

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, AUGUST 12, 2019 TIME: 6:15PM

- 6:15PM – AN ANTICIPATED NON-PUBLIC SESSION RE: COLLECTIVE BARGAINING AGREEMENTS – POLICE PATROLMAN’S UNION, POLICE CIVILIAN EMPLOYEES ASSOCIATION, PORTSMOUTH POLICE RANKING OFFICERS UNION COLLECTIVE BARGAINING AGREEMENTS & POLICE CHIEF SALARY ADJUSTMENT IN ACCORDANCE WITH RSA 91-A:3, II (a)

I. WORK SESSION (*There is no Work Session this evening*)

II. CALL TO ORDER [7:00 p.m. or thereafter]

III. ROLL CALL

IV. INVOCATION

V. PLEDGE OF ALLEGIANCE

## PRESENTATION

1. Keno & Sports Betting, Charlie McIntyre, NH Lottery Executive Director (***Sample motion – “move that the following referendum question be placed on the ballot for the regular municipal election to be held on November 5, 2019;***

***Shall we allow the operation of KENO games within the City of Portsmouth?***

***Further, that a public hearing be held by the City Council on the question at least 15 days but not more than 30 days before the question is to be voted on and that the public hearing be noticed as required by RSA 284:51”***)

VI. ACCEPTANCE OF MINUTES – JULY 15, 2019

VII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

VIII. PUBLIC COMMENT SESSION

IX. PUBLIC HEARING AND VOTE ON ORDINANCE AND/OR RESOLUTION

## Public Hearing

- A. Public Hearing on Chapter 7, Article III, Section 7.328 – Limited Parking – Three Hours

ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.328 – LIMITED PARKING – THREE HOURS – RAYNES AVENUE: ENTIRE STREET, BOTH SIDES AND VAUGHAN STREET: ENTIRE STREET, BOTH SIDES

- PRESENTATION
- CITY COUNCIL QUESTIONS
- PUBLIC HEARING SPEAKERS
- ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS

*(Sample motion – move to pass second reading and hold third and final reading at the September 3, 2019 City Council meeting)*

B. First Reading on Chapter 3, Article IX – Distribution of Single-Use Disposables

Ordinance amending Chapter 3, Article IX – Distribution of Single-Use Disposables *(Sample motion – move to pass first reading and schedule a public hearing and second reading at the September 3, 2019 City Council meeting)*

C. First Reading on Chapter 7 – Limited Parking – Fifteen Minutes

Ordinance amending Chapter 7, Article III, Section 7.326 – Limited Parking – Fifteen Minutes – by deletion of Maplewood Avenue: easterly side, the first two spaces commencing 140 feet northerly from Vaughan Street *(Sample motion – move to pass first reading and schedule a public hearing and second reading at the September 3, 2019 City Council meeting)*

D. First Reading on Chapter 7 – Limited Parking - Three Hours

Ordinance amending Chapter 7, Article III, Section 7.328 – Limited Parking – Three Hours Maplewood Avenue: both sides, between Raynes Avenue and Vaughan Street *(Sample motion – move to pass first reading and schedule a public hearing and second reading at the September 3, 2019 City Council meeting)*

E. Third and Final Reading on Proposed Parking & Traffic Safety Omnibus

Ordinance amending Chapter 7, Article III, Traffic Ordinance, Section 7.330: No Parking

Ordinance amending Chapter 7, Article III, Traffic Ordinance, Section 7.336: One-Way Streets

Ordinance amending Chapter 7, Article V – Bicycle Regulations, Section 7.510: Unattended Bicycles

Ordinance amending Chapter 7, Article VI – Truck Loading/Unloading Zones Established, Section 7.601: Limited Hours

Ordinance amending Chapter 7, Article VI – Truck Loading/Unloading Zones Established, Section 7.602: 24-Hour

Ordinance amending Chapter 7, Article VI – Truck Loading/Unloading Zones Established, Section 7.603: Loading/Unloading of Live Parked Vehicles

Ordinance amending Chapter 7, Article VI – Truck Loading/Unloading Zones Established, Section 7.604: Loading Zone Permits

Ordinance amending Chapter 7, Article XI – Speed Limits, Section 7.1100: Speed Limits - 25 MPH – Dodge Avenue

