

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, NOVEMBER 16, 2009 TIME: 7:00PM

AGENDA

• 6:00PM – WORK SESSION REGARDING PARKING MASTER PLAN

- I. CALL TO ORDER [7:00PM or thereafter]
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE

PROCLAMATION

1. Seacoast Local – “Buy Local First”

PRESENTATIONS

1. Cable Television and Communications Commission Re: Establishment of Non-Profit Corporation for Public Access
2. Quarterly Report on Wastewater

V. ACCEPTANCE OF MINUTES – OCTOBER 5, 2009; OCTOBER 19, 2009 AND NOVEMBER 5, 2009

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARING

- A. ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.336 – ONE WAY STREETS – PARKER STREET – NORTHERLY FROM TANNER COURT TO HANOVER STREET

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donations to the Fire Department for the Firefighter’s “Vigilance” Sculpture
 - National Wrecker, Inc. - \$500.00
 - Industrial Protection Services, LLC - \$1,000.00
 - J. Kutt, LLC - \$1,000.00

(Sample motion – move to approve and accept the donations, as listed, to the Fire Department)

- B. Acceptance of Donation to the Fire Department from the Firefighter’s Charitable Foundation, Inc - \$300.00 ***(Sample motion – move to approve and accept the donation, as listed to the Fire Department)***

C. Acceptance of Donations to the Coalition Legal Fund

- Town of North Hampton - \$2,000.00
- Town of New London - \$5,500.00

(Sample motion – move to approve and accept the donations, as listed, to be placed in the Coalition Legal Fund)

D. Acceptance of Grant from the Department of Justice Office for radio encryption to the Police Department - \$105,000.00 ***(Sample motion – move to approve and accept the grant to the Portsmouth Police Department, as listed)***

E. Acceptant of Grant from the U.S. Department of Justice Office for replace of old crime-scene van - \$80,000.00 ***(Sample motion – move to approve and accept the grant to the Portsmouth Police Department, as listed)***

F. Acceptance of Grant for the purchase of new and replacement bulletproof vests - \$7,170.00 ***(Sample motion – move to approve and accept the grant to the Portsmouth Police Department, as listed)***

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

A. First reading of Resolution Appropriating the Sum of Six Hundred Fifty-Nine Thousand, Three Hundred Ninety-Four Dollars and Fifty Cents (\$659,394.50) for Expenses relating to the Water Portion of the State Street Utilities and Road Upgrade Project

B. First reading of Resolution Appropriating the Sum of Two Hundred Eight Thousand, Two Hundred Twenty-Nine Dollars and Eighty-Five Cents (\$208,229.85) for Expenses relating to the General Fund Portion of the State Street Utilities and Road Upgrade Project

C. First reading of Ordinance amending Chapter 10 – Zoning Ordinance and Zoning Map by deleting it in its entirety and replacing it with a new Chapter 10

D. First reading of Ordinance amending Chapter 11, Article VIII, Section 11.801 to Reduce the Threshold for Site Plan Review of multi-family residential units from five (5) to three (3) Units

E. First reading of Ordinance amending Chapter 11, Article VI – Comprehensive Plan Information by deleting it in its entirety and inserting in its place a new Article VI – Referrals to Planning Board

F. Second reading of Ordinance amending Chapter 7, Article III, Section 7.336 – One Way Streets – Parker Street – Northerly from Tanner Court to Hanover Street

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Heidi Roy, National Multiple Sclerosis Society, requesting permission to hold the 2010 Walk MS Portsmouth on Saturday, April 17, 2009 from 10:00 a.m. – 2:00 p.m. ***(Anticipated action – move to refer to the City Manager with power)***
- B. Letter from Major Chester Emmons, Jr., The Salvation Army, requesting permission to place “Christmas Kettles” in Market Square, November 13, 2009 – December 24, 2009 ***(Anticipated action – move to refer to the City Manager with power)***

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Jane James, Art-Speak, requesting permission to place temporary public art on city property for Art-Speak *Overnight Art! 2010*
- B. Letter from Ronald Smith requesting the installation of a bench in memory of his son, Mark “Smitty” Smith in the new Port Walk Area

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager’s Items Which Require Action Under Other Sections of the Agenda

