

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, JUNE 6, 2011 TIME: 7:00PM

AGENDA

- 6:30PM – ANTICIPATED “NON-MEETING” WITH COUNSEL RE: NEGOTIATIONS RSA: 91-A:2, I (b-c)

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

PRESENTATIONS

1. Resolution Re: National Guard Association of New Hampshire – William Sylla (***Sample motions (1) -move to suspend the rules in order to take action on this matter and; (2) – move to adopt the resolution, as presented***)
2. Mayor’s Award - PHS Percussion Ensemble (*arriving at 8:00 p.m.*)

V. ACCEPTANCE OF MINUTES – MAY 2, 2011 AND MAY 9, 2011

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARING

- A. RESOLUTION AUTHORIZING BORROWING IN ANTICIPATION OF REVENUES AND TAXES NOT TO EXCEED SIXTEEN MILLION DOLLARS (\$16,000,000.00)

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Police Department Grants as follows:
 - NH Dept. of Highway Safety for a series of three (3) Sobriety Checkpoints - \$9,900.00
 - NH Dept. of Highway Safety for DWI/DUI Patrols - \$6,050.00
 - NH Dept. of Highway Safety for DWI Hunter Patrols - \$2,475.00
 - NH Dept. of Highway Safety for Red Light Running Enforcement - \$6,050.00
 - NH Dept. of Highway Safety for Pedestrian Patrols - \$6,050.00
 - NH Dept. of Highway Safety for Speed Enforcement Patrols - \$6,050.00***(Sample motion – move to approve and accept the grants to the Portsmouth Police Department, as listed)***
- B. *Acceptance of Donations to the Police Explorer Cadet Post and Academy as follows:
 - Mr. and Mrs. O. Thagard - \$250.00
 - Mr. J. Page - \$200.00***(Sample motion – move to approve and accept the donations to the Portsmouth Police Department, as listed)***

- C. *Acceptance of Donation for African Burying Ground Fundraising Costs (**Sample motion – move to accept and expend a donation of \$114.95 from Jane James for fundraising soft costs associated with the African Burying Ground Memorial Park project**)

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Adoption of Budget Resolutions for Fiscal Year July 1, 2011 through June 30, 2012 (FY2012)
- Resolution #7-2011 – General Fund Expenditures
 - Resolution #8-2011 – Municipal Fees
 - Resolution #9-2011 – Sewer Fund Expenditures
 - Resolution #10-2011 – Water Fund Expenditures
 - Resolution #11-2011 – Special Revenues for Necessary Expenditures and Designated Fund Balances
 - Resolution #12-2011 – Investment Policy
- B. Adoption of Resolution Authorizing Borrowing in Anticipation of Revenues and Taxes Not to Exceed Sixteen Million Dollars (\$16,000,000.00)
- C. Third and final reading of proposed Ordinance amending Chapter 10, Article 4, Section 10.420 – (District Location and Boundaries) Rezoning of Land at 54 Rogers Street from Municipal (M) to Mixed Residence Office (MRO) - and Zoning Map referenced in Chapter 10

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from David Hallowell, Portsmouth Maritime Folk Festival requesting permission to hold the Maritime Folk Festival on Saturday, September 24, 2011 and Sunday, September 25, 2011 (**Anticipated action – move to refer to the City Manager with power**)
- B. Letter from Cynthia Yates-Rybczyk, Alzheimer's Association requesting permission to hold the Walk to End Alzheimer's at Wentworth Connections on Saturday, September 24, 2011 at 10:00 a.m. (**Anticipated action – move to refer to the City Manager with power**)
- C. Letter from Aerial Sillanpaa on behalf of the merchants on Deer Street to display "Deer Street Open" Flags during normal business hours (**Anticipated action – move to refer to the City Manager with power**)

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Attorney John McGee, Jr., Flynn & McGee, P.A. Re: the Boundary Issue – Arthur MacDonald Trust - Portsmouth Middle School Boundary (**Sample motion – move to refer to the Planning Board for a report back**)