Ordinance amending Chapter 7, Article XVII – Moped Regulations, Section 7.1702: Parking

***(Sample motion – move to pass third and final reading, as presented)***

**X. MAYOR BLALOCK**

1. Appointment to be Considered:
  - Pat Bagley to be appointed to the Trees and Greenery Committee

**XI. CITY COUNCIL MEMBERS**

**A. ASSISTANT MAYOR LAZENBY**

1. \*PFAS and Drinking Water Standards ***(Sample motion – move to request a report back regarding new NHDES Standards for PFAS and Drinking Water Standards)***

**MCINTYRE SUBCOMMITTEE**

**B. COUNCILOR ROBERTS & COUNCILOR DWYER & COUNCILOR PERKINS**

1. Resolution/Certificate of Authority to Apply to Acquire the Thomas J. McIntyre property for Historic Monument Purposes *(see attached for inclusion in the packet)* ***(Sample motion – move to adopt the resolution, as presented, and authorize the City Manager to carry out the resolution)***
2. Vote to Authorize the City Manager to Enter into a Development Agreement with SoBow Square, LLC ***(Sample motion – move to authorize the City Manager to execute a Development Agreement with SoBow Square, LLC regarding redevelopment of the McIntyre building in substantial conformance with the Agreement presented to the Council this evening)***

**C. COUNCILOR ROBERTS**

1. \*Discount Program for Foundry Garage

**D. COUNCILOR PEARSON**

1. \*Contact Information

**E. COUNCILOR PERKINS**

1. \*Motorcycle/Moped Fee for 5 Parking Spots ***(Sample motion – move to refer to the Fee Committee for report back)***

## XII. APPROVAL OF GRANTS/DONATIONS

- A. \*Acceptance of Donation to the Coalition Fund
  - Town of Carroll - \$2,000.00  
***(Sample motion – move to approve and accept the donation, as listed, to be placed in the Coalition Fund)***
  
- B. Approval of Grant and Donations
  - ICAC Forensic Shield Grant Agreement ***(Sample motion – move to accept and approve the ICAC Forensic Shield Grant Agreement)***
  - Acceptance of Donation from Police Chaplain Jeff Pelkey to the Portsmouth Police K-9 Program in the amount of \$1,000.00 ***(Sample motion – move to accept and approve the donation from Police Chaplain Jeff Pelkey to the Portsmouth Police K-9 Program in the amount of \$1,000.00)***

## XIII. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

### A. CITY MANAGER

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

1. Request for Approval of Agreement between the Portsmouth School Board and the Association of Portsmouth Teachers
2. Request for Approval of Agreement between the Portsmouth School Board and the Association of Portsmouth School Administrators
3. Request for Approval of Agreement with Portsmouth Management Association
4. Request to Waive Fees Re: Portsmouth Housing Authority Court Street Workforce Housing Project
5. Proposed Cate Street Land Swap and Cate Street Connector Road Development Agreement
6. Easement Re: 46-64 Maplewood Avenue

## XIV. CONSENT AGENDA

### ***(ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)***

- A. Letter from Ron Snow, Arthritis Foundation, requesting permission to hold the 2019 Jingle Bell Run for Arthritis on Sunday, December 1, 2019 at 9:30 a.m. ***(Anticipated action – move to refer to City Manager with power)***
  
- B. Request for License to Install Projecting Sign for owner Mark McNabb of Martingale, LLC, Martingale Wharf Restaurant for property located at 99 Bow 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***

- C. Request for License to Install Projecting Sign for owner Ken & Lauren Wolf of Portsmouth Soap Company for property located at 175 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 Barbara Massar, Pro Portsmouth, Inc, requesting permission to hold the following events:

- First Night Portsmouth 2020 – Tuesday, December 31, 2019; 4pm – Midnight
- Children's Day – Sunday, May 3, 2020; Noon – 4pm
- 43<sup>rd</sup> Annual Market Square Day & 10K Road Race – Saturday, June 13, 2020; 9am – 4pm
- 18<sup>th</sup> Annual Summer in the Street, Saturday evenings – July 4<sup>th</sup>, July 11<sup>th</sup>, July 18<sup>th</sup>, July 25<sup>th</sup> and August 1<sup>st</sup> – 5:00pm – 9:30pm