- 1. Consideration of First Reading of Proposed Ordinance and Resolution Amendments:
 - 1.1 First Reading of Proposed Resolutions fro Expenses relating to the Water portion of the State Street Utilities and Road Upgrade Project; and for Expenses relating to the General Fund Portion of the State Street Utilities and Road Upgrade Projects ***(Action on this matter should take place under Section IX of the Agenda)***
 - 1.2 First Reading of Ordinances Amending Chapter 10-Zoning Ordinance and Zoning Map and Chapter 11, Articles VI and VIII ***(Action on this matter should take place under Section IX of the Agenda)***
- 2. Public Hearing/Second Reading of Proposed Ordinance Amendments:
 - 2.1 Public Hearing/Second reading of Ordinance amending Chapter 7, Article III, Section 7.336 – One Way Streets – Parker Street – Northerly from Tanner Court to Hanover Street ***(Action on this matter should take place under Section IX of the Agenda)***

City Manager's Items Which Require Action

1. Establish City Council Work Session for November 30, 2009 Re: Zoning Ordinance and Zoning Map Amendments
2. Request for 99 Bow Street License Extension
3. Proposed Approval of Percent for Art for Fire Station 2
4. Establish City Council Schedule for 2010
5. Proposed Dates Re: Holiday Meter Parking
6. Seacoast Watershed Alliance – Senate Bill 168 (formerly EAST)

Informational Items

1. Events Listing
2. Alumni Field Public Hearing Notice Re: Eminent Domain Proceeding
3. Historic Markers

B. MAYOR FERRINI

1. Appointments to be Considered:
 - Catherine Ennis – Appointment to the Conservation Commission
 - Eduardo DelValle – Appointment to the Recreation Board
2. Appointment to be Voted:
 - John F. McVay – Appointment to the Peirce Island Committee
3. Resignations
 - Kirsten Barton – Safe Routes to School
 - Paul Houlares – Recreation Board
 - Brendan Cooney – Traffic & Safety Committee
 - Kent Kirkpatrick – Taxi Commission
 - Karina Quintans – Mayor's Blue Ribbon Committee for Sustainable Practices
4. Establish Blue Ribbon Committee on Downtown Events
 - One representative from the Economic Development Commission; - Susanne Delaney
 - One representative from Downtown Businesses; - Gail Licciardello
 - One Downtown Resident; - George Carlisle
 - One City Council member; - Eric Spear
 - One representative from event organizations (e.g. Pro Portsmouth, Critierium, etc.); - Barbara Massar
 - One representative from the Clergy; - Dawn Shippee
 - One Chamber representative; - Doug Bates
 - Ex-officio non-voting members: City Manager or his designee, Police Chief or his designee, Fire Chief or his designee, Public Works Director or his designee, City Attorney or his designee
5. *Holiday Parade

C. COUNCILOR SMITH

1. Traffic & Safety Committee Action Sheet and Minutes of the October 8, 2009 meeting
2. Parking Committee Action Sheet and Minutes of the October 8, 2009 meeting

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

XIV. ADJOURNMENT [AT 10:00PM OR EARLIER]

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

(*Indicates verbal report)

INFORMATIONAL ITEMS

1. Conservation Commission minutes of the August 12, 2009 meeting
2. Planning Board minutes of the September 10, 2009 and September 17, 2009 meetings
3. Zoning Board of Adjustment minutes of the August 25, 2009 and September 8, 2009 meetings
4. Site Review Technical Advisory Committee minutes of the September 29, 2009 meeting
5. Historic District Commission minutes of the October 7, 2009 meeting

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

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: November 12, 2009

To: Honorable Mayor Thomas G. Ferrini and City Council Members

From: John P. Bohenko, City Manager

Re: City Manager's Comments on November 16, 2009 City Council Agenda

Work Session:

1. **Work Session Re: Parking Master Plan.** On Monday evening at 6:00 p.m., as requested by the City Council, there will be a work session on the [attached](#) Parking Master Plan that was completed in 2006 by the Consulting Engineering Group of Cincinnati, Ohio. In addition, I have [attached a copy of the 1998 Downtown Parking Study](#) that was completed by then Parking Manager John Burke. I have asked that Jon Frederick the City's Parking Manager to lead the discussion on this matter. As requested by the City Council, we have invited the Economic Development Commission to attend this meeting.

Presentations:

1. **Cable Television and Communications Commission Re: Establishment of Non-Profit Corporation for Public Access.** On Monday evening, the Cable Commission will make a presentation regarding development of a public access non-profit corporation.

