning board, and, in case of the planning board's disapproval, by the favorable vote required in RSA 674:40;

or

(c) Is a class VI highway, provided that:

- (1) The local governing body after review and comment by the planning board has voted to authorize the issuance of building permits for the erection of buildings on said class VI highway or a portion thereof; and
- (2) The municipality neither assumes responsibility for maintenance of said class VI highway nor liability for any damages resulting from the use thereof; and
- (3) Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds; or

(d) Is a private road, provided that:

- (1) The local governing body, after review and comment by the planning board, has voted to authorize the issuance of building permits for the erection of buildings on said private road or portion thereof; and
- (2) The municipality neither assumes responsibility for maintenance of said private roads nor liability for any damages resulting from the use thereof; and
- (3) Prior to the issuance of a building permit, the applicant shall produce evidence that notice of the limits of municipal responsibility and liability has been recorded in the county registry of deeds for the lot for which the building permit is sought; or

(e) Is an existing street constructed prior to the effective date of this subparagraph and is shown on a subdivision plat that was approved by the local governing body or zoning board of adjustment before the municipality authorized the planning board to approve or disapprove subdivision plats in accordance with RSA 674:35, if one or more buildings have been erected on other lots on the same street.

II. Whenever the enforcement of the provisions of this section would entail practical difficulty or unnecessary hardship, and when the circumstances of the case do not require the building, structure or part thereof to be related to existing or proposed streets, the applicant for such permit may appeal from the decision of the administrative officer having charge of the issuance of permits to the zoning board of adjustment in any municipality which has adopted zoning regulations in accordance with RSA 674, or, in municipalities in which no board of adjustment exists, to the local legislative body, or to a board of appeals, whichever is appropriate, in

accordance with RSA 674:14 and 674:15, including the requirement for a public hearing. In a municipality which does not require building permits, direct application may be made to the zoning board of adjustment, or the local legislative body, or the board of appeals for permission to erect the building. In passing on such appeal or application, the board of adjustment, local legislative body, or board of appeals may make any reasonable exception and shall have the power to authorize or issue a permit, subject to such conditions as it may impose, if the issuance of the permit or erection of the building would not tend to distort the official map or increase the difficulty of carrying out the master plan upon which it is based, and if erection of the building or issuance of the permit will not cause hardship to future purchasers or undue financial impact on the municipality. Any such decision made in this connection by a board of adjustment, local legislative body, or by a board of appeals pursuant to this section and RSA 674:14 and 674:15 shall be in writing, together with the reasons for the decision, and shall be subject to review in the manner described in RSA 677.

II-a. Municipalities may except any lot, including island lots for islands served exclusively by boats, from the requirements of paragraphs I and II by an affirmative vote of the local legislative body pursuant to RSA 675, first submitted to the planning board for its approval and:

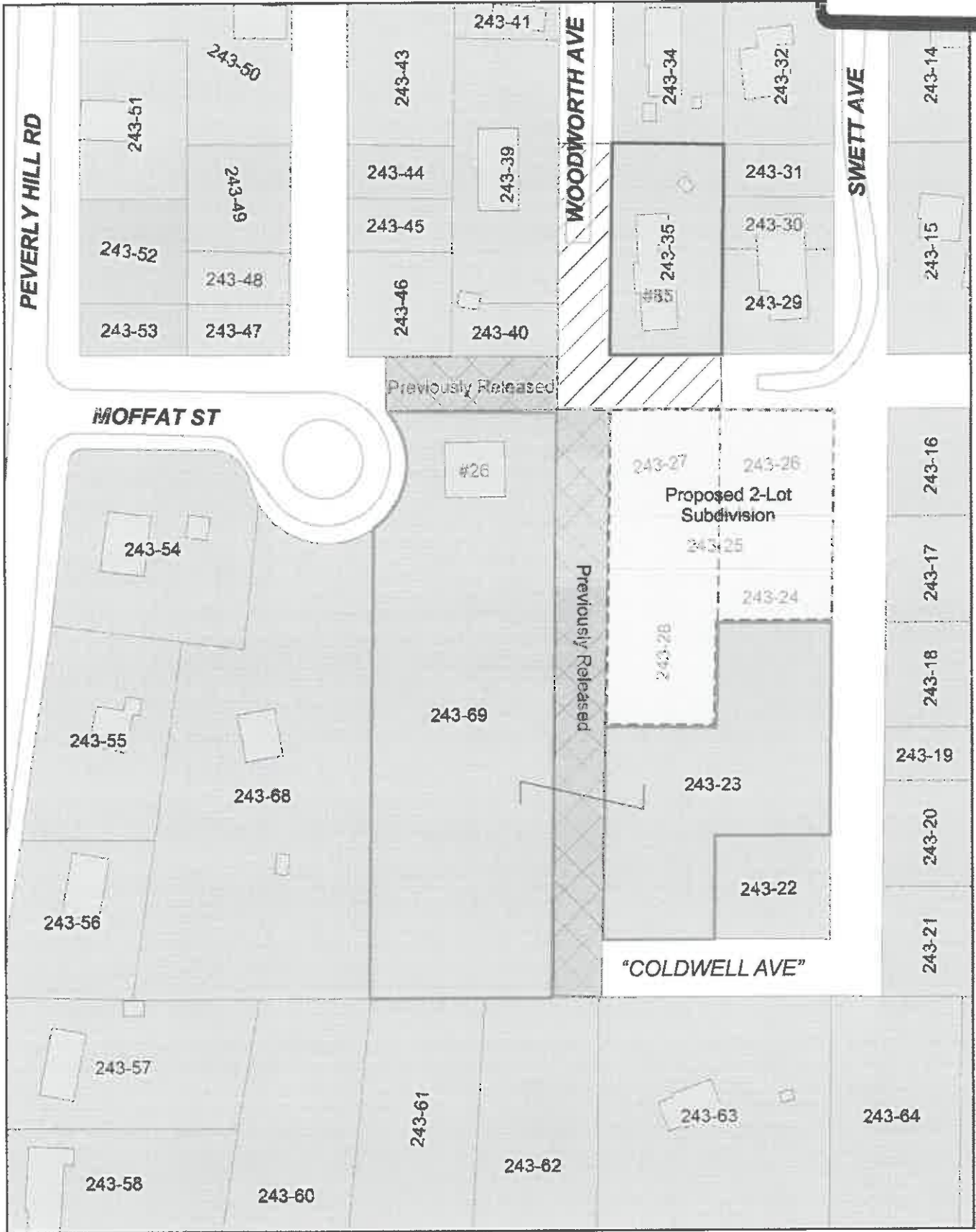
(a) If approved by the board, approved by a majority of those present and voting at a regular or special meeting of the local legislative body; or

(b) If disapproved by the planning board, approved by not less than 2/3 of those present and voting at a regular or special meeting of the local legislative body.

III. This section shall supersede any less stringent local ordinance, code or regulation, and no existing lot or tract of land shall be exempted from the provisions of this section except in accordance with the procedures expressly set forth in this section. For purposes of paragraph I, "the street giving access to the lot" means a street or way abutting the lot and upon which the lot has frontage. It does not include a street from which the sole access to the lot is via a private easement or right-of-way, unless such easement or right-of-way also meets the criteria set forth in subparagraphs I(a), (b), (c), (d), or (e).

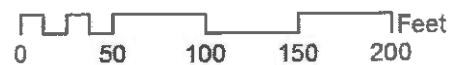
IV. In addition to the requirements for the erection of buildings in paragraph I and notwithstanding the exceptions provided in paragraph II, the planning board for a county in which there are located unincorporated towns or unorganized places shall require every building which is erected on leased land located within an unincorporated town or unorganized place to have a building permit. A building permit shall be required under this paragraph regardless of the proximity of the building to any street or highway. The county shall, by resolution, authorize the planning board to issue building permits under this paragraph.

Source. 1983, 447:1. 1988, 131:2, 3. 1989, 266:20. 1995, 291:10. 1998, 344:6. 2002, 270:1, 5. 2004, 154:1, 2. 2005, 226:1, 2, eff. Sept. 3, 2005.



Woodworth Ave / Moffat St / Swett Ave

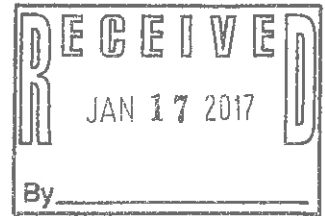
 Area of paper streets requested to be released



1 inch = 100 feet

Portsmouth City Attorney
Mr. Bob Sullivan
Portsmouth City Hall

11 Jan 2017



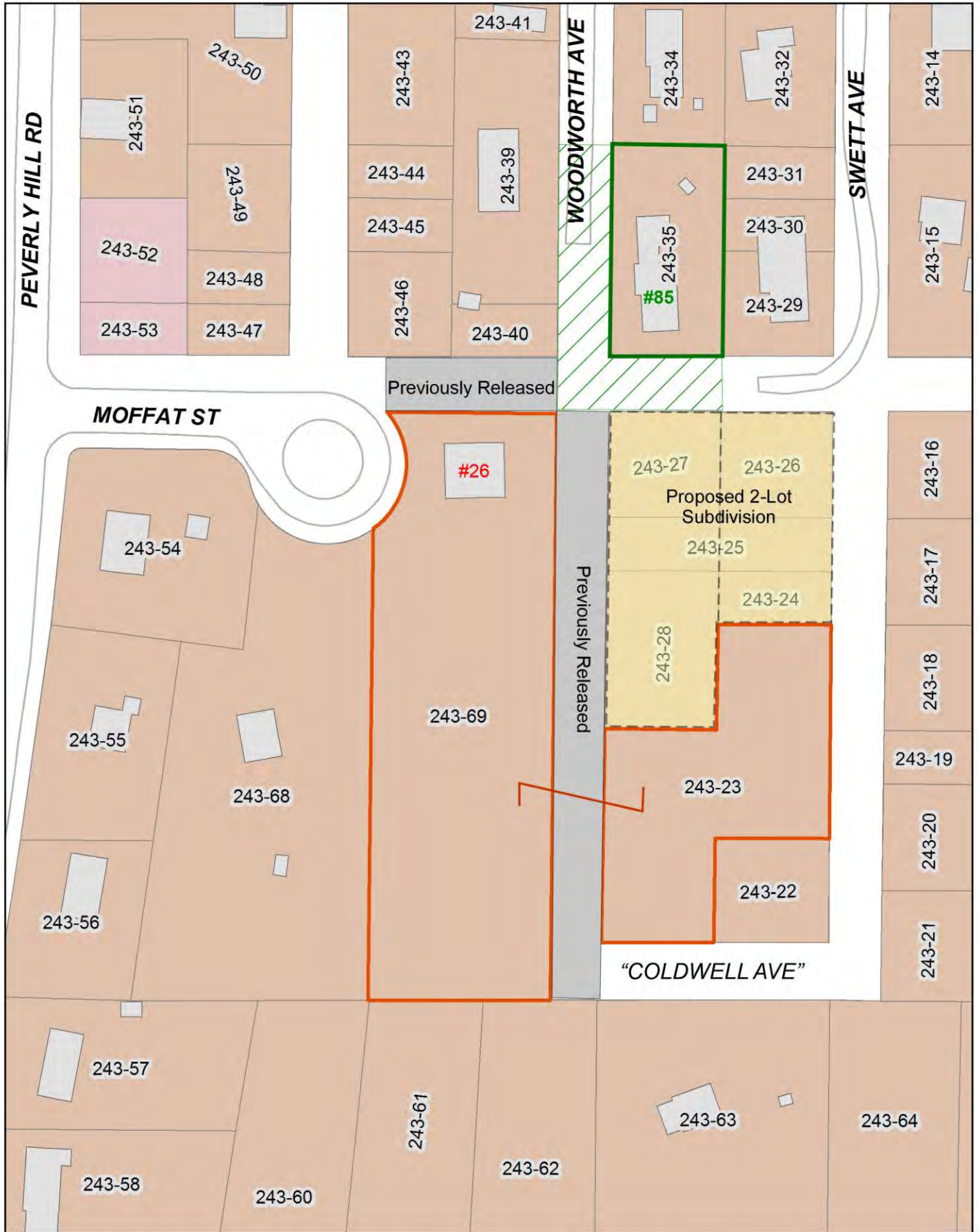
Dear Sir:

I am appealing to you for assistance in a quit claim extension on my property at 85 Woodworth Ave in accordance with chapter 231:51 as I have been informed that a contractor is in the process of obtaining land for building on Moffatt Rd. a paper road that abuts my property and I feel that I should have first claim to the extension of my land by 20 feet as allowed by law. I have owned this property for 26 years and have paid for and done any clean up and repair of this area for this time. I would also ask that the frontage of my property on Woodworth Ave be extended for the same reasons.

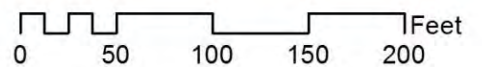
Thank you for any assistance you may provide in this matter,

A handwritten signature in cursive script, appearing to read "Raymond and Maryrose Richer".


Raymond and Maryrose Richer
85 Woodworth Ave
Portsmouth N H 03801
603 430 9344



26 Moffat Street & Swett Avenue



1 inch = 100 feet

 Area of paper streets requested to be released by Richers



REQUEST FOR QUALIFICATIONS

Development Partnership with the City of Portsmouth

for Reuse & Redevelopment of the Thomas J. McIntyre Federal Property

80 Daniel Street

pursuant to the [Historic Surplus Property Program](#)

RFQ #
REQUEST FOR
QUALIFICATIONS
CITY OF PORTSMOUTH, NH
DEVELOPMENT PARTNERSHIP WITH THE CITY OF PORTSMOUTH
FOR THE FEDERAL MCINTYRE PROPERTY

Sealed submissions responsive to this Request for Qualifications, plainly marked "RFQ ## Development Partnership with the City of Portsmouth for the Federal McIntyre Property" on the outside of the mailing envelope, addressed to the Finance/Purchasing Department, City Hall, 1 Junkins Avenue, Portsmouth, NH 03801 will be accepted until 2:00 p.m. on June 12, 2017.

The City is interested in entering into a public/private partnership for reuse/redevelopment of the McIntyre Property, a 2.1 acre site in the City's central business district located at 80 Daniel Street. The City has been invited to submit an application for acquisition of the property for Historic Monument purposes from the General Services Administration (GSA).

As such, the City is currently accepting qualifications and letters of interest from prospective partners (real estate developers, joint ventures, etc.) who have proven experience with projects of similar size and complexity, and can demonstrate sufficient financial resources to support a successful redevelopment of this magnitude.