***(Anticipated action – move to refer to the City Manager with power)***

- E. Letter from Debbie Roy, Big Brothers Big Sisters, requesting permission to hold the annual Stiletto Sprint on Saturday, June 20, 2020 from 1pm – 4pm ***(Anticipated action – move to refer to the City Manager with power)***

- F. Letter from Melissa Walden, American Lung Association, requesting permission to hold the 11<sup>th</sup> annual American Lung Association Cycle the Seacoast ride on Sunday, May 3, 2020 from 7:00 a.m. – 3:30 p.m. ***(Anticipated action – move to refer to the City Manager with power)***

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

- A. Email Correspondence (*Sample motion – move to accept and place on file*)
- B. Letter from Jeffrey Cooper regarding the McIntyre Project
- C. Redevelopment Proposal for the McIntyre Project from Carlisle Capital
- D. Letter from Jim Splaine regarding the McIntyre Project

**XVI. CITY MANAGER’S INFORMATIONAL ITEMS**

- 1. *Presentation* – Update Re: Statistical Revaluation – Rosann Lentz, Assessor & Michael Tarello, Vision Government Solutions
- 2. Memorandum regarding Sewer Connections
- 3. Memorandum Re: Coakley Landfill Group / New PFAS Standards

**XVII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING**

**XVIII. ADJOURNMENT [at 10:00 p.m. or earlier]**

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


*\* Indicates verbal report*

**CITY OF PORTSMOUTH  
PORTSMOUTH, NH 03801**

**Office of the City Manager**

**Date:** August 8, 2019

**To:** Honorable Mayor Jack Blalock and City Council Members

**From:** John P. Bohenko, City Manager 

**Re:** City Manager's Comments on August 12, 2019 City Council Agenda

---

***Non-Public Session:***

6:15 p.m. An Anticipated Non-Public Session Re: Portsmouth Police Patrolman's Union, Portsmouth Police Civilian Employees Association, Portsmouth Police Ranking Officers Association Collective Bargaining Agreements and Police Chief Salary Adjustment in Accordance with RSA 91-A:3, II (a)

---

***Presentation:***

1. **Presentation by Charlie McIntyre, Executive Director, New Hampshire Lottery.** On Monday evening, Charlie McIntyre, Executive Director of the New Hampshire Lottery, will be in attendance to discuss KENO and sports betting (see attached letters and statute).

***Public Hearings & Votes on Ordinances and/or Resolutions:***

1. **Public Hearing and Second Reading of Ordinance Amending Chapter 7, Article III, Section 7.328 – Limited Parking – Three Hours sub-section A – Raynes Avenue: entire street, both sides and Vaughan Street: entire street, both sides.** The Parking and Traffic Safety Committee voted to erect parking meters with a three (3) hour limit on Raynes Avenue and Vaughan Street at their June 6, 2019 meeting. On July 15, 2019 the City Council passed first reading of the attached amendment to Chapter 7, Article III, Section 7.328, sub-section A which permits erection of parking meters with three (3) hour limits on Raynes

Avenue and Vaughan Street. After the public hearing the Council may consider the following proposed motion:

*I recommend the City Council move to pass second reading and schedule third and final reading at the September 3, 2019 City Council meeting, as recommended by the Parking and Traffic Safety Committee.*

2. **First Reading of Ordinance Amending Chapter 3, Article IX – Distribution of Single-Use Disposables.** In accordance with the Council vote to hold a first reading on Councilor Denton’s ordinance on Single-Use Disposables, [attached is the ordinance](#) submitted by Councilor Denton, which has been re-numbered to fit the City’s ordinance book.

*If the City Council chooses, move to pass first reading and schedule a public hearing and second reading at the September 3, 2019 City Council meeting.*

3. **First Reading of Ordinance Amending Chapter 7, Article III, Section 7.326 – Limited Parking – Fifteen Minutes – by deletion of Maplewood Avenue: easterly side, the first two spaces commencing 140 feet northerly from Vaughan Street.** At their June 6, 2019 meeting, the Parking and Traffic Safety Committee voted to recommend that the City Council vote to amend Chapter 7, Article III, Section 7.326 to remove the 15 minute parking time limit on the two parking spaces on Maplewood Avenue on the easterly side beginning 140 feet northerly from Vaughan Street.