For the City Council's consideration are two additional steps for the purpose of developing public access programming for broadcast over cable and internet. For informational purposes, [attached](#) are start-up documents including draft By-laws, a draft Producer Agreement and an outline of a process to select an initial Board of Directors.

As you are aware, the Cable Commission has been exploring the development of a public access channel and an educational channel for the benefit of the Portsmouth community for the last several years. This effort began with the Cable Commission's ascertainment

hearing process in which the Cable Commission received public comment in favor of education and public access. That effort continued during the Comcast negotiation process and resulted in the new Franchise Agreement providing the City with the opportunity to have a channel for public access and another channel for educational programming should the City so desire.

On August 3, 2009, the City Council authorized the establishment of a charitable trust in which to hold funds for the support of public access. That trust has been established. The next step in the development of public access is the establishment of a non-profit organization and the City Council's affirmation that the non-profit could use the channel negotiated in the recent Comcast contract.

The purpose of the proposed non-profit organization is to establish, operate, and promote non-commercial public access television and Internet media. To that end, the proposed mission and vision are described as follows:

Mission Statement: To make the sharing of local news, views, and information readily accessible to residents and non-profit and business organizations of Portsmouth.

Vision Statement: To be regarded as a vibrant, appreciated source of local news, views and information that:

- Airs programs reflecting the interests of a broad range of individual residents, local businesses and non-profit organizations;
- Involves all members of the community – diverse ages, socio-economic status and technological abilities;
- Employs multiple methods of producing and delivering content in order to simplify the ability of producers to create, and viewers to access, content; and,
- Embraces available and emerging technology for efficiency of operations.

John Gregg, Chair of the Cable Commission, will make a brief presentation of next steps and will be available to answer questions. Also available will be Suzanne Woodland, Assistant City Attorney, who assists the Cable Commission.

The Cable Commission requests that the City Council take two actions at its meeting scheduled for December 7th.

1. First, the Cable Commission requests that it be authorized to continue work towards the establishment of a non-profit organization, which would include a mayoral appointment, to promote non-commercial public access television and internet media. The Cable Commission will bring forward at a later meeting the slate of proposed initial directors for the City Council's ratification. (Note: the City Council is not being asked to approve the draft Bylaws per se. That would be done by the organization board as part of the State of New Hampshire non-profit organization application process.)

2, Second, the Cable Commission requests that the City Manager be authorized to make available to the non-profit organization, when it is so-organized, a public access channel for its use.

2. **Quarterly Report on Wastewater.** As you have requested, the project team for the Wastewater Master Plan will be presenting on November 16th, the fourth quarterly update of the progress on the study. The 20-minute presentation will focus on the information included in the draft Technical Memorandum 5 titled: Wastewater Treatment Facility Process and Siting and CSO Abatement Evaluations. The draft memorandum is being submitted to the EPA on December 1st of this year.

This document covers the evaluation of wastewater treatment alternatives, using data collected in the previous tasks in the study, to bring the City's treatment system into compliance with the 2007 National Pollutant Discharge Elimination System (NPDES) permit requiring secondary treatment, as well as, providing biological nutrient removal to reduce the levels of nitrogen discharged. In addition, this memorandum includes the evaluation of CSO treatment and abatement alternatives for the three permitted CSO facilities within the City.

The presentation will include information related to the wastewater treatment alternatives that are being evaluated, the CSO Long-Term Control Plan update, the Wastewater Treatment Facility siting process and phasing options for implementation.

Acceptance of Grants/Donations:

1. **Acceptance of Donations to the Fire Department for the Firefighter's "Vigilance" Sculpture.** The Fire Department has received the following donations for the Firefighter's "Vigilance Sculpture:

- 1) National Wrecker, Inc. for \$500.00
- 2) Industrial Protection Services, LLC for \$1,000.00
- 3) J. Kutt, LLC for \$1,000.00

I would recommend the City Council move to approve and accept the donations, as listed, to the Fire Department. Action on this matter should take place under Section VIII of the Agenda.

2. **Acceptance of Donation to the Fire Department from the Firefighter's Charitable Foundation, Inc.** The Fire Department has received a donation in the amount of \$300.00 from the Firefighters Charitable Foundation, Inc. for equipment.