This Request for Qualifications may be obtained by visiting the Finance/Purchasing Department section of the City of Portsmouth website at www.cityofportsmouth.com. Addenda to this request, if any, including written answers to questions, will be posted on the City of Portsmouth website under the project heading. If you have any questions please contact the Finance/Purchasing Department at: (603) 610-7227.

The City of Portsmouth reserves the right to reject any or all submissions, to waive technical or legal deficiencies, to proceed or not with any proposal or process, and to negotiate such terms and conditions of any proposal or contract that may be in the best interest of the City.

The City reserves the right to terminate or amend this process at any time.

RFQ #
REQUEST FOR
QUALIFICATIONS

CITY OF PORTSMOUTH, NH

DEVELOPMENT PARTNERSHIP WITH THE CITY OF PORTSMOUTH
FOR THE FEDERAL MCINTYRE PROPERTY

Sealed submissions responsive to this Request for Qualification, plainly marked "RFQ ## Development Partnership with the City of Portsmouth for the Federal McIntyre Property " on the outside of the mailing envelope, addressed to the Finance/Purchasing Department, City Hall, 1 Junkins Avenue, Portsmouth, NH 03801 will be accepted until **2:00 p.m. on June 12, 2017.**

I. INVITATION

The City of Portsmouth is pleased to invite real estate development entities to submit their qualifications for consideration of a public/private partnership opportunity that would realize the transfer and redevelopment of the Thomas J. McIntyre Federal property located at 80 Daniel Street in downtown Portsmouth, NH. This RFQ seeks to solicit responses that will enable the City Council to select one or more preferred entities to develop and submit specific proposals for evaluation.

In March, the Government Services Administration (GSA) invited the City to submit an application for conveyance of the property out of federal ownership to the City pursuant to the Historic Monument program. The City's primary objectives in pursuing ownership of the property are 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 redevelopment of the site that meets the city’s economic development goals; and
- To accomplish the above in a fiscally prudent manner, through a public-private partnership. The City contemplates a long-term land lease with a qualified partner, pursuant to applicable federal regulations.

The City seeks partnership with individuals or entities that have experience in developing, financing, marketing, and managing projects of a similar size, scope, and nature. Qualification packages must clearly demonstrate experience required to successfully redevelop this important site, including sufficient financial capacity to complete the project.

In addition to the professional qualifications of the project entity, the City desires a partner that will positively contribute to the community – fiscally, socially, and environmentally. To this end, respondents should include disciplines they deem appropriate to such a venture, such as but not limited to:

- Development entity (with lead member identified)
- Architect (with historic preservation experience, preferable)
- Real Estate broker/ marketing support
- Property Manager
- Planner
- Civil Engineer
- General contractor
- Legal Counsel
- Financial partner (s)

II. Pre-Submittal Briefing and Site Inspection

A pre-submission site inspection will be available to all interested respondents. It is scheduled for Thursday, June 1st, at 11 am, at 80 Daniel Street. To sign up for the tour, please email ncolbertpuff@cityofportsmouth.com .

III. PROJECT OVERVIEW

The successful partner will be required to undertake development review and approval processes in collaboration with the City in order to provide opportunity for public input into the design and reuse of the site.

The development entity will be required to develop and prepare all necessary local, state, and federal permit and land use applications and attend regulatory board meetings as needed.



Existing Conditions – Federal McIntyre Property, 80 Daniel Street, Portsmouth, NH (Map 106, Lot 8)

The McIntyre Property comprises approximately 2.1 acres of land, with 245 feet of frontage on the northwest side of Daniel Street, 378 feet on the northeast side of Penhallow Street, and 186 feet on the southeast side of Bow Street. The property includes the McIntyre Building - a four-story (plus basement level) steel-frame masonry building containing approximately 107,000 square feet (sf) of gross building area with forty-four (44) indoor parking spaces and a two-tier outdoor parking lot with ninety-one (91) spaces. The Property is within a short walking distance to Market Square, Portsmouth's commercial/retail center, located at the intersection of Market and Daniel Street and Portsmouth's historic harbor and waterfront commercial areas.

Net rentable area is approximately 73,000 sf (exclusive of the basement, parking garage, and mechanical penthouse). The existing structure is 60+/- tall.

The City of Portsmouth, population ~ 21,000, recently completed a [Master Plan](#) which outlines the community's goals and policies for future growth.

A. Historic Preservation

All redevelopment proposals must be prepared in accordance with the *Secretary of the Interior's Standards for the Treatment of Historic Properties* (typically the *Standards for Rehabilitation* are most applicable). Project entity qualifications should include familiarity with the standards.

Constructed in 1966, the McIntyre building is an example of the New Formalist style, similar to many federal structures built during this period. The building is designated as a contributing structure in the proposed Portsmouth Downtown National Register Historic District which is undergoing National Park Service consideration. The City expects that upon transfer, the deed from the federal government will include terms and conditions that outline how the property may be maintained and protected into the future.

The Historic Monument program is described in part on the GSA's web site as follows (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

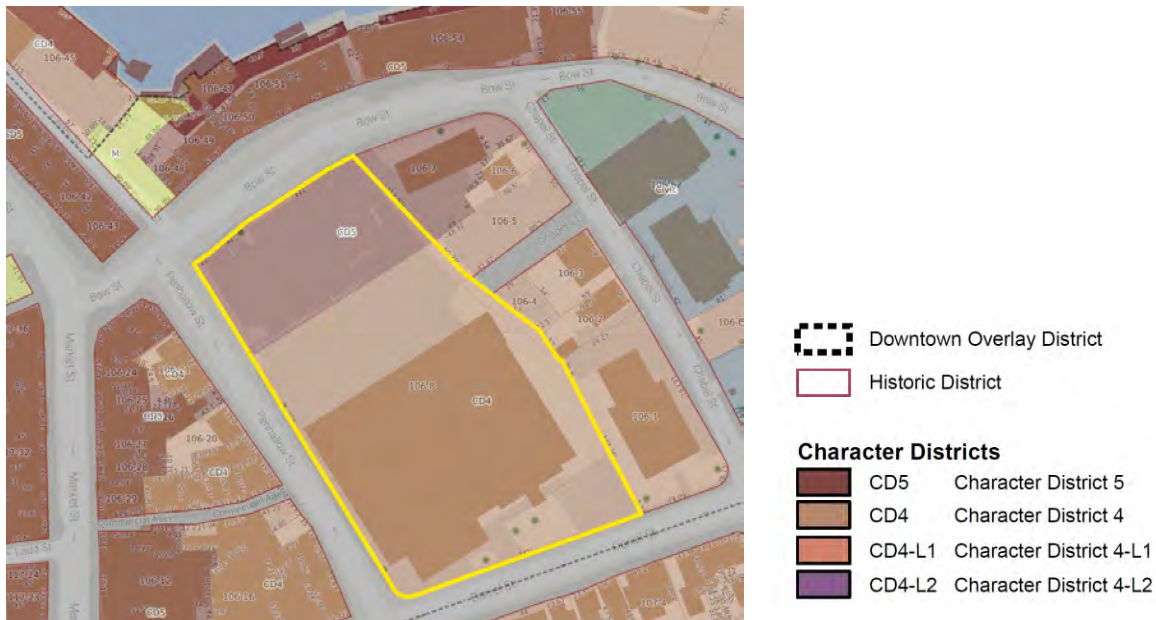
for the purposes for which it was conveyed in perpetuity and may contain such additional terms, reservations, restrictions, and conditions.”

The selected partner will play an important role in assisting the City in completing the use and financial plan components of the application to the Historic Monument program.

B. Zoning / Land Use Compliance and Permitting

In 2014, the City of Portsmouth adopted a character-based zoning ordinance that includes the property. The purpose of the Downtown Character District is to encourage development that is compatible with the established character of its surroundings and consistent with the City’s goals for the preservation or enhancement of the area. This is accomplished by providing a range of standards for the elements of development and buildings that define a place. More information on the Downtown Character District can be found at:

<http://planportsmouth.com/>.



The McIntyre building is primarily within the CD-4 district, with the rear parking area (approx. 20,000 sf) within the higher density CD-5. The site is also within the Historic District, as well as the Downtown Overlay District.

1. The development or redevelopment of this property shall comply with the City’s zoning ordinance and other related local permitting processes and regulations.
2. The development entity shall work with the City to identify and apply for any required State and Federal permits as applicable and any required documentation or additional studies.

3. Urban Design

1. Redevelopment of the site should be consistent with the surrounding historic context in terms of height, volume and massing.
2. New buildings and alterations of existing buildings must comply with the Zoning Ordinance, including the Regulating Plan and the applicable standards and requirements for the CD4 and CD5 zoning districts as indicated on the Zoning Map.
3. New buildings and alterations of existing buildings should be consistent with the [Design Guidelines for the Historic District](#) as adopted by the Historic District Commission.

4. Economic Development

1. All street-facing facades should include ground-floor commercial activities to activate the street edge. Residential use is prohibited from the first floor within the Downtown Overlay District.
2. Redevelopment is encouraged to incorporate upper floor office uses to support downtown economic activity.
3. Possible inclusion of US Post Office site at this location should be considered.

5. Environmental Considerations

1. The structure is known to contain lead-based paint, asbestos containing materials, and underground storage tanks. Sprayed-on asbestos is believed to be considerable above all ceilings. The City expects to obtain further information on known environmental considerations from the GSA.

2. Public Space and Landscaping

1. Redevelopment of the site should enhance the pedestrian environment, incorporating wide sidewalks along public streets and, where feasible, public pedestrian alleyways through the site.
2. Redevelopment of the site should incorporate active public outdoor spaces such as plazas, courtyards and pocket parks.
3. Landscaping should be provided within the site and on the perimeter of the site to break up impervious areas, soften architectural and structural materials, and provide stormwater management benefits where possible.

3. Transportation and Circulation

1. Redevelopment of the site should include sufficient off-street parking to serve the needs of the site and to support future redevelopment of surrounding underutilized property. To this end, incorporation of a multi-level parking structure with access from at least two streets is encouraged.
2. Redevelopment of the site should include bicycle parking and long-term storage facilities.

IV. Land Lease

As part of this partnership effort, the City intends to retain ownership of the land and lease development and management rights to a partner entity. Detailed terms of this arrangement are subject to regulations of the Historic Monument program and will be negotiated with the City.

V. Project Schedule

The project schedule will be determined once the required federal process for conveyance of the McIntyre Property is complete. The City looks to select one or more qualified respondents to develop a specific proposal for the City Council's consideration in late summer.

VI. Submission Requirements

Submissions must include the following elements:

1. **Statement of Interest:** Please describe your particular interest in this project, your familiarity with the community, how you envision a successful public-private partnership proceeding, and how you expect your entity to make a positive contribution to Portsmouth's central business district.
2. **Comparable Development Experience:** Please provide a brief description of the development entity including entity members and areas of specialization, location of corporate headquarters, and potential satellite office proposed to handle this project. Provide the entity's demonstrated experience in similarly-scaled, mixed use projects, including a description of financial capacity to develop such a project.

Respondents must include a chart or diagram explaining the intended form and structure of any proposed partnership or joint venture.

3. **Comparable Management Experience:** Respondents shall provide resumes describing key members of the development entity and/or brochures describing the entity and any

similar projects in which the respondent has been involved. Respondents must provide a staffing plan indicating which Principals and staff members would have primary responsibilities for implementing the Project and their roles in day-to-day management of the Project. The project manager shall be clearly identified and a description of his/her relevant previous projects listed. A list of past relevant projects, which proposed project staff have played a central role in developing, shall be also provided. The Development entity's experience shall be summarized in a matrix format.

4. **Relevant Public-Private Partnership Experience:** Describe relevant experience in working with public partners, presenting to public audiences, and ability to attract mixed use tenants. The development entity is responsible for articulating a clear project management approach to the public/private partnership and the development project with the objective of ensuring transparent information, project governance, smooth negotiations and communications, as well as risk management and quality control. Experience in the following should be clearly outlined:
 - a. Historic Preservation and Rehabilitation
 - b. Mixed-Use Development
 - c. Urban Planning and Design within Historic Districts
 - d. Collaboration with GSA, other federal agencies
 - e. Public/private development projects

In addition, detailed project descriptions of no more than five reference projects containing the majority of the focus areas listed above shall be included. The project descriptions shall be current and limited to a maximum of one full page per project, along with client references and up-to-date contact information (name, title, organization, phone, cell and email).

5. **Financial Capacity:** Entities shall submit an audited financial statement from a nationally recognized accounting firm from the most recent fiscal year. The structure and percentages of ownership and investment must be included. The City is prepared to maintain the confidentiality of the financial statement to the extent permitted by law if requested by the respondent and the statement is clearly marked confidential. Financial statements designated confidential will be returned at the completion of the selection process. Failure to submit such a statement may result in rejection of a proposal. Only one copy of this information is required.
6. **Project Understanding:** Respondents shall state in succinct terms their understanding of what is required by this project. Describe in narrative or outline form your initial thoughts on project tasks, financing, and schedule.

Twelve paper (12) copies of the qualifications must be submitted. Respondents are encouraged to avoid the use of synthetic report covers and partitions. A single CD/DVD with an electronic PDF copy of their proposal shall be included.

VII. Selection Process

The City anticipates the City Council will conduct a developer selection process and will choose a partner to facilitate transfer and redevelopment of the site. It expects do so by first receiving a response of prospective qualified developers, and then selecting respondents to proceed to submitting more specific proposals for consideration. The City will subsequently enter into negotiations with a preferred developer to develop a reuse/redevelopment plan, submit application to the Historic Monument program, and ultimately, if a successful transfer is made, lease the site and its improvements.

The selection process will include public input, and respondents may be asked to make public presentations of their qualifications as part of the process.

VIII. EVALUATION CRITERIA

The intent of this RFQ is to identify qualified developers interested in partnering with the City of Portsmouth to realize the reuse and redevelopment of this 2.1 acre parcel in a manner that meets the community desires and enhances the long term vitality of this important City block.

Qualifications will be evaluated according to the following:

- Responsiveness to submission requirements
- Comparable development experience
- Strength of entity members
- Understanding of required project work and schedule
- Financial capacity

IX. Selection Process

1. Upon review of all responsive Qualifications, the City may select, by vote of the City Council, one or more entities to invite to submit specific proposals for the site's redevelopment. Interviews may be part of the evaluation of qualifications at this time.
2. Following selection of preferred entities, the City will develop a Request for Proposals with guidelines for a specific development proposal to be submitted by late summer.
3. The City will enter lease and property management negotiations with a preferred development entity.
4. If the City is unable to reach agreement with the highest ranking proposer, the City may enter into negotiations with the next highest ranking proposer.