*I recommend the City Council move to pass first reading and schedule a public hearing and second reading at the September 3, 2019 City Council meeting, as recommended by the Parking and Traffic Safety Committee.*

4. **First Reading of Ordinance Amending Chapter 7, Article III, Section 7.328 – Limited Parking – Three Hours Maplewood Avenue: both sides, between Raynes Avenue and Vaughan Street.** At their June 6, 2019 meeting, the Parking and Traffic Safety Committee voted to recommend that the City Council adopt an ordinance to create a three (3) hour parking limit on both sides of Maplewood Avenue between Raynes Avenue and Vaughan Street. Currently there are two fifteen (15) minutes parking spaces on Maplewood Avenue on the easterly side beginning 140 feet northerly from Vaughan Street.

The Parking and Traffic Safety Committee voted to recommend the removal of the existing 15 minute time limit on these two parking spaces in order to create the three (3) hour parking limit along Maplewood Avenue.

[The attached amendment](#) to Chapter 7, Article III, Section 7.328 reflects the vote of the Committee to recommend the creation of a three (3) hour parking limit on Maplewood Avenue and the erection of parking meters between Raynes Avenue and Vaughan Street.

*I recommend the City Council move to pass first reading and schedule a public hearing and second reading at the September 3, 2019 City Council meeting, as recommended by the Parking and Traffic Safety Committee.*



5. **Third and Final Reading Re: Proposed Parking & Traffic Omnibus Ordinance Recommended by the Parking and Traffic Safety Committee.** Attached is the amended annual omnibus set of ordinances recommended by the Parking and Traffic Safety Committee to be presented to the City Council for third and final reading on August 12, 2019. At first reading, the omnibus included a provision that would have prohibited parking on both sides of the entire length of Hill Street between Bridge Street and Autumn Street pursuant to Chapter 7, Article III, Section 7.330. On July 15<sup>th</sup>, the City Council voted to pass second reading and amended the omnibus ordinance to permit, rather than prohibit, parking on Hill Street. This amendment has the effect of allowing parking on both sides of Hill Street between Bridge Street and Autumn Street and is reflected in the attached amended annual omnibus set of ordinances and accompanying maps.

*I recommend the City Council move to pass third and final reading of the annual omnibus set of ordinances as recommended by the Parking and Traffic Safety Committee, as amended.*

### ***Approval of Grants and Donations:***

1. **Acceptance of Donation to the Coalition Fund.** The City of Portsmouth has received the following donation to the Coalition Fund, which will be utilized to continue to monitor the education funding formula and any changes to the statewide property tax:

➤ Town of Carroll                      \$2,000.00

*I would recommend the City Council move to approve and accept the donation, as listed, to be placed in the Coalition Fund.*

2. **Acceptance of Grant and Donation Portsmouth Police Department.** Attached are grant and donation documents from the Office of the Chief of Police regarding the July 23, 2019 Police Commission meeting; the Board of Police Commissioners approved and accepted the following grant and donation:

- i.) ICAC Forensic Shield Grant Agreement (Internet Crimes Against Children) - There is a public announcement requirement in this grant application for acceptance by the governing body pending approval/ funding at the State level. Portsmouth remains the headquarters for New Hampshire's ICAC Task Force.

The Police Commission passed a motion to accept this grant application pending approval/ funding at the State level as per the state's requirement for this grant and forward to the City Council for their action.

- ii.) A donation in the amount of \$1,000 from Police Chaplain Jeff Pelkey. Chaplain Pelkey ran the food concessions for the recent PD1 Police K-9 Regional Trials held in Portsmouth. He donated the cost of supplies and products as well as all of the money raised from the concessions to the Portsmouth Police K-9 Program. The

Police Commission passed a motion to accept this donation of \$1,000 and forward to the City Council for their action.

The Office of the Police Chief submits the information to you pursuant to City Policy Memorandum #94-36, for the City Council's consideration and approval.