I would recommend the City Council move to approve and accept the donation, as listed, to the Fire Department. Action on this matter should take place under Section VIII of the Agenda.

3. **Acceptance of Donations to the Coalition Legal Fund.** Attached are copies of checks from the Town of North Hampton in the amount of \$2,000.00 and the Town of New London in the amount of \$5,500.00, donating funds to the Coalition Legal Fund, which will be utilized to continue our fight to eliminate the statewide property tax.

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

4. **Acceptance of Police Department Grants.** Attached under Section VIII of the Agenda is a memorandum, dated October 14, 2009, from Gerald W. Howe, Chairman of the Portsmouth Police Commissioners, and Police Chief David J. Ferland, requesting that the City Council approve the following grants:

- a. A grant in the amount of \$105,000 from the Department of Justice Office of Community Oriented Policing Services. This grant will be used for radio encryption.
- b. A grant in the amount of \$80,000 from the U.S. Department of Justice Office of Community Oriented Policing Services for the replacement of our old crime-scene van.
- c. A grant in the amount of \$7,170 for the purchase of new and replacement bulletproof vests. As in the past, this is a matching grant amount. The funds are used to replace worn out vests and to purchase vests for new hires.

The Police Commission is submitting this information pursuant to City Policy Memorandum #94-36 for City Council approval and acceptance.

I would recommend that the City Council approve and accept the grants to the Portsmouth Police Department, as listed. Action on this matter should take place under Section VIII of the Agenda.

Items Which Require Action Under Other Sections of the Agenda:

1. **Consideration of First Reading of Proposed Ordinance & Resolution Amendments:**
 - 1.1 **First Reading of Proposed Resolutions for Expenses relating to the Water portion of the State Street Utilities and Road Upgrade Project; and for Expenses relating to the General Fund Portion of the State Street Utilities and Road Upgrade Projects.** As a result of the October 19th City Council meeting, under section IX of the Agenda, I am bringing back for first reading the

attached proposed two Resolutions relating to: 1) to appropriate the sum of \$659,394.50 for expenses relating the water portion of the State Street Utilities and Road Upgrade Project; 2) to appropriate the sum of \$208,229.85 for expenses relating to the general fund portion of the State Street Utilities and Road Upgrade Project.

In June of 2009, Standard & Poor's Rating Group, one of the nation's largest bond rating agencies, upgraded the City of Portsmouth bond rating from AA to AA+. This is the second highest rating obtainable from Standard & Poor's. In increasing the rating, S&P cited the City's good management practices, consistent financial position and moderate-to-low debt burden as positive factors. In addition, Moody's Investors Service affirmed its AA2 bond rating for the city, citing strong and stable financial operations, a sizable and diverse economic base and the low overall debt burden.

The City was able to take advantage of its excellent bond rating when on June 15, 2009, the City of Portsmouth issued a \$21,000,000 bond. The proceeds of the bond will finance \$5 Million of General Fund capital projects and \$16 Million for the Madbury Water Treatment Plant. In addition to the \$21 million principal, the City received a premium of \$867,624.35 from the winning underwriter at closing. A premium is the amount by which the purchase price of a bond is greater than its par value. Under certain market conditions, in order to enhance the marketability of the bonds, bond underwriters will structure their bids with bond premiums. In this case, the City of Portsmouth received an average net interest rate of 3.76% and a bond premium of \$867,624.35. Under Federal Tax Law and State Statutes, the City is restricted on how to appropriate and use these funds.

RSA 33:3 states that any premium received cannot be used to increase the amount to be spent for the purpose for which the loan was originally incurred. Therefore, the City cannot use this money to increase the costs of the projects set forth for the \$21 Million bond issuance. However, the RSA states "*a city by a vote of 2/3 of the city council may authorize the expenditure for the premiums received for any purpose or purposes for which bonds or serial notes may be issued for an equal or longer period of time.*"

The bond premium of \$867,624.35 has been allocated respectively to the Water Fund in the amount of \$659,394.50 and the General Fund in the amount of \$208,229.85.

In accordance with State statute, I recommend that the City Council authorize and appropriate the bond premium to be used from the General Fund and the Water Fund for the State Street Utilities and Road Upgrade project as described below.