X. Additional Information

Requests for additional information should be directed, in writing, to Deputy City Manager, Nancy Colbert Puff, at ncolbertpuff@cityofportsmouth.com, no later than June 5, 2017. All responses, if applicable, will be posted to [Purchasing](#) web page by June 7, 2017.

XI. Reservation of Rights

The City reserves the right to undertake such investigation as it deems necessary to evaluate the qualifications of the development entity and to evaluate its submittal. Respondents may be asked to submit releases as part of the investigation and review of qualifications. Failure to provide a release if requested will result in disqualification.

The City reserves the right to request additional information as part of this selection process.

The City of Portsmouth reserves the right to reject any or all submissions, to waive technical or legal deficiencies, to proceed or not with any proposal or process, and to negotiate such terms and conditions of any proposal or contract that may be in the best interest of the City.

The City reserves the right to terminate or amend this process at any time.

Law Offices of
WHOLEY & PELECH
55 CONGRESS STREET, SUITE B
P.O. BOX 395
PORTSMOUTH, NEW HAMPSHIRE 03802-0395

Tel. 603-436-6121
Fax 603-433-7491

bernie@wholey-pelech.com

BERNARD W. PELECH*

JOHN J. WHOLEY
(1922-2001)

ADMITTED NH & ME BARS

April 26, 2017

Mayor Jack Blalock
Mayor's Office
1 Junkins Avenue
Portsmouth, NH 03801

Re: S&G Realty - Chevrolet Avenue

Dear Mayor Blalock and Members of the City Council:

I represent S&G Realty, owners of certain property located on Chevrolet Avenue, Tax Map 147, Lot 30. There has been for many years a discrepancy and question as to the location of the common boundary line between the S&G lot and the city owned adjacent lot.

After many meetings with the Legal Department, Public Works Department and the Planning Department, a tentative, agreed upon boundary line, subject to Council approval, has been established.

The agreed upon boundary line is shown on the attached drawing.

On behalf of my clients, it is requested that the City Council refer this matter to the Planning Board for a report and recommendation, and thereafter vote to authorize the City Manager to execute the Boundary Line Agreement for recording in the Registry of Deeds.

Sincerely,



Bernard W. Pelech

Law Offices of
WHOLEY & PELECH
55 CONGRESS STREET, SUITE B
P.O. BOX 395
PORTSMOUTH, NEW HAMPSHIRE 03802-0395

BERNARD W. PELECH*

JOHN J. WHOLEY
(1922-2001)

ADMITTED NH & ME BARS

TEL 603-436-6121
FAX 603-433-7491

bernice@wholey-pelech.com

April 26, 2017

Suzanne Woodland, Assistant City Attorney
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

Re: S&G Realty - Chevrolet Avenue

Dear Suzanne:

As you know, this office represents Scott Brown and Gail Huff of S&G Realty, with regard to their proposed 3-unit residential structures on Chevrolet Avenue.

We have received all necessary variances from the ZBA for the project and we are presently in the site review process, having appeared before TAC.

Confirming our several meetings with the legal department and the planning department, it has been well documented for over 15 years that there are conflicting surveys of the boundary line between the S&G Realty property and property of the city, namely Chevrolet Avenue.

The legal department files on this discrepancy date back to 1991. In 1995, Easterly Survey performed a standard boundary survey for the S&G Realty lot, which survey showed the lot line to be at an angle to and some distance from Chevrolet Avenue.

In 1998, the city engaged the services of James Verra and Associates to survey the public works facility and Chevrolet Avenue. This survey showed the S&G Realty property line extending into the paved area of Chevrolet Avenue.

As we have discussed in our meetings, it is in the best interest of both S&G Realty and the city to enter into a Boundary Line Agreement as provided for in RSA 472:1-4.

As discussed and tentatively agreed, subject to City Council approval, the agreed upon boundary would be established at the edge of pavement on the southerly side of Chevrolet Avenue. S&G Realty would also grant to the city a 10-foot wide utility easement southerly of the agreed upon common boundary.

Page Two
Suzanne Woodland, Assistant City Attorney
April 26, 2017

Ambit Engineering would prepare the plan depicting the agreed upon boundary which would then be recorded along with the written agreement in the Registry of Deeds.

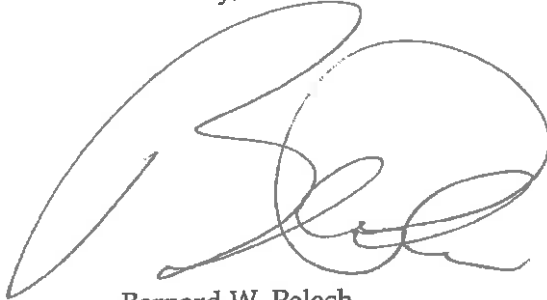
Ambit Engineering is in the process of incorporating this proposed boundary line into the pending site plan application plan set.

I have attached hereto a draft request addressed to the Mayor and Council asking for approval of the Boundary Line Agreement, after referral to and report back from the Planning Board. I would hope this could be acted upon by the Council at their May 15th meeting, and by the Planning Board at their May 18th meeting.

I plan to attend both meetings in order to answer any questions which may arise. I understand that you will be submitting a memo to the Council prior to the May 15th meeting, addressing the request.

Thank you for your cooperation in this matter and hopefully the longstanding discrepancy can be resolved.

Sincerely,

A handwritten signature in black ink, appearing to read "Bernard W. Pelech". The signature is fluid and cursive, with a large initial "B" and "W".

Bernard W. Pelech

PLANTING NOTES

- 1) ALL PLANT MATERIALS SHALL BE FIRST QUALITY NURSERY GROWN STOCK. ALL EVERGREEN TREES AND SHRUBS SHALL BE "HEAVY".
- 2) ALL PLANTS SHALL BE PLANTED IN ACCORDANCE WITH NEW HAMPSHIRE LANDSCAPE ASSOCIATION STANDARDS AND GUARANTEED FOR TWO YEARS BY THE LANDSCAPE CONTRACTOR.
- 3) ALL TREES AND SHRUBS SHALL BE MULCHED WITH 4" OF AGED BARK MULCH.
- 4) ALL LAWN AREAS SHALL BE LOAMED WITH 4" OF CLEAN LOAM, FREE OF ROCKS, ROOTS AND TRASH. TURF GRASS SHALL BE ESTABLISHED BY HYDROSEEDING A MIX OF MULCH, SEED AND FERTILIZER.
- 5) ALL DISTURBED AREAS NOT DESIGNATED FOR GRAVEL, ASPHALT, CONCRETE OR PLANTINGS SHALL BE SEEDED.
- 6) REFER TO VEGETATIVE PRACTICE NOTES ON SHEET D1 FOR SEEDING INFORMATION AND SEED MIXTURE.

TOPSOILING

- TOPSOIL QUALITY**
- 1) TOPSOIL MAY BE OF THE FOLLOWING TEXTURES: SANDY LOAM, LOAM, OR SILT LOAM.
 - 2) THE MATERIAL SHALL BE FRIABLE AND FREE OF TREE ROOTS, WEEDS, STONES MORE THAN 1.5 INCHES IN DIAMETER OR LENGTH, AND OF OTHER DEBRIS.
 - 3) SOIL TREATED WITH AN HERBICIDE WILL NOT BE USED FOR TOPSOILING IF IT IS DETERMINED THAT THE HERBICIDE WILL BE DAMAGING TO DESIRABLE VEGETATION.
- SOURCES OF TOPSOIL**
- 1) MATERIAL FOR TOPSOILING SHALL BE TAKEN FROM THE NATURAL SURFACE LAYERS (A HORIZON) OF SOILS KNOWN TO BE CAPABLE OF PRODUCING GOOD YIELDS OF CULTIVATED CROPS OR HAY.
 - 2) SOIL THAT HAS BEEN TREATED WITH AN HERBICIDE SHOULD NOT BE USED FOR TOPSOILING IF IT IS DETERMINED THAT THE RESIDUAL EFFECTS OF THE HERBICIDE WILL BE DAMAGING TO THE NEW SEEDING.
 - 3) TOPSOIL MAY BE STRIPPED FROM AND STOCKPILED AT A SITE FOR LATER REPLACEMENT. STOCKPILED TOPSOIL WILL NOT BE COMPACTED AND SHALL BE PROTECTED AGAINST EROSION.
 - 4) AREAS FROM WHICH TOPSOIL HAS BEEN REMOVED SHALL BE PROTECTED AGAINST EROSION.
- APPLYING TOPSOIL**
- 1) TOPSOIL SHOULD NOT BE COLLECTED OR SPREAD WHILE IT IS WET.
 - 2) SUBSURFACES WILL BE SCARIFIED OR OTHERWISE TILLED TO FACILITATE BONDING PRIOR TO SPREADING TOPSOIL.
 - 3) TOPSOIL WILL BE UNIFORMLY SPREAD TO A MINIMUM DEPTH OF 5 INCHES (THIS WILL PROVIDE 4 INCHES OF SETTLED TOPSOIL DEPTH).

LANDSCAPE SCHEDULE

I.D. No.	ITEM	SIZE	QTY
1	THUJA OCCIDENTALIS 'NIGRA'	6'-8'	3
	DARK AMERICAN ARBORVITAE		
2	ACER TRUNCATUM x PLATANOIDES	2" CALIPER	3
	CRIMSON SUNSET MAPLE		

LEDGEND:

- JVA BOUNDARY
- PROPOSED BOUNDARY AND EASEMENT
- EASTERLY BOUNDARY

Received at Meeting

MAY - 2 2017

From J. Chagnon



AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 5
Portsmouth, N.H. 03801-7114
Tel: (603) 430-9282
Fax: (603) 430-2315

NOTES:

- 1) THE CONTRACTOR SHALL NOTIFY DIG SAFE AT 1-888-DIG-SAFE (1-888-344-7233) AT LEAST 72 HOURS PRIOR TO COMMENCING ANY EXCAVATION ON PUBLIC OR PRIVATE PROPERTY.
- 2) UNDERGROUND UTILITY LOCATIONS ARE BASED UPON BEST AVAILABLE EVIDENCE AND ARE NOT FIELD VERIFIED. LOCATING AND PROTECTING ANY ABOVEGROUND OR UNDERGROUND UTILITIES IS THE SOLE RESPONSIBILITY OF THE CONTRACTOR AND/OR THE OWNER. UTILITY CONFLICTS SHOULD BE REPORTED AT ONCE TO THE DESIGN ENGINEER.
- 3) CONTRACTOR SHALL INSTALL AND MAINTAIN EROSION CONTROL MEASURES IN ACCORDANCE WITH THE "NEW HAMPSHIRE STORMWATER MANUAL, VOLUME 3, EROSION AND SEDIMENT CONTROLS DURING CONSTRUCTION." (NHDES DECEMBER 2008).
- 4) ACCUMULATED SNOW THAT EXCEEDS THE AVAILABLE SNOW STORAGE AREAS SHALL BE REMOVED FROM THE SITE AS NECESSARY.

PARKING ANALYSIS:

MULTIFAMILY RESIDENTIAL: 4 SPACES + 1.5 SPACES PER DWELLING UNIT OVER 2 UNITS
 PROPOSED PARKING REQUIREMENTS
 EXISTING BUILDING (0 DWELLING UNITS) = 0
 PROPOSED BUILDING: 3 DWELLING UNITS = 4 + (1) x 1.5 = 6 SPACES
 MINIMUM SPACES REQUIRED: 6 SPACES
 SPACES PROVIDED BY LAYOUT: 6 SPACES (GARAGE AND ONE OUTSIDE)

ZONING CALCULATIONS:

	REQUIRED	EXISTING	PROPOSED
MIN. LOT AREA:	3,500 SF	10,071 SF	10,071 SF
MIN. LOT AREA/DWELLING:	3,500 SF	N/A	3,357 SF
FRONTAGE:	70 FEET	94.6 FEET	94.6 FEET
DEPTH:	50 FEET	105.86 FEET	105.86 FEET
FRONT SETBACK:	5 FEET	<5 FEET	6.09 FEET
SIDE SETBACK:	10 FEET	<10 FEET	14.88 FEET
REAR SETBACK:	20 FEET	22 FEET	20.12 FEET
MAX. STRUCTURE HEIGHT:	35 FEET	N/A	<35 FEET
MAX. BUILDING COVERAGE:	35%	10.3%	24.1%
MIN. OPEN SPACE COVERAGE:	20%	82.3%	66.1%

VARIANCES GRANTED:

- 1) *A VARIANCE WAS GRANTED ON 2/16/16 FROM SECTION 10.521 TO ALLOW 3,357 SF OF LOT AREA PER DWELLING UNIT WHERE 3,500 SF PER DWELLING UNIT IS REQUIRED.

BOUNDARY EXHIBIT

S&G REALTY
CHEVROLET AVENUE
PORTSMOUTH, N.H.