- B. Letter from Philip Cohen and Stephanie Krenn, Co-Chair AHANA, regarding Emergency Access for the Atlantic Heights Area Neighborhood (**Sample motion – move to refer to the Traffic & Safety Committee for a report back**)
- C. Petition from Portsmouth residents to express displeasure with the “street art” and requesting future public review and discussion with the Arts Council before future displays in the City
- D. Letter from Jennifer Wilhelm regarding the decision to remove the understory from several areas on Peirce Island
- E. Letter from Ann Harman requesting the installation of a bench in memory of Suzette (King) LaFleur downtown near the North Church

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

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

1. Adoption of Proposed Budget Resolutions:
 - 1.1. Adoption of Budget Resolutions for Fiscal Year July 1, 2011 through June 30, 2012 (FY2012) (**Action on this matter should take place under Section IX of the Agenda**)
 - Resolution #7-2011 – General Fund Expenditures
 - Resolution #8-2011 – Municipal Fees
 - Resolution #9-2011 – Sewer Fund Expenditures
 - Resolution #10-2011 – Water Fund Expenditures
 - Resolution #11-2011 – Special Revenues for Necessary Expenditures and Designated Fund Balances
 - Resolution #12-2011 – Investment Policy
2. Public Hearing/Adoption of Proposed Resolution:
 - 2.1. Public Hearing/Adoption of Resolution Authorizing Borrowing in Anticipation of Revenues and Taxes in the amount of \$16,000,000.00 (**Action on this matter should take place under Section IX of the Agenda**)
3. Third and Final Reading of Proposed Ordinance Amendments:
 - 3.1 Third and Final Reading of Proposed Ordinance amending Chapter 10, Article 4, Section 10.420 – (District Location and Boundaries) Rezoning of Land at 54 Rogers Street from Municipal (M) to Mixed Residence Office (MRO) - and Zoning Map referenced in Chapter 10 (**Action on this matter should take place under Section IX of the Agenda**)

4. Letter from Flynn & McGee, P.A. dated May 12, 2011 Re: the Boundary Issue – Arthur MacDonald Trust - Portsmouth Middle School Boundary (***Action on this matter should take place under Section XI of the Agenda***)

City Manager's Items Which Require Action

1. Area Service Agreement for The District Restaurant for Use of City Owned Property on Vaughan Mall for Outdoor Seating with Alcohol Service (Previously Approved for Pesce Italian Kitchen)
2. Report Back Re: Item #2, Clough Drive, of the Traffic & Safety Committee Action Sheet and Minutes of the April 14, 2011 Meeting
3. Planning Board Report Back on City Council Referral: Rezoning of Land between Bartlett Street and the US Route 1 Bypass
4. Planning Board Report Back on City Council Referral: Letter from John Chagnon, P.E., Ambit Engineering, Re: Acceptance of Land in Connection with a Subdivision Located Off Kearsarge Way
5. Planning Board Report Back on City Council Referral: Sale of the Connie Bean Center
6. Memorandum of Agreement Re: Great Bay Estuary Study
7. Report Back Re: the Request from John Tinios, Owner of Popovers on the Square, for use of City Owned Property for Outdoor Seating with Alcohol Service

Informational Items

1. Events Listing
2. Interim Report Back on Downtown Parking Zoning Strategies from Planning Board Chairman John Ricci
3. African Burying Ground Trust Donations
 - Dale Rollins Valena & Edward J. Valena - \$50.00
 - Laurinda Hill - \$50.00
 - George Carlisle, Olde Port Properties - \$1,000.00
4. Report Back Re: Electronic Communications with City Council Constituents
5. Report Back Re: Revenue Sunday Hours

B. MAYOR FERRINI

1. Appointments to be Considered:
 - Richard Katz – Reappointment to the Historic District Commission
 - Nancy Beach – Reappointment to the Cable Television and Communications Commission
 - Steven Berg – Reappointment to the Portsmouth Housing Endowment Fund Advisory Board

2. Appointments to be Voted:
 - Cristy Cardoso – Reappointment to the Citywide Neighborhood Committee
 - Kathleen Birse Siegel – Reappointment to the Recreation Board
3. *Reports