The State Street Utilities and Road Upgrade project was driven by the sewer separation work, which includes the replacement of failing brick sewer line in the street, and includes upgrades to other underground utilities in the street. Streetscape improvements including new brick sidewalk, curbing and period

lighting will complete the project. On November 10, 2008, the City Council adopted a resolution authorizing the Sewer Fund to participate in the State's revolving loan fund program (SRF) up to \$2,200,000 for costs associated with the Sewer portion of this project. This City is also eligible under this program to receive up to 50% of the \$2.2 Million as a grant through the American Recovery and Reinvestment Act (ARRA). Project costs of approximately \$1.9 Million associated with the water fund and the General Fund will be funded through capital outlay in the respective funds.

As this project has a useful life that exceeds the original bond issue from which the premiums were received, and would be eligible for bonding under the Municipal Finance Act, it is in the best interest of the City to utilize the premium of \$867,624.35 to fund portions of the costs associated with the General and Water Funds. The total project cost of \$4,086,893 will be shared between General, Water, and the Sewer Fund.

I would recommend the City Council move to pass the following motions:

- *Move to pass first reading and schedule a public hearing and adoption of the Resolution in the sum of \$659,394.50 at the December 7th City Council meeting.*
- *Move to pass first reading and schedule a public hearing and adoption of the Resolution in the sum of \$208,229.85 at the December 7th City Council meeting.*

Action on this matter should take place under Section IX of the Agenda.

- 1.2 **First Reading of Ordinances Amending Chapter 10-Zoning Ordinance and Zoning Map and Chapter 11, Articles VI and VIII.** On October 19, 2009 the City Council voted to schedule first reading of the Zoning Ordinance and amendments to Chapter 11 of the City Ordinances for November 16, 2009. As you know, the Zoning Ordinance is the product of three years of work by the Planning Board, Conservation Commission, Historic District Commission and City staff, involving more than four dozen Planning Board work sessions and meetings. The Zoning Ordinance and map contained in the [enclosed white binder](#) was unanimously recommended to the City Council for adoption by vote of the Planning Board on October 8th.

In addition to the City's land use boards, it is important to note that the Zoning Ordinance is also the product of collaboration with the Committee on Sustainable Practices, the Blue Ribbon Committee on Housing, and the Economic Development Commission. City Councilors provided important guidance during the drafting of the Zoning Ordinance as well, through a half-day work session in June and two additional question and answer work sessions this summer.

Development of the Zoning Ordinance also involved extensive opportunities for public input. The Planning Board has tried to insure a transparent process, which

has included posting the Zoning Ordinance on the City website, making copies available at the Planning Department, Library and City Clerk's office, issuing multiple press releases, and broadcasting on Channel 22 all work sessions, meetings and public hearings. Comments were received via an online website comment form, phone, email, letter, and at multiple public hearings. All public comments received were compiled by staff and discussed and acted upon by the Planning Board. In many cases, the draft ordinance was revised to address comments received and, in other cases, items were placed on a list for further research. The Board will continue to work on these items over the course of the next year.

The Zoning Ordinance recommended by the Planning Board contains substantial revisions due, in large part, to the fact that the last major revision of the Zoning Ordinance was some 14 years ago. Given this, I would like to propose a special work session with the City Council on November 30th so that an entire evening can be devoted to this matter, with a detailed presentation highlighting the proposed revisions to the Zoning Ordinance followed by questions from the Council.

[Attached under Section IX of the Agenda are the recommended amendments to Chapter 11 of the City Ordinances.](#) The first amendment is to Chapter 11, Article VI: Comprehensive Plan Information (Referrals to Planning Board). Planning Board referrals are currently addressed in the Zoning Ordinance, but should more appropriately be located in Chapter 11 of the City Ordinances; amendments to this section essentially clarify and describe the actual practice with regard to Council referrals to the Planning Board that has been in effect for decades. The second amendment to Chapter 11 concerns Article VIII: Site Plan Review. The proposed amendment to Article VIII would allow for Planning Board review of developments with 3 or more dwelling units as allowed by state law; currently, site plan review is only triggered when developments have 5 or more dwelling units.

I would recommend the Council move to pass the following motions:

- *Move to pass first reading of Chapter 10 of the Zoning Ordinance and Zoning Map by deleting it in its entirety and replacing it with a new Chapter 10, and schedule a public hearing and second reading at the December 7th City Council meeting.*
- *Move to pass first reading of Chapter 11, Article VIII, Section 11.801 to reduce the Threshold for Site Plan Review of multi-family residential units from five (5) to three (3) Units, and schedule a public hearing and second reading at the December 7th City Council meeting.*
- *Move to pass first reading of Chapter 11, Article VI - Comprehensive Plan Information by deleting it in its entirety and inserting in its place a new*

Article VI-Referrals to Planning Board, and schedule a public hearing and second reading at the December 7th City Council meeting.