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	5/1/17
REVISIONS		

SCALE: 1" = 10' MARCH 2017

SITE LAYOUT & LANDSCAPE PLAN

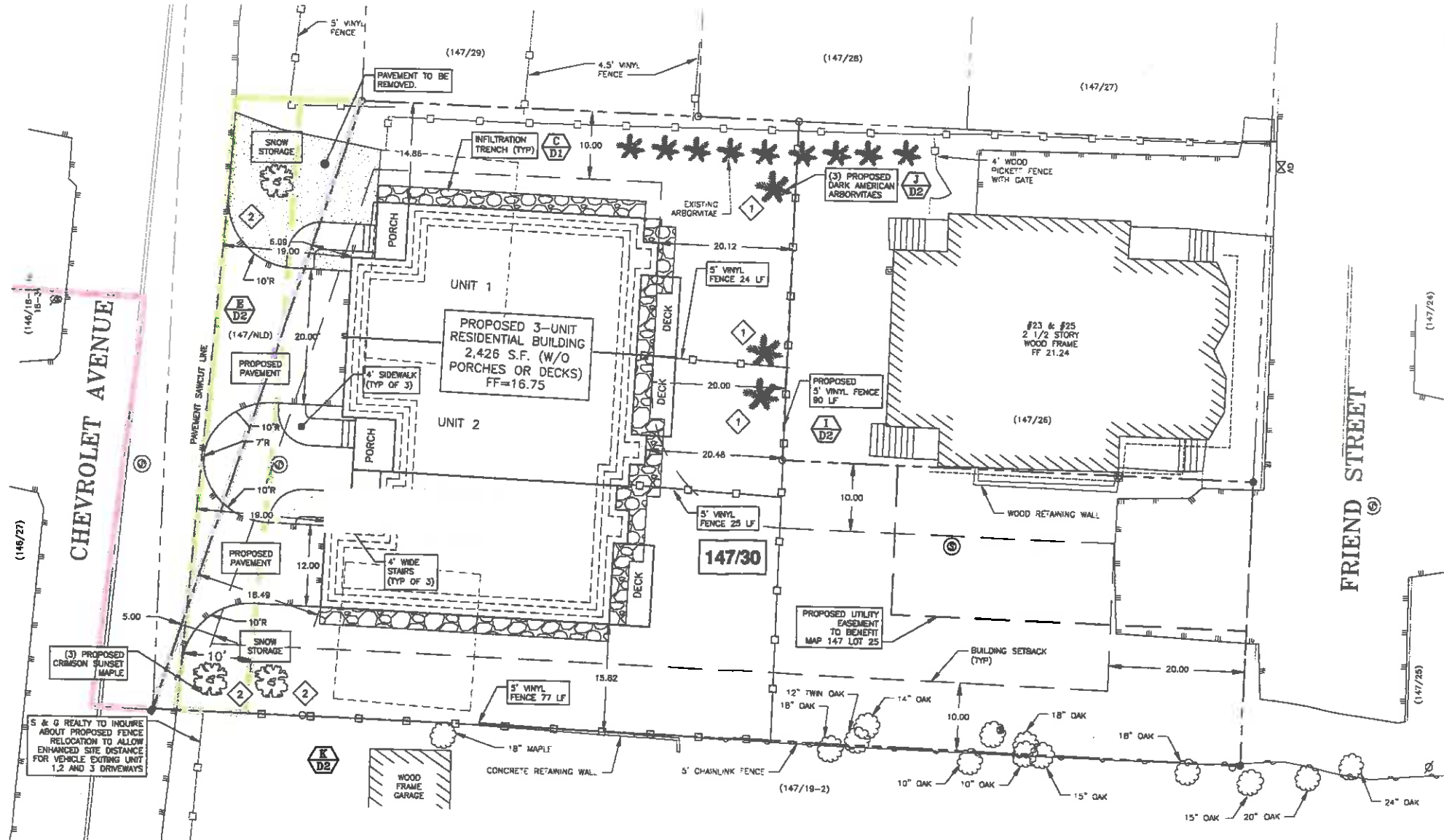
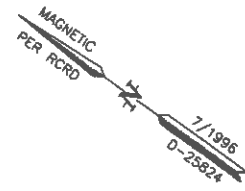
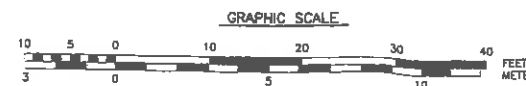
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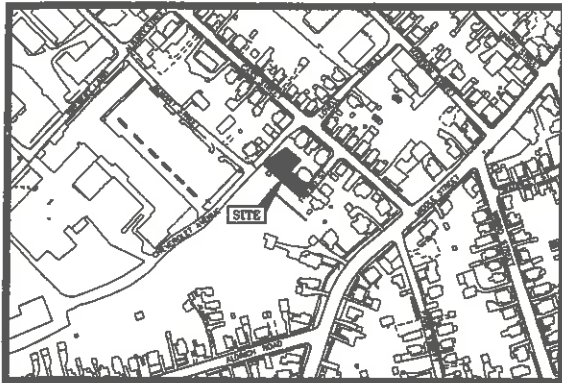
APPROVAL NOTES:

- 1) THIS SITE PLAN SHALL BE RECORDED IN THE ROCKINGHAM COUNTY REGISTRY OF DEEDS.
- 2) ALL IMPROVEMENTS SHOWN ON THIS SITE PLAN SHALL BE CONSTRUCTED AND MAINTAINED IN ACCORDANCE WITH THE PLAN BY THE PROPERTY OWNER AND ALL FUTURE PROPERTY OWNERS. NO CHANGES SHALL BE MADE TO THIS SITE PLAN WITHOUT THE EXPRESS APPROVAL OF THE PORTSMOUTH PLANNING DIRECTOR.
- 3) THE PROPERTY OWNER AND ALL FUTURE PROPERTY OWNERS SHALL BE RESPONSIBLE FOR THE MAINTENANCE, REPAIR AND REPLACEMENT OF ALL REQUIRED SCREENING AND LANDSCAPE MATERIALS.
- 4) ALL REQUIRED PLANT MATERIALS SHALL BE TENDED AND MAINTAINED IN A HEALTHY GROWING CONDITION, REPLACED WHEN NECESSARY, AND KEPT FREE OF REFUSE AND DEBRIS. ALL REQUIRED FENCES AND WALLS SHALL BE MAINTAINED IN GOOD REPAIR.
- 5) THE PROPERTY OWNER SHALL BE RESPONSIBLE TO REMOVE AND REPLACE DEAD OR DISEASED PLANT MATERIALS IMMEDIATELY WITH THE SAME TYPE, SIZE AND QUANTITY OF PLANT MATERIALS AS ORIGINALLY INSTALLED, UNLESS ALTERNATIVE PLANTINGS ARE REQUESTED, JUSTIFIED AND APPROVED BY THE PLANNING BOARD OR PLANNING DIRECTOR.

APPROVED BY THE PORTSMOUTH PLANNING BOARD

CHAIRMAN _____ DATE _____



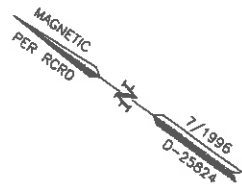


LOCATION MAP SCALE: 1" = 300'

LEGEND:

- N/F NOW OR FORMERLY
- RP RECORD OF PROBATE
- RCRD ROCKINGHAM COUNTY
- 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

- JVA BOUNDARY
- PROPOSED BOUNDARY AND EASEMENT
- EASTERLY BOUNDARY



PLAN REFERENCES:

- 1) STANDARD BOUNDARY SURVEY AT CASS STREET & FRIEND STREET FOR JUDY BROWN 699 MIDDLE STREET PORTSMOUTH, NH 03801. PREPARED BY EASTERLY SURVEYING DATED SEPTEMBER 12, 1995. FINAL REVISION DATE SEPTEMBER 10, 1997. R.C.R.D. PLAN D-25824.
- 2) SUBDIVISION PLAN 660 MIDDLE STREET PORTSMOUTH, NEW HAMPSHIRE ASSESSORS PARCEL: 0147-0019 OWNER: CATHERINE R. WHELAN. PREPARED BY JAMES VERRA AND ASSOCIATES, INC. DATED MAY 28, 2010. FINAL REVISION DATE OCTOBER 25, 2010. R.C.R.D. PLAN D-36752.

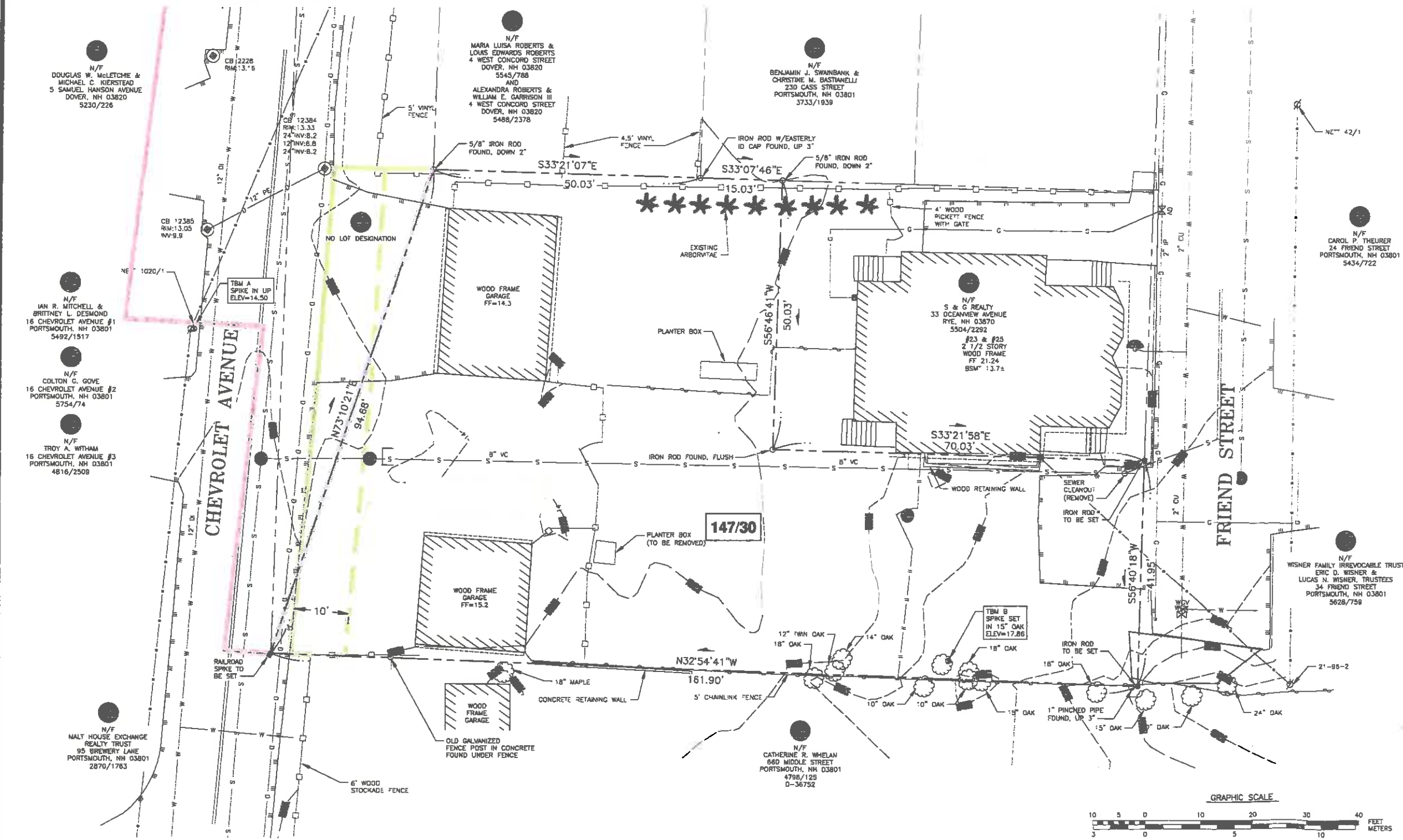


AMBIT ENGINEERING, INC.
Civil Engineers & Land Surveyors
200 Griffin Road - Unit 3
Portsmouth, N.H. 03801-7114
Tel (603) 430-9282
Fax (603) 436-2315

NOTES:

- 1) PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 147 AS LOT 30.
- 2) OWNERS OF RECORD:
S & G REALTY
33 OCEAN VIEW AVENUE
RYE, NEW HAMPSHIRE 03870
5504/2292 (TRACT II)
- 3) PARCEL IS NOT IN A SPECIAL FLOOD HAZARD AREA AS SHOWN ON FIRM PANEL 33015C0259E. EFFECTIVE DATE MAY 17, 2005.
- 4) EXISTING LOT AREA:
10,071 S.F.
0.2312 ACRES
- 5) PARCEL IS LOCATED IN GENERAL RESIDENCE C (GRC) ZONING DISTRICT.
- 6) DIMENSIONAL REQUIREMENTS:
MIN. LOT AREA: 3,500 S.F.
FRONTAGE: 70 FEET
SETBACKS: FRONT 5 FEET
SIDE 10 FEET
REAR 20 FEET
MAXIMUM STRUCTURE HEIGHT: 35 FEET
MAXIMUM STRUCTURE COVERAGE: 35%
MINIMUM OPEN SPACE: 20%
- 7) THE PURPOSE OF THIS PLAN IS TO SHOW THE EXISTING CONDITIONS ON THE SUBJECT PARCEL BOUNDARY FROM PLAN REFERENCE 1: D-25824 DATED 9/12/95.
- 8) VERTICAL DATUM IS MEAN SEA LEVEL NAVD88. BASIS OF VERTICAL DATUM IS REDUNDANT RTN GPS OBSERVATIONS (±0.3').
- 9) THE CITY OF PORTSMOUTH ZONING BOARD OF ADJUSTMENT GRANTED THE FOLLOWING VARIANCES FOR THE SUBJECT PARCEL ON OCTOBER 18, 2016:

ARTICLE 10: SECTION 10.521 FOR CONSTRUCTION OF A THREE UNIT TOWNHOUSE WITH A LOT AREA PER DWELLING UNIT OF 3,357 S.F.