C. COUNCILOR SMITH

1. Parking Committee Action Sheet and Minutes of the May 12, 2011 meeting (***Sample motion – move to accept and approve the action sheet and minutes of the May 12, 2011 Parking Committee 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. Notification that the Zoning Board of Adjustment Minutes of March 15, 2011 meeting is available on the City's website for your review
2. Notification that the Conservation Commission Minutes of April 13, 2011 meeting is available on the City's website for your review
3. Notification that the Site Review Technical Advisory Committee Minutes of April 5, 2011 and May 3, 2011 meetings are available on the City's website for your review

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: June 2, 2011
To: Honorable Mayor Thomas G. Ferrini and City Council Members
From: John P. Bohenko, City Manager
Re: City Manager's Comments on June 6, 2011 City Council Agenda

6:30 p.m. – Non-meeting with counsel.

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

Acceptance of Grants/Donations:

1. **Acceptance of Police Department Donations and Grants.** [Attached under Section VIII of the Agenda is a memorandum](#), dated May 18, 2011, from Gerald W. Howe, Chairman, Portsmouth Police Commissioners, and Police Chief David J. Ferland, requesting that the City Council approve the following donations and grants:
 1. A grant in the amount of \$9,900 has been received from the New Hampshire Dept. of Highway Safety for a series of three (3) Sobriety Checkpoints. These checkpoints remain the most effective deterrent tool against drunk driving.
 2. A grant in the amount of \$6,050 has been received from the New Hampshire Dept. of Highway Safety for Portsmouth DWI/DUI Patrols.
 3. A grant in the amount of \$2,475 has been received from the New Hampshire Dept. of Highway Safety for DWI Hunter Patrols in Portsmouth.
 4. A grant in the amount of \$6,050 has been received from the New Hampshire Dept. of Highway Safety for Red Light Running enforcement.

5. A grant in the amount of \$6,050 has been received from the New Hampshire Dept. of Highway Safety for Pedestrian Patrols, which address vehicle & pedestrian violations of pedestrian rights and responsibilities.
6. A grant in the amount of \$6,050 has been received from the New Hampshire Dept. of Highway Safety for Speed Enforcement Patrols in Portsmouth.
7. A donation in the amount of \$250 from Mr. and Mrs. O. Thagard in support of our Explorer Cadet Post.
8. A donation in the amount of \$200 from Mr. J. Page to enable two Explorer Cadets to attend the Cadet Academy.

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

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

2. **Acceptance of Donation for African Burying Ground Fundraising Costs.** As you know, the African Burying Ground Committee is moving forward with fundraising plans for the construction of the African Burying Ground Memorial Park – *We Stand in Honor of Those Forgotten*. In preparation for the fundraising effort, the Committee has received a donation from Jane James for the acquisition of a domain name and related web hosting costs for the African Burying Ground Memorial Park project. This donation will not be deposited in the African Burying Ground Trust because it will be expended in the near term for the fundraising soft costs.

I would recommend the City Council vote to accept and expend a donation of \$114.95 from Jane James for fundraising soft costs associated with the African Burying Ground Memorial Park project. Action on this matter should take place under Section VIII of the Agenda.

Items Which Require Action Under Other Sections of the Agenda:

1. **Adoption of Proposed Budget Resolutions:**
 - 1.1 **Adoption of Budget Resolutions for Fiscal Year July 1, 2011 through June 30, 2012 (FY2012).** On Monday evening, I am requesting that the City Council adopt the proposed FY 2012 Budget (July 1, 2011 thru June 30, 2012). For your review and action, there are six proposed Resolutions relative to the annual budget adoption process [attached](#) under Section IX of the Agenda.

Resolution No. 7-2011 – General Fund Expenditures. In this resolution, the proposed appropriations for the Municipal, Police, Fire, and School Departments as well as Collective Bargaining Contingency and non-operating appropriations are listed separately. The total proposed FY12 General Fund budget is \$86,456,844.