Action on this matter should take place under Section IX of the Agenda.

2. **Public Hearing/Second Reading of Proposed Ordinance Amendments and Resolutions:**

- 2.1 **Public Hearing/Second Reading of Ordinance amending Chapter 7, Article III, Section 7.336 – One Way Streets – Parker Street – Northerly from Tanner Court to Hanover Street.** As a result of the October 19th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the [attached proposed Ordinance](#) amending Chapter 7, Article III, Section 7.336 – One Way Streets – Parker Street – Northerly from Tanner Court to Hanover Street. As you are aware, the site plan approved by the Planning Board for the former Kline’s Furniture property at 51 Islington Street includes the proposal that Parker Street be changed from one-way traffic circulation to two-way circulation between Islington Street and Tanner Court. One of the Planning Board’s site plan stipulations is that this proposed traffic pattern shall be subject to City Council approval. Also [attached is the letter](#) from Attorney McEachern making the formal request of the Council for amendments presented at the last City Council meeting. In addition, [attached is a memo from Planning Director Rick Taintor](#) describing in more detail the proposed changes to traffic circulation associated with the approved site plan for 51 Islington Street. In short, this memo indicates that access to the new parking lot that will serve 51 Islington Street will be provided from Parker Street, and changing this block of Parker from one-way to two-way traffic circulation will limit the impact of the new development on Tanner Street, Tanner Court and Hanover Street. This matter has been reviewed by the Traffic and Safety Committee and favorably recommended.

I would recommend the City Council move to pass second reading of the Ordinance and schedule third and final reading at the December 7, 2009 City Council meeting. Action on this matter should take place under Section IX of the Agenda.

City Manager’s Items Which Require Action:

1. **Establish City Council Work Session for November 30, 2009 Re: Zoning Ordinance and Zoning Map Amendments.** Prior to second reading scheduled for December 7th, I am recommending that the City Council establish a Work Session on Monday, November 30, 2009 at 6:30 p.m., to discuss proposed amendments to the Zoning Ordinance.

Please remember to bring your binder with you to this work session as well as all other meetings relating to this matter.

I would recommend the Council vote to establish a Work Session on November 30, 2009 for the purpose of discussing the Zoning Ordinance in greater detail.

2. **Request for 99 Bow Street License Extension.** Attached please find a letter received from Robert Ricci on November 9, 2009, requesting an extension of the existing License Agreement with Martingale Wharf L.P. to August 30, 2010, to facilitate continued construction activities at 99 Bow Street. The existing license commenced April 8, 2008 and will expire on November 20, 2009 (see attached).

Should the City Council elect to extend the License, staff recommends the following changes to the existing terms of the License:

1. In the event that work does not progress for a period of more than thirty (30) days the License will be suspended, all materials removed from the right-of-way and the area restored to its regular use.
2. Licensee will contribute towards the City's purchase of 6 large concrete planters similar to those shown on the attached. Licensee's contribution will be half the cost. The City will provide these large planters to Licensee for use within the public way as part of the project. Licensee will be responsible for maintaining suitable attractive seasonal plantings in the concrete planters during the course of the use of the Licensed Area. The planters will remain the property of the City.

I would recommend the City Council move to authorize the City Manager to negotiate an extension of the License Agreement with Martingale Wharf L.P. for construction activities at 99 Bow Street with changes in terms relative to suspension of the license and use of planters as outlined.

3. **Proposed Approval of Percent for Art for Fire Station 2.** As you may recall, in September 2006 the City adopted a percent for art ordinance entitled Funding of Public Art and Public Art Trust (see attached Article XVIII). The ordinance became effective August 21, 2007. The new Fire Station 2 on Lafayette Road is the first City project to which the ordinance applies. Sue Cobler, Art-Speak Coordinator and Chris LeClaire, Fire Chief developed a Request for Proposals (RFP) for the fire station art project, and in accordance with the ordinance, one percent (1%) of the negotiated construction cost, or \$36,939 has been reserved for the public art project. The ordinance states that a maximum of 90% of this amount will be allocated for the art with the balance reserved for maintenance, stewardship and contingency.