BOUNDARY EXHIBIT

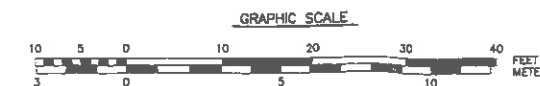
**S&G REALTY
CHEVROLET AVENUE
PORTSMOUTH, N.H.**

NO.	DESCRIPTION	DATE
0	ISSUED FOR COMMENT	5/1/17
REVISIONS		

SCALE 1"=10' MARCH 2017

EXISTING CONDITIONS AND DEMOLITION PLAN

C1



Event Listing by Date

Starting Date: 5/ 1/2017

Ending Date: 12/31/2017

Start End	Type Description	Location	Requestor	Vote Date
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 Portsmouth	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/ 7/2017 5/ 7/2017	WALK Richard Wagner is the contact for this event. This event begins at 2:00 p.m. and ends at 5:00 p.m.	City Hall Lower Parking Lot	AIDS Reponse Seacoast	3/20/2017
5/13/2017 5/13/2017	FUND Ridges Court - Street Closure from 9:00 a.m. to 4:00 p.m. for the Music Hall's 26th Annual Kitchen Tour from 9:00 a.m. to 4:00 p.m. Contact: Ashleigh Tucker Pollock, Special Events Manager & Rental Coordinator 603-766-2202	Ridges Court	Music Hall	2/ 6/2017
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
5/19/2017 5/19/2017	RIDE Josh Pierce is the contact for this event. The commuter breakfast is from 7:00 a.m. to 10:00 a.m. Popovers on Market Square	Market Square at Popovers	Seacoast Area Bicycle Riders	5/ 1/2017
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
5/28/2017 5/28/2017	ROAD RACE Redhook Brewery - Pease Tradeport	Redhook Brewery - Pease Tradeport	Runner's Alley	12/19/2016
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
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
6/17/2017 6/17/2017	WALK Jenelle Dolan, Development Manager is the contact for this event. This event begins at 8:00 a.m. at Strawberry Bank.	Begins and Ends at Strawberry Bank	March of Dimes	4/ 3/2017

Event Listing by Date

Starting Date: 5/ 1/2017

Ending Date: 12/31/2017

Start End	Type Description	Location	Requestor	Vote Date
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
6/24/2017 6/24/2017	PRIDE Crystal Paradis, is the Coordinataor for this event. This event begins at the Portsmouth Public Library and continues as one rainbow down the streets leading to Strawberry Banke.	Library to Strawberry Banke	Seacoast Outright	5/ 1/2017
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/ 4/2017 7/ 4/2017	RACE Rick Mason is the contact for this event. This is the Pack & Boots 5K - for Veteran's Count	TBD	Richard Mason	4/ 3/2017
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/ 8/2017 7/ 8/2017	FUND Allan Scholtz, Secretary is the contact for this event. 8:00 a.m. to 4:00 p.m. collection	Market Square	Portsmouth Professional Fire F	4/ 3/2017
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
7/21/2017 7/23/2017	ART EXH Lennie Mullaney is the contact for this event. This is the annual Wet Paint-out Weekend. The event takes place throughout greater Portsmouth Artists register at NHAA.	Throughout the City	NH Art Association	1/23/2017
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

Event Listing by Date

Starting Date: 5/ 1/2017

Ending Date: 12/31/2017

Start End	Type Description	Location	Requestor	Vote Date
8/19/2017 8/19/2017	BOAT This is the 7th annual Round Island Regatta	Peirce Island Boat Launch	Gundalow Company - Round Island	3/ 6/2017
8/19/2017 8/19/2017	FUND Allan Scholtz, Secretary is the contact for this event. 8:00 a.m. to 4:00 p.m. is the time of this event.	Market Square	Portsmouth Professional Fire F	4/ 3/2017
8/26/2017 8/26/2017	BIKE TOUR Contact: Emily Christian, Logistics Manager - 781-693-5154	Along the Seacoast	National Multiple Sclerosis So	2/ 6/2017
9/ 4/2017 9/ 4/2017	RACE Sister Mary Agnes is the contact for this event. This event begins at 9:00 a.m.	Pease International Tradeport	St. Charles Children's Home	4/ 3/2017
9/16/2017 9/16/2017	WALK Ken La Valley, Chair is the contact for this event. This evening begins at 10:00 a.m. to Noon at Little Harbour School. Registration begins at 8:30 a.m.	Little Harbour School	American Foundation for Suicid	3/ 6/2017
9/17/2017 9/17/2017	RACE Jennie Halstead, Executive Director is 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
9/23/2017 9/24/2017	FESTIVAL Contact: Bruce MacIntyre This is a two day event - Saturday events starting at 10:00 a.m. and ending at 10:00 p.m. Sunday events starting at 1:00 p.m. and ending at 5:00 p.m.	Congress Street, Market Square	Portsmouth Maritime Folk Festi	2/ 6/2017
9/23/2017 9/24/2017	FUND Caroline Amport Piper is the contact person for this event. This event is the Fairy House Tours that runs on Saturday, September 23rd and September 24, 2017. 11:00 a.m. to 3:00 p.m.	South End	Friends of the South End	4/ 3/2017
9/24/2017 9/25/2017	RIDE	Along Route 1A	Granite State Wheelmen, Inc.	11/21/2016
9/24/2017 9/24/2017	WALK Kelly Bosco is the contact for this event. Tel. (603) 606-6590 ext. 2151 kbosco@alz.org	Little Harbour School	Alzheimer's Association	1/23/2017
11/12/2017 11/12/2017	RACE Jay Diener is the contact for this event. This event begins at 8:30 a.m.	Portsmouth High School - Start and Finish	Seacoast Half Marathon	3/20/2017
12/10/2017 12/10/2017	RACE Thomas M. Bringle, Director of Development is the contact for this event. Tel. (603) 724-6080 or tbringle@arthritis.org	Little Harbour School	Arthritis Foundation	1/23/2017

NEWS RELEASE

PS21 - Portsmouth Smart Growth for 21st Century

Contact: Doug Roberts | (603) 431-1925 | dougroberts4123@gmail.com

ps21.info

CREATING VAUGHAN MALL GREEN

– *May 20 Event Will Bring Volunteers and City Together to Create an Inviting, Ecological Community Space in Vaughan Mall* –

(PORTSMOUTH, NH – May 10, 2017) – Growing out of a recent exploration of how to create dynamic, attractive public spaces, Vaughan Mall in downtown Portsmouth will begin its transformation on Saturday, May 20 from an under-appreciated 1970s pedestrian mall to an inviting public space incorporating ecological design.

The VAUGHAN MALL GREEN project, a PS21 initiative undertaken in partnership with the City of Portsmouth, will begin implementation with new landscaping, seating, artwork and a stage area to attract public arts performances. Those interested in participating are invited to email portsmouthsmart21@gmail.com to volunteer.

The Vaughan Mall area between Congress and Hanover streets was identified in recent PS21 placemaking events as a priority for improvement. This project, VAUGHAN MALL GREEN, will combine placemaking with a demonstration of the mall as an environmentally resilient civic space, reflecting Portsmouth's designation as an eco-municipality.

There are three parts to the VAUGHAN MALL GREEN project, whose goal is in part to increase pedestrian activity and make it more welcoming. In the mix are plans to add landscaping using native species and other plantings that aid in the absorption of rain and stormwater runoff. Placemaking ideas developed at previous PS21 events include varied seating options; additional lighting and signs for pedestrians; and live performances and other activities.

The latest news and plans on VAUGHAN MALL GREEN will be available at www.ps21.info | [Facebook](#) | [Twitter](#).

The City of Portsmouth, as part of its planning process, also is considering ways to enhance Vaughan Mall and nearby areas. While these plans may be informed by PS21's **Vaughan Mall Green** project, they are separate efforts. PS21 (Portsmouth Smart Growth for the 21st Century) is an independent, all-volunteer nonprofit group.

PS21 events are presented as part of its mission to stimulate discussion about planning issues affecting Portsmouth. PS21 is a 501(c)(3) nonprofit, and tax-deductible donations to support these free events are welcome.

Event Sponsors: New Hampshire Charitable Foundation, Portsmouth Garden Club, and Portwalk Place

Season Sponsors: Piscataqua Savings Bank and Martha Fuller Clark

Event Partners: City of Portsmouth, Seacoast Media Group, PortsmouthNH.com and The Sound, 3S Artspace, Coruway Film Institute, 3S Artspace, Energize 360, Seacoast Peace Academy and Seacoast Local ###

ABOUT PS21: Portsmouth Smart Growth for the 21st Century (PS21) is an independent, volunteer-led organization that presents ideas and encourages discussion and policy development around planning issues in

Portsmouth, N.H. and the Seacoast. Our goal is to support a vibrant, sustainable, livable, and walkable community compatible with the principles of smart growth, the historic nature of Portsmouth, and the context of the 21st century. PS21 maintains a blog and e-newsletter at www.ps21.info, and archives video of many events.

Past events, all free and open to the public, have included presentations and workshops on: the Islington Street tactical urbanism project; placemaking workshops and discussions; accessory dwelling units in Portsmouth; affordable housing with planner Jennifer Hurley; "Walkable Cities" with author and planner Jeff Speck; parking expert Michael Manville; a walking tour of the city's developing North End; Portsmouth street design by expert and Portsmouth resident Rick Chellman; Seacoast transportation modes; changing cityscapes by Pulitzer Prize-winning architectural critic Robert Campbell; leading Portsmouth to a healthy and vibrant future with Plan NH; and a screening of the architectural film "The Human Scale." www.ps21.info | [Facebook](#) | [Twitter](#)

City of Portsmouth

Department of Public Works



MEMORANDUM

TO: John Bohenko
City Manager

FROM: Jacob Levenson
Solid Waste Sustainability Coordinator

DATE: 5/3/17

SUBJECT: Residential Food Waste Curbside Collection Pilot Program Cost

Within the solid waste industry, residential food waste is considered a harder to divert organic material. Landfill diversion of food waste is an emerging service which requires a higher level of segregation compared to other recyclable materials. In our continued effort to preserve resources, the Department of Public Works (DPW) has been in communication with representatives of Mr. Fox Composting to discuss food waste collection options over the last two years. Mr. Fox Composting is a local Maine company already providing curbside collection of food waste to hundreds of Portsmouth residents and many businesses. According to their website, Mr. Fox Composting charges their customers \$32 per month for weekly curbside collection or \$16 per month for bi-weekly collection; equaling a cost of \$8 per household per collection. This cost includes curbside bins, compostable bags and also finished compost for the customer.

Mr. Fox Composting was recently purchased and the company is now under new ownership. The City has reached out to the new owner and at this time they are unable to officially confirm the curbside pilot program pricing discussed with the former owner. Previously, Mr. Fox quoted the City \$1.20 per household per week to service all 5,250 households in Portsmouth with curbside collection, and \$1.50 per household per week to service less than 2,500 households. This price does not include the cost of curbside bins or compostable bags. The estimated combined cost of Mr. Fox contracted curbside collection of food waste and the necessary equipment is approximately \$120 per household per year. For reference, this equates an average food waste collection cost per pound of \$0.33. Our current collection cost per pound for solid waste, recycling and yard waste range from \$0.04 to \$0.07 depending on the material category. Per pound, food waste curbside collection is over four times more expensive than our cost per pound to collect curbside recycling.

As an example, City staff looked at a food waste curbside collection pilot for Ward 2 where households are located in a more urban environment and may lack the ability to compost food waste on their own property. There are approximately 1,300 households in Ward 2 that receive DPW curbside service for waste, recycling, and yard debris. Should the City decide to offer a

contracted residential food waste curbside collection pilot program to all households in Ward 2, the estimated cost to the City would be \$156,000 for one year of service.

DPW will continue to promote the diversion of food waste from the landfill through our food waste drop-off location at the Recycling Center and also encouraging backyard composting by providing residents with discounted bins to purchase for their home.



CITY OF PORTSMOUTH

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

CITY COUNCIL WORK SESSION

DATE: WEDNESDAY, MAY 17, 2017
LOCATION: CITY HALL – EILEEN DONDERO FOLEY COUNCIL CHAMBERS
TIME: 6:30PM
SUBJECT: WATER/SEWER BUDGET

A G E N D A

- I. Call to Order – Jack Blalock, Mayor
- II. Presentation of FY18 Water & Sewer Budget
- III. Questions
- IV. Adjournment

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

NOTICE TO MEMBERS OF THE PUBLIC WHO ARE HEARING IMPAIRED: If you require assistance, contact Dianna Fogarty, Human Resources Director, at 603-610-7270, one week before the meeting to make arrangements.



CITY OF PORTSMOUTH

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

CITY COUNCIL BUDGET FY18 REVIEW WORK SESSION

DATE: MONDAY, MAY 22, 2017

LOCATION: CITY HALL – EILEEN DONDERO FOLEY COUNCIL CHAMBERS

TIME: 6:30PM

SUBJECT: FY18 BUDGET REVIEW

A G E N D A

- I. Call to Order – Jack Blalock, Mayor
- II. Introduction – John P. Bohenko, City Manager
- III. Review of Pro-forma Resolutions for Budget Adoption
- IV. Discussion of Proposed FY18 Operating Budgets
- V. Discussion of Proposed FY18 Non-Operating Budgets
- VI. Adjournment

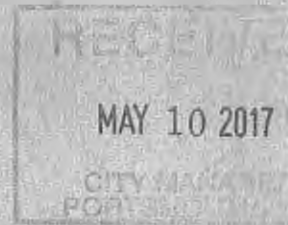
KELLI L. BARNABY, MMC, CMC, CNHMC
CITY CLERK

NOTICE TO MEMBERS OF THE PUBLIC WHO ARE HEARING IMPAIRED: If you require assistance, contact Dianna Fogarty, Human Resources Director, at 603-610-7270, one week before the meeting to make arrangements.

CITY OF PORTSMOUTH

LEGAL DEPARTMENT

MEMORANDUM



DATE: May 10, 2017
TO: JOHN P. BOHENKO, CITY MANAGER
FROM: ROBERT P. SULLIVAN, CITY ATTORNEY
RE: ASST. MAYOR SPLAINE CHARTER QUESTIONS

A handwritten signature or set of initials, possibly "RS", written in dark ink.

At the City Council meeting of May 1, 2017, Assistant Mayor Splaine posed four (4) questions related to the Charter Amendment process for Legal Department response. Those questions and my responses follow.

1. *What are deadlines of placing City Charter amendments for citizens to vote?*

The deadlines are difficult to establish with precision due to the great number of variables contained in state law. However, a very practical deadline is established by the fact that any charter amendment question be on the ballot for referendum vote on November 7, 2017. To meet the printing deadline for that date the City Clerk needs to have the actual approved charter amendment proposal no later than September 14, 2017.

The answer to the following questions will be of assistance to understanding the answer to this question as well. See in particular the forty-five (45) days that state agencies must be given to review any charter amendments before those amendments could be placed on a ballot for referendum vote (contained in response #2).

2. *What are the restrictions or limitations concerning the types of issues that may be voted on, considering that efforts to put some Charter amendments on the ballot two years ago were unsuccessful?*

The Charter is not an ordinance. Rather, it is a document that sets out the framework of local government. Therefore, the first limitation governing

charter amendment proposals is that they must address the form and framework of City government and not any other topic.

Thereafter, a charter amendment proposal must be consistent with the constitution and laws of the State of New Hampshire. No proposal will be lawful if it either seeks to pre-exempt the authority of state government or creates a local government provision which is not authorized by the state legislature. .

To determine compliance with the foregoing, any charter amendment proposal must pass not only City legal review, but also review by the State of New Hampshire Offices of the Attorney General, Secretary of State and Department of Revenue Administration. Each of those state entities has forty-five (45) days to conduct that review before the City Clerk would be able to print a ballot containing a charter amendment referendum question. In the case of a charter amendment regarding the Police Commission several years ago, the Secretary of State found that the proposal violated state law.

3. *Specifically for City Council – initiated Charter amendments, what is the required schedule and process?*

Please see attached memorandum addressed to City Manager John P. Bohenko, dated April 24, 2017 which responds to this question in detail.

4. *Specifically for citizen – initiated Charter amendments, what are the petition requirements and deadlines?*

Attached are copies of RSA 49-B:4-a and 49-B:5.