*I recommend the City Council move to accept and approve the grant and donation to the Portsmouth Police Department, as presented.*

### ***Consent Agenda:***

1. **Request for License to Install Projecting Signs.** Attached are two requests for projecting sign licenses (see attached memorandums from Planning Director Juliet Walker):
  - Mark McNabb, owner of Martingale, LLC, Martingale Wharf Restaurant for property located at 99 Bow Street
  - Ken & Lauren Wolf, owner of Portsmouth Soap Company for property located at 175 Market Street.

*I recommend the City Council move to approve the aforementioned Projecting Sign Licenses as recommended by the Planning Director and, further, authorize the City Manager to execute the License Agreements for these requests.*

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

1. **Request for Approval of Agreement between the Portsmouth School Board and the Association of Portsmouth Teachers.** The Portsmouth School Board and The Association of Portsmouth Teachers have reached a three (3) year collective bargaining Agreement.

For your information and to facilitate discussion regarding this matter, attached please find the following documents:

- A letter from Thomas Closson, City Negotiator outlining the material terms of the Association of Portsmouth Teachers.
- The Association of Portsmouth Teachers Contract showing the insertions and deletions to implement the Agreement if approved.
- Cost Analysis.

Also, this proposed Agreement is posted on the City's Website at:  
<http://files.cityofportsmouth.com/files/hr/Schoolteachers-tentative.pdf>

*I recommend the City Council move to accept the proposed Three (3) Year Agreement between the City of Portsmouth and the Association of Portsmouth Teachers from July 1, 2019 to expire on June 30, 2022.*

2. **Request for Approval of Agreement between the Portsmouth School Board and the Association of Portsmouth School Administrators.** The Portsmouth School Board and the Association of Portsmouth School Administrators have reached a three (3) year collective bargaining Agreement.

For your information and to facilitate discussion regarding this matter, [attached please find the following documents:](#)

- A letter from Thomas Closson, City Negotiator outlining the material terms of the Association of Portsmouth School Administrators.
- The Association of Portsmouth School Administrators Contract showing the insertions and deletions to implement the Agreement if approved.
- Cost Analysis.

Also, this proposed Agreement is posted on the City's Website at:

<http://files.cityofportsmouth.com/files/hr/SchoolAdministrators-tentative.pdf>

*I recommend the City Council move to accept the proposed Three (3) Year Agreement between the City of Portsmouth and the Association of Portsmouth School Administrators from July 1, 2019 to expire on June 30, 2022.*

3. **Request for Approval of Agreement between the City of Portsmouth and the Portsmouth Management Association.** The City has reached a three (3) year collective bargaining Agreement with the Professional Management Association (PMA) for a three (3) year Agreement from July 1, 2019 to expire on June 30, 2022.

For your information and to facilitate discussion regarding this matter, [attached please find the following documents:](#)

- A letter from Thomas Closson, City Negotiator outlining the material terms of Professional Management Association Agreement.
- The PMA Contract showing the insertions and deletions to implement the Agreement if approved.
- Cost Analysis.

This Agreement will also cover non-union employees, as well.

Also, this proposed Agreement is posted on the City's Website at:

<http://files.cityofportsmouth.com/files/hr/ProfessionalManagementAssociation-tentative.pdf>

*I would recommend the City Council move to accept the proposed contract with the Professional Management Association for a three (3) year Agreement from July 1, 2019 to expire on June 30, 2022.*

4. **Request to Waive Fees Re: Portsmouth Housing Authority Court Street Workforce Housing Project.** Attached is a letter from Craig Welch, Executive Director of the Portsmouth Housing Authority (PHA), requesting a waiver of permit fees for the Court Street Workforce Housing Project. As indicated in the attached letter the construction estimate for the project is \$11 million dollars. PHA expects the building permit fees to add between \$110,000 and \$120,000 in costs. In addition, there will be sub-contractor permits adding an additional \$30,000 to \$40,000 and sidewalk closure fees estimated an additional \$2,000 to \$3,000. The total estimated waiver of fees would be approximately \$140,000 to \$160,000. The City Council would have to vote to waive the fees under Section 109.7 of the Building Code in the City Ordinances. Craig Welch will be in attendance at Monday's City Council meeting to answer any questions the City Council may have.