FY 12 PROPOSED BUDGET

MUNICIPAL	\$15,442,527
POLICE	\$8,438,675
FIRE	\$6,722,490
SCHOOL	\$36,904,000
COLLECTIVE BARGAINING	
CONTINGENCY	\$900,000
NON-OPERATING	\$18,049,152
TOTAL	\$86,456,844

The FY 2012 Proposed Budget was submitted to the City Council on April 8, 2011. The submitted budget achieved the City Council's request of an operating budget at or below the Fiscal Year 2011 originally adopted budget and no increase in the tax rate. The proposed budget of \$86,456,844 and estimated revenues resulted in an anticipated tax rate of \$17.41, a zero tax rate increase from FY 2011.

Since April 8th, the City Council voted on two ordinance amendments which impact the estimated revenues for the FY12 budget. They are as follows:

On April 18, 2011, the City Council voted and approved the ordinance amendment which increases the on-street parking rates from 75¢ to \$1.00 per hour.

On May 2, 2011, the City Council voted and approved the ordinance amendment to expand the parking meter hours for on-street parking to include Sunday operations.

Factoring in the cost of additional enforcement officers on Sundays, the net increase to the FY12 estimated revenues is \$300,676. ([see the attached Parking Meter Changes for FY 2012](#)).

As a result of these amendments, the increase in estimated revenues will result in an 8¢ decrease in the anticipated tax rate bringing the rate to \$17.33 per \$1000 of valuation. ([see the attached General Fund Budget Summary – FY 2012](#)).

The Department of Revenue sets the tax rate in mid October, however, some uncertainties still remain at the State's level that may have an impact on the City's budget and/or tax rate.

It should also be noted that the proposed FY12 Budget includes a reduction of 26 full-time positions making a total of 64 full-time personnel eliminated since FY 2009 for all funds.

As a general rule, an approximately \$39,000 change in expenditures, revenues or a combination of both results in a 1¢ change in the tax rate.

Resolution No. 8-2011 adopts Municipal Fees that have been recommended by the Fee Committee. The total revenue generated from these fees is estimated at \$833,000 or 1% of the total FY12 General Fund Revenues.

Resolution No. 9-2011 establishes the annual appropriation, cash requirements and user rates for the Sewer fund. The adoption of this resolution includes a two step, inclining block rate structure. This means the first 10 units (1 unit equals 100 cubic feet or 748 gallons) of sewer usage per month will be charged at \$8.29 per unit, all consumption over 10 units per month will be charged at \$9.11 per unit. This increase translates to an approximate monthly increase of \$27.90 to the average residential user. Eighty percent (80%) of all residential customers fall in the 10 units or less tier.

Resolution No. 10-2011 establishes the annual appropriation, cash requirements and user rates for the Water fund. Similar to Sewer, the adoption of this resolution will include a two step, inclining block rate structure. The first 10 units (1 unit equals 100 cubic feet or 748 gallons) of water consumed per month will be charged at \$4.15 per unit, all consumption over 10 units per month will be charged at \$5.00 per unit, both rates are unchanged from the previous fiscal year. Eighty percent (80%) of all residential customers fall in the 10 units or less tier.

Resolution No. 11-2011 allows for the expenditure of Special Revenues and Designated Fund Balances. This allows the City to expend from designated fund balances, donations and Federal and State Grants as they are accepted and received.

Resolution No. 12-2011 deals with the adoption of an annual investment policy. State law requires the annual adoption of such a policy by every city and town.

Suggested Motions:

Move to adopt Resolution #7 – General Fund Expenditures.

Move to adopt Resolution #8 – Municipal Fees.

Move to adopt Resolution #9 – Sewer Fund Expenditures.

Move to adopt Resolution #10 – Water Fund Expenditures.

Move to adopt Resolution #11 – Special Revenues for Necessary Expenditures and Designated Fund Balances.

Move to adopt Resolution #12 – Investment Policy.

(Actions on Resolutions 7 thru 12 should take place under Section IX of the Agenda.)

2. **Public Hearing/Adoption of Proposed Resolution:**

- 2.1 **Public Hearing/Adoption of Resolution Authorizing Borrowing in Anticipation of Revenues and Taxes Not to Exceed Sixteen Million Dollars (\$16,000,000.00).** Attached under Section IX of the Agenda is a Resolution for FY12 authorizing borrowing in anticipation of taxes. As you are aware, by state law, the City bills for property taxes twice a year in arrears. For example, the first half tax bill in FY12 will be issued in October and is not due until December 1, 2011 even though our fiscal year starts on July 1, 2011. Similarly, the second half bill is not due until June 1, 2012.