As your review will indicate, the 2017 amendments to this law have created a very confusing provision for citizen petition initiated charter amendments. It is at least apparent that any citizen initiated charter amendment needs to be provided to the state agencies for review (see answer to #1) no later than sixty-eight (68) days prior to the City Clerk's printing deadline (see answer to #1), or July 8, 2017.

The basic advice that I would offer to any citizen desiring to follow this approach is to commencement immediately

attachments

**CITY OF PORTSMOUTH
LEGAL DEPARTMENT
MEMORANDUM**

DATE: April 24, 2017
TO: JOHN P. BOHENKO, CITY MANAGER
FROM: KELLI L. BARNABY, CITY CLERK
ROBERT P. SULLIVAN, CITY ATTORNEY
RE: CHARTER AMENDMENT TIMELINE

KLB


This memorandum will respond to your request for a timeline indicating the actions and steps necessary for the process of a Charter Amendment to be initiated by the City Council (as opposed to citizen petition) in order to meet the election date of November 7, 2017 for the required referendum vote.

The answer to this question is provided by RSA 49-B:5 which in turn references RSA 49-B:4-a for the review and approval process required by the Secretary of State, Attorney General and the Commissioner of the Department of Revenue Administration. Briefly, the process is as follows:

1. The City Council votes to hold a public hearing on a specific Charter Amendment RSA 49-B:5 I.
2. The notice of that public hearing is published in a newspaper having general circulation in the City at least seven (7) days prior to the hearing. The notice must contain the actual text of the proposed amendment and a brief explanation. RSA 49-B:5 I.
3. Subsequent to the public hearing if the Council votes to proceed the City Clerk is required to file a report regarding the proposed Charter Amendment with the Secretary of State, the Attorney General and the Commissioner of the Department of Revenue Administration. Those entities then have fourteen (14) days to notify the City Clerk in writing of receipt of the report. RSA 49-B:4-a (d).
4. Those entities then have forty-five (45) days after the receipt of report to review and approve the proposed amendment and give notice to the City Clerk of that determination. Failure to specify objections to the Charter Amendment within that forty-five (45) day period, "shall constitute approval" by those entities. RSA 49-B:4-a(d).
5. The City Councilors may then order the proposed amendment to be placed on the ballot at the next regular municipal election. RSA 49-B:5 I (b).

Based on the foregoing the minimal timeline appears to be as follows:

a.	City Council vote to hold a public hearing	Seven (7) day notice required plus two (2) days to place advertisement in newspaper	9 days
b.	Notice to state agencies	Fourteen (14) days	14 days
c.	State Agency Response Time	Forty-five (45) days	<u>45</u> days 68 days

Given that the City Clerk must file her final ballot form for printing no later than September 14, 2017, then the first step in the foregoing process must take place prior to July 8, 2017. Given the current schedule of City Council meetings it would appear that the regular Council meeting date at which the Council must vote on a specific Charter Amendment in order to meet the foregoing timeline is June 19, 2017.

The foregoing assumes the minimum possible deadlines for achieving the various actions required by statute. It assumes, for example, that the City Clerk can get a notice of hearing published in two (2) days and not three (3). Thus, in order to allow sufficient time for every step to be taken and still have some time to accommodate procedural issues which might arise, it is recommended that the City Council actually take a vote on any proposed Charter Amendments at the Council meeting of June 5, 2017.

TITLE III TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

CHAPTER 49-B HOME RULE--MUNICIPAL CHARTERS

Adoption of Municipal Charter

Section 49-B:4-a

49-B:4-a Review and Approval by State Departments. –

I. The chairman of the charter commission, if any, and otherwise the municipal clerk shall file a report, which shall include the name and address of the clerk and the chairman of the charter commission, with the secretary of state, the attorney general, and the commissioner of the department of revenue administration as follows:

(a) The chairman of the charter commission shall file a copy of the preliminary report relative to any new municipal charter or charter revision at the same time the preliminary report is filed with the municipal clerk pursuant to RSA 49-B:4, VI.

(b) Within 10 days after the filing of the report relative to any charter amendment, if initiated by the municipal officers, the municipal clerk shall file a certified copy of the report.

(c) Promptly after the filing of the petitioners' affidavit relative to a charter amendment, the municipal clerk shall file a certified report consisting of a copy of said affidavit.

(d) Within 14 days of receipt of such report, the secretary of state, the attorney general, and the commissioner of the department of revenue administration shall notify in writing the municipal clerk and the chairman of the charter commission, if any, of his or her receipt. Within 45 days after the receipt of the report the secretary of state, attorney general, and commissioner of the department of revenue administration shall review the proposed charter, charter revision, or charter amendment to insure that it is consistent with the general laws of this state, and shall give notice to the municipal clerk approving or disapproving the proposed charter.

II. If the secretary of state, the attorney general, or the commissioner of the department of revenue administration does not approve, the proposed charter question shall not be placed on the municipal ballot unless the objections to the proposed charter are resolved as provided in this section. If the proposed charter amendment was initiated by a petition, official petition forms shall not be provided. The secretary of state, attorney general, and commissioner of the department of revenue administration shall specify their objections in writing to the municipal clerk, and to the petitioners' committee if relative to a charter amendment initiated by such petitioners' committee, within the period of time allowed for review and shall offer recommendations for changes in language which would correct any inconsistencies they may find in the proposed charter to be voted upon. Failure to specify objections to a proposed charter within 45 days shall constitute approval by the secretary of state, attorney general, or the commissioner of the department of revenue administration.

III. Upon receiving notice of such objections, the charter commission may make such changes as appear necessary and resubmit the proposed charter within 30 days to the official or officials who raised the objections. Such officials shall thereafter make reasonable efforts to review the changes and provide notice of approval or disapproval to the municipal clerk in time to enable the charter commission to file its final report by the deadline stated in RSA 49-B:4-b.

IV. The governing body of the municipality may seek judicial review of a decision of the secretary of state, attorney general, or the commissioner of the department of revenue administration by appeal in superior court, pursuant to RSA 49-B:10, IV.

Source. 2014, 292:2, eff. Sept. 30, 2014.

TITLE III TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

CHAPTER 49-B HOME RULE--MUNICIPAL CHARTERS

Amendment of Municipal Charter

Section 49-B:5

49-B:5 Charter Amendments, Procedure. –

I. The municipal officers may determine that one or more amendments to the municipal charter are necessary and shall, by order, provide for notice and hearing on them. The notice of the hearing shall be published in a newspaper having general circulation in the municipality at least 7 days prior to the hearing, and shall contain the text of the proposed amendment and a brief explanation. The hearing shall be conducted by the municipal officers or a committee appointed by them. If substantive changes are made to the proposed amendment, a hearing on the modified amendment shall be held. Notice of the hearing and the conduct thereof shall be as provided in this paragraph.

(a) Within 7 days after the last public hearing, the municipal officers or the committee appointed by them shall file with the municipal clerk a report containing the proposed amendment. In the case of a report of an appointed committee, a copy shall be filed with the municipal officers.

(b) Within 7 days after receiving approval from the secretary of state, the attorney general, and the commissioner of the department of revenue administration under RSA 49-B:4-a, the municipal officers may order the proposed amendment to be placed on a ballot at the next regular municipal election. In the case of municipalities with biennial elections, the municipal officers may order amendments to be placed on the ballot at either the next regular municipal election or at a special municipal election that occurs not less than 60 days after the order.

(c) Each amendment shall be limited to a single subject, but more than one section of the charter may be amended as long as it is germane to that subject.

(d) Alternative statements of a single amendment are prohibited.

II. On the written petition of a number of voters equal to at least 15 percent of the number of ballots cast in a municipality at the last regular municipal election, but in no case fewer than 10 voters, the municipal officers shall, by order, provide that proposed amendments to the municipal charter be placed on a ballot in accordance with the procedures set out in paragraphs II-a through V:

(a) Each amendment shall be limited to a single subject but more than one section of the charter may be amended as long as it is germane to that subject.

(b) Alternative statements of a single amendment are prohibited.

II-a. The following procedure shall be used in the alternative method set out in paragraph II:

(a) Any 5 voters of the municipality may file with the municipal clerk an affidavit stating that they shall constitute a petitioners' committee. Such affidavit shall be signed by the members of such committee and an additional 20 voters of the municipality and shall include:

(1) The language of each proposed amendment.

(2) The names and addresses of the committee members.

(3) The address to which all notices to the committee are to be sent.

(b) Each signature on the affidavit required by subparagraph II-a(a) shall be included in the clerk's count of the number of signatures required by paragraph II unless a signatory has signed both the affidavit and the petition, in which case the signature shall be counted only once.

(c) Promptly after the affidavit is filed by the petitioners' committee, the clerk shall file a certified copy of the affidavit, including the proposed amendment, for review of the proposed amendment in accordance with RSA 49-B:4-a. Promptly after receiving approval of the proposed amendment from the state officials under RSA 49-B:4-a, the clerk shall issue petition form blanks to the committee. The petition forms shall read substantially as follows: "Each of the undersigned voters respectfully requests the municipal officers to provide for the amendment(s) of the municipal charter as set out below. If more than one subject is included in a petition, each subject shall be addressed in a separate amendment".

III. (a) The petitioners' committee, or voters of the municipality designated by the committee, may circulate the petition and file it in proper form. Each signature affixed to a petition shall be in ink or other indelible instrument and shall be followed by the place of domicile of the voter with street and number, if any. No petition shall contain any party or political designation.

(b) The clerk shall note the date of each petition form issued and all petitions, unless sooner filed, shall become null and void for every purpose on the 120th day after the date of issue.

(c) Each petition form shall have printed on its back an affidavit to be executed by the circulator, stating that he personally circulated the paper, the number of signatures thereon, that all the signatures were affixed in his presence, that he believes them to be genuine signatures of the persons whose names they purport to be, that each signer has signed no more than one petition, and that each signer had an opportunity before signing to read the petition.

(d) Petition forms shall be assembled as one instrument and filed at one time with the clerk. The clerk shall note thereon the date of filing.

IV. Within 20 days after the petition is filed, the clerk shall complete a certificate as to its sufficiency, specifying, if it is insufficient, the particulars wherein it is defective, shall promptly send a copy of the certificate to the petitioners' committee by mail, and shall file a copy with the municipal officers.

(a) A petition certified insufficient for lack of the required number of valid signatures may be amended once if the petitioners' committee files a notice of intention to amend it with the clerk within 2 days after receiving the copy of his certificate. Within 10 days after the date of filing of the notice of intention, the committee may file a supplementary petition to correct the deficiencies in the original petition. Such supplementary petition shall in form and content comply with the requirements for an original petition under paragraph III.

(b) Within 5 days after the filing of a supplementary petition the clerk shall complete and file a certificate as to its sufficiency in the manner provided for in an original petition.

(c) When an original or supplementary petition has been certified insufficient, the committee may, within 2 days after receiving the copy of the clerk's certificate, file a request with the municipal officers for review. The municipal officers shall inspect the petitions and shall make

due certificate thereof, copies of which shall be filed with the municipal clerk and mailed to the committee. The certificate of the municipal officers shall be a final determination of the sufficiency of the petitions.

(d) Any petitions finally determined to be insufficient shall be void. Such petitions shall be stamped void by the clerk and shall be sealed and retained by the clerk in the manner required for secret ballots.

V. (a) Within 10 days of receipt of a report that a petition is sufficient, the municipal officers shall by order provide for and issue notice of a public hearing on the proposed amendment. The notice of the hearing shall be published in a newspaper having general circulation in the municipality at least 7 days prior to the hearing, and shall contain the text of the proposed amendment and a brief explanation. The hearing shall be conducted by the municipal officers and no substantive changes may be made to the amendment.

(b) Within 7 days after the public hearing, the municipal officers shall file with the municipal clerk a report containing the proposed petitioned amendment and shall order the proposed amendment to be placed on the ballot at the next regular municipal election. In the case of municipalities with biennial elections, the municipal officers shall order the amendments to be placed on the ballot at either the next regular municipal election or at a special municipal election that occurs not less than 60 days after the date of the order.

Source. 1979, 241:1. 1988, 223:4, 5. 1991, 304:13. 1992, 96:2, 3. 1995, 53:2. 2005, 38:1. 2008, 230:1, 2, eff. Aug. 19, 2008. 2014, 292:2, eff. Sept. 30, 2014. 2016, 224:1-5, eff. Aug. 8, 2016.

OFFICE OF THE CITY CLERK

MEMORANDUM

RECEIVED

MAY 10 2017

TO: John P. Bohenko, City Manager
FROM: Kelli L. Barnaby, City Clerk *KLB*
DATE: May 10, 2017
SUBJECT: City Council Rules Re: Public Comment and Public Hearings

As you are aware, the City Council acting in regular session on Monday, May 1, 2017 voted the following motions relative to the above referenced subject.

Public Comment Session

Voted that residents, business owners and other taxpayers of the City of Portsmouth will speak prior to other speakers at public comments, within existing guidelines for public comment.

Voted that speakers cannot relinquish their time to other speakers during the Public Comment Session.

Public Hearings

Voted that residents, business owners, and other taxpayers of the City of Portsmouth will follow current rules regarding time allotments at Public Hearing. Others will be limited to 5 minutes for just one round of comments.

If you should have any questions or require additional information, please do not hesitate to contact me.

ACTION ITEMS

PARKING and TRAFFIC SAFETY COMMITTEE MEETING

8:00 A.M. – May 4, 2017

City Hall – Eileen Dondero Foley Council Chambers

MEMBERS PRESENT: Brad Lown, Chairman
John Bohenko, City Manager
Peter Rice, Public Works Director
James Heinz, Deputy Fire Chief
Frank Warchol, Police Captain
Members: Harold Whitehouse, Ronald Cypher, Shari
Donnermeyer and Mary Lou McElwain

CITY STAFF PRESENT: Eric Eby, Parking and Transportation Engineer
Juliet Walker, Planning Director

ABSENT: Member: Ted Gray

Action Items requiring an immediate ordinance during the next Council meeting:
none

Temporary Action Items requiring an ordinance during the annual omnibus:

Action Item: VII.C. - To extend time limits on four 15-minute parking spaces (8 AM to 6 PM, 7 days a week) on Marcy Street, by Sanders Fish Market.