*I recommend the City Council move to waive the fees under Section 109.7 of the Building Code in the City Ordinances, as requested by the Portsmouth Housing Authority.*

5. **Proposed Cate Street Land Swap and Cate Street Connector Road Development Agreement.** These two items – a request for a land swap involving City and privately-owned land and the approval of a development agreement between the City and a private developer -- relate to the future construction of what has been referenced as the “Cate Street Connector Road”. The connector road, as described in the City’s Capital Improvement Plan, would provide direct access between Bartlett Street to the Borthwick Avenue traffic signal on Route 1 Bypass. At the Bartlett Street end, the proposed road would follow the existing Cate Street right-of-way for approximately 250’ and then travel across what is currently private property to connect to the Bypass. The proposed land swap would convey to the City the portion of private property required to complete the new road in return for a portion of what is currently City land to be used by a private developer for the construction of the proposed West End Yards mixed-use development project. In addition, the proposed development agreement to be entered into between the City and the project developer outlines the specifics of the conveyance of land as well as the allocation of responsibility for construction and funding of the new public road. Please see attached documents.

***Proposed Land Swap***

On February 14, 2019, Attorney Bosen submitted a letter to the City Manager on behalf of his client, Cate Street Development LLC, requesting a land swap that would convey 136,919 square feet of private land to the City in exchange for 47,470 square feet of City land.

On February 19, 2019, the City Council voted to refer the request to the Planning Board for a recommendation. Per Chapter 11, Article VI of the City Ordinances any municipal actions relating to land acquisition or disposition shall be referred to the Planning Board for a recommendation. Approval of this land swap would provide the right-of-way for the creation of a new City road extending between Bartlett Street and US Route 1 Bypass to be built either now, or in the future. In addition, the developer would be conveyed a portion of the existing Cate Street right-of-way as well as an existing City-owned parcel that would be incorporated into a proposed mixed use development currently known as West End

Yards. At the March 21, 2019 Planning Board meeting, the Board voted to recommend approval of the land swap to the City Council.

As with any proposed disposition or acquisition of land by the City, City staff have also completed a review of public records and documentation to identify any applicable regulations as well as the location of easements, utilities, or other potential encumbrances on the land. Staff undertakes this review to determine if there are any issues or information that requires further research or clarification prior to final conveyance. As a result of this review, the City has contracted with Ransom Consulting to complete a Phase 1 Environmental Services Assessment of the property to be acquired by the City. The City has also contracted with outside legal counsel – the law firm of Bernstein Shur – to complete any legal due diligence related to the land swap. Costs for both of these services are being carried by the developer.

If the Council approves the land swap, actual design, construction, and acceptance of the road will still require final approval by the City Council and a recommendation from the Planning Board per Chapter 11, Article VI, of the City Ordinances. The Planning Board is currently reviewing roadway plans in conjunction with the site review and subdivision applications for the proposed mixed use project.

#### ***Development Agreement***

A development agreement is intended to be a contract between a local jurisdiction (the City) and a person or entity who owns or controls property within the jurisdiction, detailing the obligations of both parties and specifying the standards and conditions that will govern development of the property. In this case, the purpose of the proposed development agreement is to lay out the specific responsibilities of the City and the developer regarding the transfer of ownership of land as well as funding and construction for the new public road, off-site public infrastructure improvements, and additional on-site public improvements to benefit the public. A brief summary of the key provisions of the agreement is provided below:

A. Costs proposed to be the sole responsibility of the developer:

- Planning, design, permitting and construction documents prepared related to the public road prior to the approval of the development agreement are the sole responsibility of the developer.
  
- Relocation of public sewer and water lines currently located on private property with the exception of a portion of a public sewer line that currently extends from the Route 1 Bypass to the rear of the existing U-Haul property for which the City has no documented easement.
  
- Public realm improvements within land to be transferred to the City including a multi-use path, landscaping and amenities, and stormwater treatment along the northern side of the proposed road paralleling Hodgson Brook.