Because property taxes constitute our single largest source of revenue, this lag in billing may cause a temporary cash flow problem for us in both the beginning and the middle of the fiscal year. If necessary, this resolution would allow us to borrow money on a short-term basis until the property taxes come in. The attached Resolution requires two readings of the City Council and a Public Hearing.

I would recommend the City Council move to adopt the Resolution as presented. Please note that borrowing resolutions need only two readings and must be adopted by a two-thirds vote of the City Council. Action on this matter should take place under Section IX of the Agenda.

3. **Third and Final Reading of Proposed Ordinance Amendments:**

- 3.1 **Third and Final Reading of Proposed Ordinance Amending Chapter 10, Article 4, Section 10.420 – (District Location and Boundaries) Rezoning of Land at 54 Rogers Street from Municipal (M) to Mixed Residence Office (MRO) – and Zoning Map referenced in Chapter 10.** As a result of the May 16th City Council meeting, under Section IX of the Agenda, I am bringing back for third and final reading the attached proposed Ordinance amending Chapter 10, Article 4, Section 10.420 – (District Location and Boundaries) Rezoning of Land at 54 Rogers Street from Municipal (M) to Mixed Residence office (MRO) – and Zoning Map referenced in Chapter 10. Attached is a memorandum from Rick Taintor, Planning Director regarding this matter.

I am recommending that the City Council move to pass third and final reading on the proposed Ordinance, as presented. Action on this item should take place under Section IX of the Agenda.

4. **Letter from Flynn & McGee, P.A. dated May 12, 2011 Re: Boundary Issue – Arthur MacDonald Trust – Portsmouth Middle School.** Attached under Written Communications is a letter dated May 12, 2011 from Flynn & McGee, P.A. regarding the Boundary Issue – Arthur MacDonald Trust – Portsmouth Middle School.

I would recommend the City Council vote to refer this matter to the Planning Board for a report back. Action on this matter should take place under Section XI of the Agenda.

City Manager's Items Which Require Action:

1. **Area Service Agreement for The District Restaurant for Use of City Owned Property on Vaughan Mall for Outdoor Seating with Alcohol Service (Previously Approved for Pesce Italian Kitchen)**. As you know, at the March 7, 2011 City Council meeting City staff provided a report back regarding a pilot program for use of City property for outdoor seating with alcohol service as the result of a request made by Cliffe Arrand, then owner of Pesce Italian Kitchen + Bar, to use approximately 500 square feet of the Vaughan Mall pedestrian way. On that evening the Council voted to approve the pilot program for use of City property for outdoor seating with alcohol service, as presented. David Takis, now owner of Pesce's successor restaurant, The District, plans to have alcohol service in this area of Vaughan Mall according to the pilot program requirements approved by the Council.

Please note that, as Pesce did, The District plans to serve alcohol on their private property adjacent to the front of their building on the Congress Street side. This area is addressed under separate written agreement between the City and the owner, with this agreement provided to the State and becoming a condition of their State Liquor License. This agreement, and process, is the same used for any restaurant in the City that serves alcohol on premises, inside the restaurant or outside.

[Attached for your information is the Area Service Agreement](#) between the City and The District Restaurant, which includes criteria that were developed and reviewed by City staff as well as the State Liquor Commission staff. Although the Council voted on March 7th in favor of the pilot program for Pesce under Cliffe Arrand's ownership, I would recommend that the Council take specific action to ratify their approval of essentially the same agreement with the new restaurant, The District, under the ownership of David Takis.

I would recommend the City Council vote to authorize the City Manager to enter into the attached Area Service Agreement with The District Restaurant for outdoor liquor service on City land in Vaughan Mall.