1. Accepted and placed on file meeting minutes from April 6, 2017.
2. Accepted and placed on file the financial report dated May 2017.
3. Public Comment. Five Speakers: Ralph Dibernardo, Brenna Cavanaugh, Patricia Bagley, Brian Birner and Rick Becksted
4. Presentation:
Eric Eby presented the 2016 Downtown Parking Utilization Survey Results.
No action required by Committee.
5. (VII.A.) **Action Item:** Request for Valet Service license renewals for locations on State Street and Bow Street, by Atlantic Parking Services – **VOTED to renew valet parking licenses on Bow Street and 96 State Street for Atlantic Parking Services.**

6. (VII.B.) **Action Item:** Request for Valet Service license renewal for Hanover Street, by The One Hundred Club – **VOTED to renew the valet parking license on Hanover Street for The One Hundred Club.**
7. (VII.C.) **Action Item:** Request to extend time limits on four 15-minute parking spaces on Marcy Street, by Sanders Fish Market – **VOTED to extend time limits on four 15-minute parking spaces (8 AM to 6 PM, 7 days a week) on Marcy Street, by Sanders Fish Market.**
8. (VIII.A.) **Action Item:** Parrott Avenue parking lot, clarification on PTS directive from City Council – No action required by the Committee.
9. (VIII.B.) **Action Item:** Report back on request for STOP sign on Cleveland Drive at Taft Road – **VOTED to accept staff recommendation that no change be made to the intersection.**
10. Public Comment. Two Speakers: Patricia Bagley and Rick Becksted
11. Informational:
Josh Pierce, President, of the Seacoast Area Bicycle Riders (SABR) presented to the Committee. No action required by the Committee.
12. Miscellaneous:
Committee discussion on various items.
13. Adjournment – At 8:54 a.m., **VOTED** to adjourn.

Respectfully submitted by:

Amy Chastain
Secretary to the Committee

MEETING MINUTES

PARKING and TRAFFIC SAFETY COMMITTEE MEETING

8:00 A.M. – May 4, 2017
City Hall – Eileen Dondero Foley Council Chambers

I. CALL TO ORDER:

Chairman Lown called the meeting to order at 8:00 a.m.

II. ROLL CALL:

Members Present:

Chairman, Brad Lown
City Manager, John Bohenko
Public Works Director, Peter Rice
Deputy Fire Chief, James Heinz
Police Captain, Frank Warchol
Member, Harold Whitehouse
Member, Ronald Cypher
Member, Shari Donnermeyer
Alternate Member, Mary Lou McElwain

City Staff Present:

Parking and Transportation Engineer, Eric Eby
Planning Director, Juliet Walker

Absent:

Member, Ted Gray

III. ACCEPTANCE OF THE MINUTES:

Harold Whitehouse moved to accept the meeting minutes of April 6, 2017. Seconded by Shari Donnermeyer. **Motion passed 9-0.**

IV. FINANCIAL REPORT:

Public Works Director Rice moved to accept the financial report dated May 2017. Seconded by Shari Donnermeyer. **Motion passed 9-0.**

V. PUBLIC COMMENT:

Ralph Dibernardo spoke to vehicles parking on the grass strip between the curb and sidewalk, specifically on Aldrich Road, Woodbury Avenue, Edmond Avenue and Islington Street. He requested the Committee act to prevent it.

Brenna Cavanaugh spoke to implementing a residential parking program on Summer Street due to the increase of on-street parking by nonresidents. She expressed concern about motorcycle and moped noise. She requested the Committee investigate the noise issue. She thanked Public Works Director Rice and Police Captain Warchol for the snow removal program.

Patricia Bagley thanked the Committee for moving the Zagster bike corral from Market Square. She recommended changing the name of the Committee to Traffic Safety and Parking because safety is important.

Brian Birner spoke to vehicle idling on State Street when the Memorial Bridge lift span is opened [this allows boat traffic passage on the Piscataqua River]. He presented a photograph of signage used in Kittery, Maine and requested the Committee install similar signage. He suggested utilizing the City's flashing message board signs in the area and disseminating information to the public about vehicle idling.

Rick Becksted spoke to action item VIII.B. [STOP sign on Cleveland Drive and Taft Road]. He suggested installing a removable speed bump or raised speed tables as a pilot program. He requested information about the Bartlett Street and Thornton Street public meeting. Public Works Director Rice confirmed the meeting is scheduled for Thursday, May 11, 2017. The meeting will be held at the New Franklin School cafeteria at 6:30 PM.

VI. PRESENTATION:

2016 Downtown Parking Utilization Survey Results. Eric Eby spoke to John Burke's 2016 parking utilization study of the downtown area. He presented a map of the data compiled by Mr. Burke. He stated the survey included both on-street parking and off-street public parking lots. The survey was conducted for a total of 6 days: a weekday and Saturday in June, August and October, from noon to 7 PM.

Mr. Eby's most substantial finding was parking continued to increase greatly over the 85% utilization rate. (Eighty-five percent is the desired utilization rate). The survey also showed that drivers were seeking less expensive parking areas because of the high parking demand in downtown. The survey results showed the free parking lots, located at Parrot Avenue, McIntyre (during public use times on Saturday, Sunday and Holidays) and Prescott Park, were all exceeding 94% occupancy.

Mr. Eby stated staff recommended no adjustment to the meter zone designations until the new parking garage opens. He noted there was one exception by Portwalk Place: a privately-owned street (it should be added to the High-Occupancy Meter (HOM) Zone).

The Committee discussed the 70% occupancy rate at the Masonic Temple lot and the Connect Community Church (CCC) lot, which was not counted in 2016, but was recorded at 25% occupancy rate in 2015. The Committee was notified that the free shuttle would be operating from the CCC lot this summer.

No action required by Committee.

VII. NEW BUSINESS:

A. Request for Valet Service license renewals for locations on State Street and Bow Street, by Atlantic Parking Services. Eric Eby stated this action item included the annual renewal of the valet parking licenses on Bow Street and 96 State Street for Atlantic Parking Services. The terms and conditions were the same as last year and staff recommended granting the renewals. The agreements would be effective on July 1, 2017.

Mary Lou McElwain spoke to previous issues, like sandwich boards obstructing sidewalks and double parking. She requested enforcement. City Manager Bohenko confirmed enforcement would be addressed and that copies of the agreements would be sent to Committee members.

Shari Donnermeyer moved to renew the two valet parking licenses. Seconded by Ron Cypher.

Vote 9-0, to renew valet parking licenses on Bow Street and 96 State Street for Atlantic Parking Services.

B. Request for Valet Service license renewal for Hanover Street, by The One Hundred Club. Eric Eby stated this action item included the annual renewal of the valet parking license for the use of the loading zone on Hanover Street. The terms and conditions were the same as last year and staff recommended granting the renewal. The agreement would be effective on July 1, 2017.

Shari Donnermeyer moved to renew the valet parking license. Seconded by Harold Whitehouse.

A copy of the proposal was not submitted in the packet. Several Committee members requested it. City Manager Bohenko stated copies of the executed agreement would be sent to the members.

The Committee also discussed the valet parking location on Pleasant Street and State Street. Mr. Eby stated the agreement with Atlantic Parking Services for this location would expire on June 30, 2017. They had expressed interest in renewing it. However, another valet service had also expressed interest in the same location. City Manager Bohenko said that it might need to go out to bid because of the competing interest. He stated more information would be forthcoming.

Vote 9-0, to renew the valet parking license on Hanover Street for The One Hundred Club.

C. Request to extend time limits on four 15-minute parking spaces on Marcy Street, by Sanders Fish Market. Eric Eby stated that Mike Sanders, owner, requested the spaces in front of the business be extended to 6PM on weekdays, Saturdays and Sundays. The current time limit is 8 AM to 4 PM from Monday through Saturday. Mr. Sanders requested the hours be extended because his business is open 7 days a week. Parking is immediately taken once the time limits expire.

City Manager Bohenko moved to extend time limits on the four 15-minute parking spaces. Seconded by Mary Lou McElwain.

Vote 9-0, to extend time limits on four 15-minute parking spaces (8 AM to 6 PM, 7 days a week) on Marcy Street, by Sanders Fish Market.

City Manager Bohenko stated this action item would be included in the Annual Omnibus Ordinance Change.

VIII. OLD BUSINESS:

A. Parrott Avenue parking lot, clarification on PTS directive from City Council – Chairman Lown spoke to this issue. He stated the action item was discussed again at the City Council meeting on May 1, 2017. They decided to schedule a future Work Session. City Manager Bohenko stated the Work Session would include, but not be limited to, the following topics: surface parking, the residential parking program, scope of services, and reviewing the Guiding Parking Principles adopted in 2012. He stated the Work Session would be scheduled in the next two or three months. It will focus on what the City Council wants staff to review based on the topics above.

Harold Whitehouse spoke to the stipulations associated with the Parrott Avenue lot and the view restrictions at the Governor John Langdon House. City Manager Bohenko stated the Parrott Avenue lot stipulations were cleared with Saint John the Divine in New York. They consented to remove the restrictions. He assured the Committee and the public that any changes would include public input and meetings.

No action required by Committee.

D. Report back on request for STOP sign on Cleveland Drive at Taft Road. Eric Eby stated that in response to a request from a resident of Taft Road for STOP signs on Cleveland Drive, he conducted traffic counts and vehicle observations at the intersection over a two-week period in April. The reasons given for requesting the STOP signs were to slow speeding vehicles and provide safer conditions when sight lines are restricted due to snow banks.

Mr. Eby stated the results of the speed measurements indicated that the average speed of vehicles was 19 mph, slightly less than the posted speed limit of 20 mph. A traffic count conducted at the intersection revealed that peak hour volumes were less than 40 vehicles per hour, with equal volumes on all four approaches. It's equivalent to less than one vehicle per minute at the intersection during the busiest time of the day. The volumes fall far below the

minimum levels for warranting an all-way stop controlled intersection. Research by the Portsmouth Police Department revealed that no accidents have occurred at this intersection over the past 5 years. Sight lines exceed minimum requirements in all directions when snow banks are not present.

Mr. Eby spoke to a citizen's suggestion to install a removable speed bump or raised speed table. He stated the effectiveness of the proposed items could not be measured because the vehicle speeds were already below the posted speed limit. Given the average vehicle speeds below the posted speed limit, the low volume of traffic, and the recent accident history, he recommended that no changes be made to the intersection. During times of limited sight lines, due to snow banks, drivers can safely creep into the intersection for better visibility: low speeds and volumes minimize the risk of an accident.

Harold Whitehouse moved to accept staff recommendation that no change be made to the intersection. Seconded by Ron Cypher.

The Committee discussed notifying the neighborhood association and providing education on STOP sign warrants.

Vote 9-0, to accept staff recommendation that no change be made to the intersection.

IX. PUBLIC COMMENT:

Rick Becksted spoke to the Middle Street project and asked for an update. He emphasized the importance of public input and requested it be allowed at the Work Session.

Patricia Bagley spoke to the stipulations/covenants matter regarding Saint John the Divine in New York.

X. INFORMATIONAL:

Seacoast Area Bicycle Riders (SABR) by Josh Pierce: Mr. Pierce provided an overview of the non-profit bicycle advocacy group. He expressed support for the City's complete streets program, specifically the Middle Street / Lafayette Road Bicycle and Pedestrian Corridor Project. He recommended that educational clinics be held to educate bicyclists on state laws. He stated he would be working with the Portsmouth Police Department on enforcement issues. Mr. Pierce thanked Mary Lou McElwain for inviting him to present and the Committee for their time.

XI. MISCELLANEOUS:

Harold Whitehouse expressed concern regarding the City's narrow streets and the construction of bike lanes and uses on them. He expressed concern regarding the Zagster bike corral location on Parrott Avenue and requested a temporary STOP sign be installed during the program. He spoke to pedestrian safety in crosswalks. He also asked about enforcement regarding vehicles

parking on the grass between the curb and sidewalk in the City. He thanked the Police Department for their enforcement work and cited two published police logs in the Portsmouth Herald.

Public Works Director Rice spoke to the issue of vehicle parking between the curb and sidewalk. He stated the issue would be addressed once a Parking Director was hired and that a possible solution may be to assign Parking Enforcement Officers to enforcement of areas outside of the downtown.

Ron Cypher spoke to a parking issue on Cottage Street. He noticed that cars are parking on the right side of Cottage Street in the travel lane. He requested staff review the situation.

Mary Lou McElwain spoke to crosswalk issues. She requested staff review crosswalk conditions at Marcy Street and Pleasant Street, 213 South Street and New Castle Avenue, and possibly install crosswalk weebles.

Shari Donnermeyer spoke in support of the crosswalk on Islington Street at White Heron. The Committee was informed that the temporary crosswalk pilot project would begin in June for the peak season.

XII. ADJOURNMENT – At 8:54 AM, **voted** to adjourn.

Respectfully submitted by:

Amy Chastain
Secretary to the Committee

THE NEW YORK TIMES BESTSELLER

THINKING,
FAST AND SLOW



DANIEL
KAHNEMAN

WINNER OF THE NOBEL PRIZE IN ECONOMICS

"[A] masterpiece . . . This is one of the greatest and most engaging collections of insights into the human mind I have read." —WILLIAM EASTERLY, *Financial Times*

SPEAKING OF AVAILABILITY

"Because of the coincidence of two planes crashing last month, she now prefers to take the train. That's silly. The risk hasn't really changed; it is an availability bias."

"He underestimates the risks of indoor pollution because there are few media stories on them. That's an availability effect. He should look at the statistics."

"She has been watching too many spy movies recently, so she's seeing conspiracies everywhere."

"The CEO has had several successes in a row, so failure doesn't come easily to her mind. The availability bias is making her overconfident."

AVAILABILITY, EMOTION, AND RISK

Students of risk were quick to see that the idea of availability was relevant to their concerns. Even before our work was published, the economist Howard Kunreuther, who was then in the early stages of a career that he has devoted to the study of risk and insurance, noticed that availability effects help explain the pattern of insurance purchase and protective action after disasters. Victims and near victims are very concerned after a disaster. After each significant earthquake, Californians are for a while diligent in purchasing insurance and adopting measures of protection and mitigation. They tie down their boiler to reduce quake damage, seal their basement doors against floods, and maintain emergency supplies in good order. However, the memories of the disaster dim over time, and so do worry and diligence. The dynamics of memory help explain the recurrent cycles of disaster, concern, and growing complacency that are familiar to students of large-scale emergencies.

Kunreuther also observed that protective actions, whether by individuals or governments, are usually designed to be adequate to the worst disaster actually experienced. As long ago as pharaonic Egypt, societies have tracked the high-water mark of rivers that periodically flood—and have always prepared accordingly, apparently assuming that floods will not rise higher than the existing high-water mark. Images of a worse disaster do not come easily to mind.