- Design, permitting, engineering, and construction of all utilities and upgrades required to service the new mixed used development.
  - City’s legal fees and costs associated with the land swap.
- B. Costs proposed to be shared equally by the City and the developer:
- Engineering, permitting, and construction of the proposed public road. Note that the public road includes only the roadway, street lighting, and the proposed sidewalk along the southern side.
  - Engineering, permitting, and construction of the improvements to the intersection with Route 1 Bypass.
- C. Transfer of land for new road:
- The transfer of land for the a public road shall be transferred to the City regardless of whether the City Council approves construction of the new road at this time. This will enable the City to move forward with construction of the road, at its sole cost, at a future date if desired.
  - If the Council does not approve funding for construction at this time, the Developer will have the right to construct (at their sole cost) a driveway across the City’s property for the purposes of accessing the new development.

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

- 1) *Vote to approve the requested land swap, and,*
- 2) *Vote that the City Manager be authorized to negotiate and execute the development agreement as presented (see attached documents).*

6. **Easement Re: 46-64 Maplewood Avenue.** The property is located at 46-64 Maplewood Avenue within the North End Incentive Overlay District, which allows for a wide range of mixed uses; however, there are height restrictions. The proposed building in the North End may not exceed three stories or 45 feet. The HDC required, under the City’s former building height standards, a Conditional Use Permit to increase the height of the building. In exchange, the owner was required to provide publically accessible open space areas, such as wide pedestrian sidewalks. (See former Zoning Ordinance, Chapter 10, Article V, Section 10.535.12, Increased Building Height By Conditional Use Permit). Such areas were designated at the full discretion of the HDC, including deeded public access, under the former ordinance. These public access areas comprise 30% of the property area.

As part of the approval process, the owner is required to submit an Easement Deed to the City for these public access areas. Furthermore, the Planning Board required a license for permanent improvements in the City right of way to allow the installation of two drainage pipes to provide water for trees in the sidewalk and a cobblestone band at the entrance to the subsurface parking on Deer Street. Thus, the Legal Department requests authority for

the City Manager to accept the following Easement Deed and License in a form similar to those attached and as listed below:

***Easement from 30 Maplewood Avenue, LLC for property at 46-64 Maplewood Avenue:***

1. Easement Deed.

*Exhibit 1* – Easement Deed for public access easement for pedestrian use as described in the attached Plan. The easement area consists of 6,573 square feet (30.1% of the lot area) including a widened sidewalk and three easement areas that are covered by the second floor of the building as depicted on the attached Plan. The Easement Deed ensures permanent public access, use and enjoyment of these easement areas.

***License Agreement for 30 Maplewood Avenue, LLC for property at 46-64 Maplewood Avenue:***

2. License

*Exhibit 2*-The Planning Board required, as a stipulation of Site Plan Approval, that the City grant the owner a license to install two drain pipes beneath the City's sidewalk adjacent to the proposed building in order to provide water to trees located in the sidewalk. The Planning Board also stipulated that the City grant a license to the owner to install and maintain a cobblestone band in the City's right of way on Deer Street in front of the entrance to the underground parking level on the lot. Both license areas are depicted in the Plan attached to the Easement Deed.

The intent of the following motion is to provide the City Manager with broad authority to negotiate and execute any easements and licenses in a form similar to that outlined in attachments 1 and 2 that might be necessary to allow 46-64 Maplewood Avenue development. The attached were drafted by 30 Maplewood LLC and revised by the Legal Department. No other approval by the Planning Board is required when site plan approval has been granted.

For these reasons, the following is a suggested motion concerning the Easement Deed and License described above:

*I recommend the City Council move that the City Manager be authorized to negotiate, execute, accept and record any necessary documents similar to the attached that are required to complete the development at 46-64 Maplewood Avenue in accordance with the HDC's Conditional Use Permit and the Site Plan Approved by the Planning Board or as amended and approved administratively by the Planning Director.*

***Informational Items:***

1. **Presentation – Update on Revaluation.** City Assessor Rosann Lentz will give an update to the City Council regarding the revaluation. Michael Tarello and Steve Whalen from Vision Government Solutions will be present, as well.

2. **Memorandum Re: Sewer Connections.** For your information, [attached is a memorandum](#) from Deputy City Attorney Suzanne Woodland and City Engineer Terry Desmarais, regarding sewer connections.
3. **Memorandum Re: Coakley Landfill Group / New PFAS Standards.** [Attached is a memorandum](#) from Eric Spear, Coakley Executive Committee Chair, regarding the Coakley Landfill Group and new PFAS Standards.