2. **Report Back Regarding Item #2, Clough Drive, of the Traffic & Safety Committee Action Sheet and Minutes of the April 14, 2011 Meeting**. As you will recall, at the City Council meeting of May 2nd, 2011 the Council voted to approve and accept the [attached action sheet and minutes of the April 14, 2011 Traffic & Safety Committee meeting](#) with the exception of [Item #2 – Clough Drive](#) and, further, to refer Item #2 – Clough Drive to the City Manager to authorize the City Attorney to prepare a report back addressing the legal issues relative to this matter. As you will also recall, the Council received the [attached letter from Chairman Mitch Shuldman](#) dated May 2nd, 2011 asking that this matter be referred to City staff or the Traffic and Safety Committee for further review.

At my request, on the morning of May 17, 2011, Deputy City Manager Cindy Hayden convened an on-site staff meeting to review this matter. In attendance were the Deputy City Manager, Superintendent Ed McDonough, Little Harbour School Principal Charles Grossman, Deputy Police Chief Steve DuBois, Public Works Director Steve Parkinson, City Attorney Robert Sullivan and Fire Captain Carl Roediger. At issue was whether the best approach along Clough Drive during the morning school arrival time is to make both lanes of Clough Drive

one-way headed in-bound, as was in operation for a period of time, or whether there is another solution that would better address public safety. The matter was reviewed by all in attendance and it was unanimously agreed that the best approach would be to widen the sidewalk by adding additional asphalt between the chain link fence along the ball field and the outside edge of the sidewalk. It was felt this would create sufficient width for a lane of pedestrians (closest to the curb) and a lane for bicyclists (closer to the ball field fence). The widened sidewalk would be from the corner of Clough Drive and South Street down to the first curve in the road where parents drop off children. The Public Works Director said the sidewalk widening could take place this summer after the close of school. It should be noted that widening the sidewalk in this area was a recommendation of the February 2010 Safe Routes to School Action Plan (please see attached excerpt).

It should be noted that the Council referral to the City Attorney regarding this matter related to whether the City Council or the School Board has control over Clough Drive. The City Attorney has indicated that the answer to this question is quite complex and not easily determined. Since a mutually agreeable solution to public safety has now been identified, the matter is moot at this time as it relates to this issue.

Adoption of Item #2 of the Traffic & Safety Committee meeting minutes of April 14, 2011 would have the effect of supporting this mutually agreed to approach, in short to have Clough Drive remain open to two-way traffic during the morning school arrival time. Therefore, I would recommend the following action:

Vote to accept the staff report back as presented regarding Clough Drive and to approve and accept Item #2 – Clough Drive of the action sheet and minutes of the April 14, 2011 Traffic & Safety Committee meeting.

3. **Planning Board Report Back on City Council Referral: Rezoning of Land between Bartlett Street and the US Route 1 Bypass.** Attached is a report back from Rick Taintor, Planning Director, regarding a request from JASK Realty Trust for the rezoning of land between Bartlett Street and the US Route 1 Bypass.

On May 17, 2011, the Planning Department was notified that JASK “no longer wished to pursue the rezoning” (see attached letter from Bernard W. Pelech, Esquire, dated May 17, 2011). Accordingly, at its meeting on May 19, 2011, the Planning Board voted to recommend that the City Council take no action on the request for a rezoning.

I would recommend the City Council accept the Planning Board’s report back regarding this matter as presented.

4. **Planning Board Report Back on City Council Referral: Letter from John Chagnon, P.E., Ambit Engineering, Re: Acceptance of Land in Connection with a Subdivision Located Off Kearsarge Way.** As you will recall, at the April 4th City Council meeting, the Council referred the request from John Chagnon, P.E., Ambit Engineering, regarding the acceptance of land in connection with a subdivision located off Kearsarge Way, to the Planning Board for report back to the City Council. Attached is a report back from Planning Director Rick Taintor, regarding this matter.

At its meeting on May 19, 2011, the Planning Board voted unanimously to grant Final Subdivision Approval to the subdivision, and to recommend that the City Council vote to accept the land shown as Lot A, subject to an agreement, to be approved by the Legal Department, regarding operation and maintenance of the stormwater management system.

I would recommend the City Council accept the Planning Board's report back regarding this matter as presented.