To comply with Section 1.1705 of the ordinance, the City Council needs to do two things. First, it must authorize the public art project for the fire station and second, it must determine a method for selecting the public art project. For the latter, the City Council has the following options:

- 1) Refer the selection question to any public, private or non-profit agency for advice, or;

- 2) Refer the question selection to a standing committee for public art which exists or could be created by the City Council, or;
- 3) Create an ad hoc committee for any particular public art project under such terms as the Council may establish, or;
- 4) Seek such other advisory recommendation as the City Council deems appropriate.

I would recommend that the City Council move to authorize the project and refer the selection of the art project to Art-Speak.

4. **Establish City Council Schedule for 2010.** Attached for your review and approval is a proposed schedule for City Council meetings for calendar year 2010. Please note that wherever there is a holiday, the meeting goes to Tuesday. I have sent a copy of this schedule to City Councilors'-elect Coviello and Lister for their information. *May I have your approval on this schedule.*
5. **Proposed Dates Re: Holiday Meter Parking.** It is recommended that free holiday meter parking take place from Monday, December 14, 2009 through Saturday, January 2, 2010. Last year, we had free parking for the holiday season from Monday, December 15th through Saturday, December 27th. The Parking Committee is proposing to add an additional week this year which would mean free parking from Monday, December 14th through Saturday, January 2nd. It should be noted that each week of free parking costs the City approximately \$15,000.00 in parking revenues.

Time limits and illegal parking will be enforced as usual. Inserts will be placed in all single spaced and pay and display parking meters, stating, "Seasons Greetings, 2-hour free parking". *May I have your approval on this matter.*

6. **Seacoast Watershed Alliance – Senate Bill 168 (formerly EAST).** The Seacoast Watershed Alliance was established by the State Legislature (SB-168). Its purpose is to enable and encourage municipalities in the coastal watershed to work together to more effectively address Clean Water Act requirements relative to nutrient pollution, as well as to engage in better planning to address the threats to New Hampshire's coastal resources. This "better planning" is intended to include wastewater, stormwater, and land use issues as well as coordinated inter-municipal infrastructure planning and related infrastructure investments.

Recent reports published by the New Hampshire Department of Environmental Services (DES) show the majority of the nutrient pollution to the Great Bay Watershed is from non-point stormwater run-off. This type of pollution knows no town boundaries and therefore, the hope is that improved inter-municipal planning will help control the pollution thereby avoiding more intrusive and expensive regulatory action which could have far reaching impacts on communities.

Currently, the Seacoast Watershed Alliance has no structure, no by-laws, no defined cost of membership, and no mechanism for apportionment of capital costs. Initial participation will involve the creation of the by-laws and organization's structure. The

City can opt out of the Seacoast Watershed Alliance at any time. Currently there are no costs for participation.

The City faces significant costs to upgrade the Peirce Island wastewater treatment facility to meet its new permit requirements. The City has little to no interest in a “big pipe” option, but, the efforts to develop Seacoast Watershed Alliance may lead to potential regional cooperation on a smaller scale that could help the City reduce the capital cost impacts and improve its ability to secure Federal grant funding. For these reasons I believe the City should be represented at the initial discussions concerning the formation of Seacoast Watershed Alliance and that Peter Rice is the most appropriate person to represent the City.

I would recommend that the City Council move to appoint Peter Rice, the City’s Engineer for the Water and Sewer Divisions, as a representative to the Seacoast Watershed Alliance (SWA).

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on October 19, 2009. Please note that the First Annual Turkey Trot will take place on Thanksgiving morning at 8:30 a.m. This event should be completed by 10:00 a.m. As you can see on the listing, I have highlighted those dates that will have two events going on at the same time.
2. **Alumni Field Public Hearing Notice Re: Eminent Domain Proceeding.** For your information, [attached is a memorandum](#) from Suzanne Woodland Assistant City Attorney and Robert Sullivan, City Attorney, regarding the eminent domain proceeding public hearing relative to Alumni Field, Parrott Avenue, scheduled for 6:30 p.m., on Tuesday, November 17, 2009, in Conference Room A.
3. **Historic Markers.** For your information, [attached is a copy](#) of a news release regarding the installation of new historic markers.