AVAILABILITY AND AFFECT

The most influential studies of availability biases were carried out by our friends in Eugene, where Paul Slovic and his longtime collaborator Sarah Lichtenstein were joined by our former student Baruch Fischhoff. They carried out groundbreaking research on public perceptions of risks, including a survey that has become the standard example of an availability bias. They asked participants in their survey to consider pairs of causes of death: diabetes and asthma, or stroke and accidents. For each pair, the subjects indicated the more frequent cause and estimated the ratio of the two frequencies. The judgments were compared to health statistics of the time. Here's a sample of their findings:

- Strokes cause almost twice as many deaths as all accidents combined, but 80% of respondents judged accidental death to be more likely.
- Tornadoes were seen as more frequent killers than asthma, although the latter cause 20 times more deaths.
- Death by lightning was judged less likely than death from botulism even though it is 52 times more frequent.
- Death by disease is 18 times as likely as accidental death, but the two were judged about equally likely.
- Death by accidents was judged to be more than 300 times more likely than death by diabetes, but the true ratio is 1:4.

The lesson is clear: estimates of causes of death are warped by media coverage. The coverage is itself biased toward novelty and poignancy. The media do not just shape what the public is interested in, but also are shaped by it. Editors cannot ignore the public's demands that certain topics and viewpoints receive extensive coverage. Unusual events (such as botulism) attract disproportionate attention and are consequently perceived as less unusual than they really are. The world in our heads is not a precise replica of reality; our expectations about the frequency of events are distorted by the prevalence and emotional intensity of the messages to which we are exposed.

The estimates of causes of death are an almost direct representation of the activation of ideas in associative memory, and are a good example of substitution. But Slovic and his colleagues were led to a deeper insight: they saw that the ease with which ideas of various risks come to mind and the emotional reactions to these risks are inextricably linked. Frightening

thoughts and images occur to us with particular ease, and thoughts of danger that are fluent and vivid exacerbate fear.

As mentioned earlier, Slovic eventually developed the notion of an affect heuristic, in which people make judgments and decisions by consulting their emotions: Do I like it? Do I hate it? How strongly do I feel about it? In many domains of life, Slovic said, people form opinions and make choices that directly express their feelings and their basic tendency to approach or avoid, often without knowing that they are doing so. The affect heuristic is an instance of substitution, in which the answer to an easy question (How do I feel about it?) serves as an answer to a much harder question (What do I think about it?). Slovic and his colleagues related their views to the work of the neuroscientist Antonio Damasio, who had proposed that people's emotional evaluations of outcomes, and the bodily states and the approach and avoidance tendencies associated with them, all play a central role in guiding decision making. Damasio and his colleagues have observed that people who do not display the appropriate emotions before they decide, sometimes because of brain damage, also have an impaired ability to make good decisions. An inability to be guided by a "healthy fear" of bad consequences is a disastrous flaw.

In a compelling demonstration of the workings of the affect heuristic, Slovic's research team surveyed opinions about various technologies, including water fluoridation, chemical plants, food preservatives, and cars, and asked their respondents to list both the benefits and the risks of each technology. They observed an implausibly high negative correlation between two estimates that their respondents made: the level of benefit and the level of risk that they attributed to the technologies. When people were favorably disposed toward a technology, they rated it as offering large benefits and imposing little risk; when they disliked a technology, they could think only of its disadvantages, and few advantages came to mind. Because the technologies lined up neatly from good to bad, no painful tradeoffs needed to be faced. Estimates of risk and benefit corresponded even more closely when people rated risks and benefits under time pressure. Remarkably, members of the British Toxicology Society responded similarly: they found little benefit in substances or technologies that they thought risky, and vice versa. Consistent affect is a central element of what I have called associative coherence.

The best part of the experiment came next. After completing the initial survey, the respondents read brief passages with arguments in favor of various technologies. Some were given arguments that focused on the numerous benefits of a technology; others, arguments that stressed the low

risks. These messages were effective in changing the emotional appeal of the technologies. The striking finding was that people who had received a message extolling the benefits of a technology also changed their beliefs about its risks. Although they had received no relevant evidence, the technology they now liked more than before was also perceived as less risky. Similarly, respondents who were told only that the risks of a technology were mild developed a more favorable view of its benefits. The implication is clear: as the psychologist Jonathan Haidt said in another context, "The emotional tail wags the rational dog." The affect heuristic simplifies our lives by creating a world that is much tidier than reality. Good technologies have few costs in the imaginary world we inhabit, bad technologies have no benefits, and all decisions are easy. In the real world, of course, we often face painful tradeoffs between benefits and costs.

THE PUBLIC AND THE EXPERTS

Paul Slovic probably knows more about the peculiarities of human judgment of risk than any other individual. His work offers a picture of Mr. and Ms. Citizen that is far from flattering: guided by emotion rather than by reason, easily swayed by trivial details, and inadequately sensitive to differences between low and negligibly low probabilities. Slovic has also studied experts, who are clearly superior in dealing with numbers and amounts. Experts show many of the same biases as the rest of us in attenuated form, but often their judgments and preferences about risks diverge from those of other people.

Differences between experts and the public are explained in part by biases in lay judgments, but Slovic draws attention to situations in which the differences reflect a genuine conflict of values. He points out that experts often measure risks by the number of lives (or life-years) lost, while the public draws finer distinctions, for example between "good deaths" and "bad deaths," or between random accidental fatalities and deaths that occur in the course of voluntary activities such as skiing. These legitimate distinctions are often ignored in statistics that merely count cases. Slovic argues from such observations that the public has a richer conception of risks than the experts do. Consequently, he strongly resists the view that the experts should rule, and that their opinions should be accepted without question when they conflict with the opinions and wishes of other citizens. When experts and the public disagree on their priorities, he says, "Each side must respect the insights and intelligence of the other."

In his desire to wrest sole control of risk policy from experts, Slovic has challenged the foundation of their expertise: the idea that risk is objective.

"Risk" does not exist "out there," independent of our minds and culture, waiting to be measured. Human beings have invented the concept of "risk" to help them understand and cope with the dangers and uncertainties of life. Although these dangers are real, there is no such thing as "real risk" or "objective risk."

To illustrate his claim, Slovic lists nine ways of defining the mortality risk associated with the release of a toxic material into the air, ranging from "death per million people" to "death per million dollars of product produced." His point is that the evaluation of the risk depends on the choice of a measure—with the obvious possibility that the choice may have been guided by a preference for one outcome or another. He goes on to conclude that "defining risk is thus an exercise in power." You might not have guessed that one can get to such thorny policy issues from experimental studies of the psychology of judgment! However, policy is ultimately about people, what they want and what is best for them. Every policy question involves assumptions about human nature, in particular about the choices that people may make and the consequences of their choices for themselves and for society.

Another scholar and friend whom I greatly admire, Cass Sunstein, disagrees sharply with Slovic's stance on the different views of experts and citizens, and defends the role of experts as a bulwark against "populist" excesses. Sunstein is one of the foremost legal scholars in the United States, and shares with other leaders of his profession the attribute of intellectual fearlessness. He knows he can master any body of knowledge quickly and thoroughly, and he has mastered many, including both the psychology of judgment and choice and issues of regulation and risk policy. His view is that the existing system of regulation in the United States displays a very poor setting of priorities, which reflects reaction to public pressures more than careful objective analysis. He starts from the position that risk regulation and government intervention to reduce risks should be guided by rational weighting of costs and benefits, and that the natural units for this analysis are the number of lives saved (or perhaps the number of life-years saved, which gives more weight to saving the young) and the dollar cost to the economy. Poor regulation is wasteful of lives and money, both of which can be measured objectively. Sunstein has not been persuaded by Slovic's

argument that risk and its measurement is subjective. Many aspects of risk assessment are debatable, but he has faith in the objectivity that may be achieved by science, expertise, and careful deliberation.

Sunstein came to believe that biased reactions to risks are an important source of erratic and misplaced priorities in public policy. Lawmakers and regulators may be overly responsive to the irrational concerns of citizens, both because of political sensitivity and because they are prone to the same cognitive biases as other citizens.

Sunstein and a collaborator, the jurist Timur Kuran, invented a name for the mechanism through which biases flow into policy: the *availability cascade*. They comment that in the social context, "all heuristics are equal, but availability is more equal than the others." They have in mind an expanded notion of the heuristic, in which availability provides a heuristic for judgments other than frequency. In particular, the importance of an idea is often judged by the fluency (and emotional charge) with which that idea comes to mind.

An availability cascade is a self-sustaining chain of events, which may start from media reports of a relatively minor event and lead up to public panic and large-scale government action. On some occasions, a media story about a risk catches the attention of a segment of the public, which becomes aroused and worried. This emotional reaction becomes a story in itself, prompting additional coverage in the media, which in turn produces greater concern and involvement. The cycle is sometimes sped along deliberately by "availability entrepreneurs," individuals or organizations who work to ensure a continuous flow of worrying news. The danger is increasingly exaggerated as the media compete for attention-grabbing headlines. Scientists and others who try to dampen the increasing fear and revulsion attract little attention, most of it hostile: anyone who claims that the danger is overstated is suspected of association with a "heinous cover-up." The issue becomes politically important because it is on everyone's mind, and the response of the political system is guided by the intensity of public sentiment. The availability cascade has now reset priorities. Other risks, and other ways that resources could be applied for the public good, all have faded into the background.

Kuran and Sunstein focused on two examples that are still controversial: the Love Canal affair and the so-called Alar scare. In Love Canal, buried toxic waste was exposed during a rainy season in 1979, causing contamination of the water well beyond standard limits, as well as a foul smell. The residents of the community were angry and frightened, and one of them,

Lois Gibbs, was particularly active in an attempt to sustain interest in the problem. The availability cascade unfolded according to the standard script. At its peak there were daily stories about Love Canal, scientists attempting to claim that the dangers were overstated were ignored or shouted down, ABC News aired a program titled *The Killing Ground*, and empty baby-size coffins were paraded in front of the legislature. A large number of residents were relocated at government expense, and the control of toxic waste became the major environmental issue of the 1980s. The legislation that mandated the cleanup of toxic sites, called CERCLA, established a Superfund and is considered a significant achievement of environmental legislation. It was also expensive, and some have claimed that the same amount of money could have saved many more lives if it had been directed to other priorities. Opinions about what actually happened at Love Canal are still sharply divided, and claims of actual damage to health appear not to have been substantiated. Kuran and Sunstein wrote up the Love Canal story almost as a pseudo-event, while on the other side of the debate, environmentalists still speak of the "Love Canal disaster."

Opinions are also divided on the second example Kuran and Sunstein used to illustrate their concept of an availability cascade, the Alar incident, known to detractors of environmental concerns as the "Alar scare" of 1989. Alar is a chemical that was sprayed on apples to regulate their growth and improve their appearance. The scare began with press stories that the chemical, when consumed in gigantic doses, caused cancerous tumors in rats and mice. The stories understandably frightened the public, and those fears encouraged more media coverage, the basic mechanism of an availability cascade. The topic dominated the news and produced dramatic media events such as the testimony of the actress Meryl Streep before Congress. The apple industry sustained large losses as apples and apple products became objects of fear. Kuran and Sunstein quote a citizen who called in to ask "whether it was safer to pour apple juice down the drain or to take it to a toxic waste dump." The manufacturer withdrew the product and the FDA banned it. Subsequent research confirmed that the substance might pose a very small risk as a possible carcinogen, but the Alar incident was certainly an enormous overreaction to a minor problem. The net effect of the incident on public health was probably detrimental because fewer good apples were consumed.

The Alar tale illustrates a basic limitation in the ability of our mind to deal with small risks: we either ignore them altogether or give them far too much weight—nothing in between. Every parent who has stayed up waiting

for a teenage daughter who is late from a party will recognize the feeling. You may know that there is really (almost) nothing to worry about, but you cannot help images of disaster from coming to mind. As Slovic has argued, the amount of concern is not adequately sensitive to the probability of harm; you are imagining the numerator—the tragic story you saw on the news—and not thinking about the denominator, which includes many safe cases. Sunstein has coined the phrase “probability neglect” to describe the pattern. The combination of probability neglect with the social mechanisms of availability cascades inevitably leads to gross exaggeration of minor threats, sometimes with important consequences.

In today’s world, terrorists are the most significant practitioners of the art of inducing availability cascades. With a few horrible exceptions such as 9/11, the number of casualties from terror attacks is very small relative to other causes of death. Even in countries that have been targets of intensive terror campaigns, such as Israel, the weekly number of casualties almost never came close to the number of traffic deaths. The difference is in the availability of the two risks, the ease and the frequency with which they come to mind. Gruesome images, endlessly repeated in the media, cause everyone to be on edge. As I know from experience, it is difficult to reason oneself into a state of complete calm. Terrorism speaks directly to System 1.

Where do I come down in the debate between my friends? Availability cascades are real and they undoubtedly distort priorities in the allocation of public resources. Cass Sunstein would seek mechanisms that insulate decision makers from public pressures, letting the allocation of resources be determined by impartial experts who have a broad view of all risks and of the resources available to reduce them. Paul Slovic trusts the experts much less and the public somewhat more than Sunstein does, and he points out that insulating the experts from the emotions of the public produces policies that the public will reject—an impossible situation in a democracy. Both are eminently sensible, and I agree with both.

I share Sunstein’s discomfort with the influence of irrational fears and availability cascades on public policy in the domain of risk. However, I also share Slovic’s belief that widespread fears, even if they are unreasonable, should not be ignored by policy makers. Rational or not, fear is painful and debilitating, and policy makers must endeavor to protect the public from fear, not only from real dangers.

Slovic rightly stresses the resistance of the public to the idea of decisions being made by unelected and unaccountable experts. Furthermore, availability cascades may have a long-term benefit by calling attention to classes

of risks and by increasing the overall size of the risk-reduction budget. The Love Canal incident may have caused excessive resources to be allocated to the management of toxic waste, but it also had a more general effect in raising the priority level of environmental concerns. Democracy is inevitably messy, in part because the availability and affect heuristics that guide citizens’ beliefs and attitudes are inevitably biased, even if they generally point in the right direction. Psychology should inform the design of risk policies that combine the experts’ knowledge with the public’s emotions and intuitions.

SPEAKING OF AVAILABILITY CASCADES

“She’s raving about an innovation that has large benefits and no costs. I suspect the affect heuristic.”

“This is an availability cascade: a nonevent that is inflated by the media and the public until it fills our TV screens and becomes all anyone is talking about.”