5. **Planning Board Report Back on City Council Referral: Sale of the Connie Bean Center.**
As you will recall, at the May 2nd City Council meeting, the Council referred the sale of the Connie Bean Center to the Planning Board for report back to the City Council. [Attached is](#) a report back from Planning Director Rick Taintor, regarding this matter.

At its meeting on May 19, 2011, the Planning Board considered this matter and voted to recommend that the City Council dispose of the Connie Bean Center by sale or long-term lease.

I would recommend the City Council accept the Planning Board's report back and dispose of the Connie Bean Center by sale or long-term lease.

6. **Memorandum of Agreement Re: Great Bay Estuary Study.** [Attached please find a copy of a Memorandum of Agreement \(MOA\)](#) between the Great Bay Municipal Coalition Communities of Dover, Durham, Exeter, Newmarket, Portsmouth and Rochester and the State of New Hampshire's Department of Environmental Services (DES).

This MOA is the result of a collaborative effort by the Coalition Communities and the DES which results in a meaningful step towards using the best available science to establish permit limits for the wastewater treatment facilities in the Great Bay.

This MOA is important because in it the DES acknowledges the scientific uncertainty present in their current nutrient criteria. The nutrient criteria are used to set permit limits and to determine if water quality standards in the Great Bay are being met. This Agreement is an acknowledgement by the State that those uncertainties exist and that additional studies will improve the means with which permit limits are established.

As you know, Portsmouth is in the early stage of selecting a technology that will be used to upgrade its Peirce Island Wastewater Treatment Facility (WWTF). Currently, our wastewater permit (NPDES permit) does not include nutrient limits. However, the EPA has indicated that they intend to include them in our next permit in 2012. Recently, the EPA issued a draft NPDES permit to the Town of Exeter. This permit includes "limits of technology" (3 mg/L) total nitrogen. The EPA used the State's Nutrient Criteria to justify this strict limit.

The Coalition Communities' technical consultants have reviewed the State's Nutrient Criteria and have concluded that the methods of analysis and assumptions used in development of the Nutrient Criteria are inappropriate and lead to overly restrictive permit limits.

The Coalition Communities have been meeting with DES to discuss the uncertainties of the State's Nutrient Criteria. Both parties agree that a calibrated hydrodynamic computer model of the estuary system is necessary to better understand and predict the beneficial outcomes of nutrient reduction activities proposed in the watershed. The results of the model will be used to establish the appropriate site specific nitrogen limits.

The MOA lays out the objectives of the modeling study and establishes a schedule for completion of the model by January 2012. In addition, the Coalition Communities agree to optimize their existing facilities for nutrient reduction and begin planning activities to incorporate process improvements at their wastewater plants to meet an 8 mg/l seasonal nitrogen limit if the modeling effort indicates it is necessary. The DES has agreed to commit to supporting a delay in EPA's issuance of final NPDES permits of Coalition wastewater treatment facilities until applicable modeling has been completed and considered by EPA.

The cost for this modeling effort will be split evenly between the six participating communities. The total cost of this initial effort is anticipated to be approximately \$300,000 of which the City would be responsible for \$50,000. In anticipation of permitting related efforts, the proposed FY 2012 sewer budget includes funding for this work.

We believe this MOA is in best interest of the City. Regional collaboration between the communities and the DES will maximize the potential for scientifically based permit limits which will best utilize our scarce financial resources while protecting the Great Bay environment.

I would recommend the City Council move to approve the Memorandum of Agreement, as submitted, and authorize the City Manager to execute this Agreement.

7. **Report Back Re: the Request from John Tinios, Owner of Popovers on the Square, for use of City Owned Property for Outdoor Seating with Alcohol Service.** [Attached is a letter from John Tinios](#), owner of Popovers on the Square, dated May 26, 2011, withdrawing his application for a license for the use of city owned property for outdoor seating with alcohol service.

I would recommend the City Council move to accept the letter from John Tinios, owner of Popovers on the Square, to withdraw his application, regarding the aforementioned matter.

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 16, 2011. In addition, this now can be found on the City's website.

2. **Interim Report Back on Downtown Parking Zoning Strategies from Planning Board Chairman John Ricci.** As you will recall, earlier this year, the City Council referred a number of Zoning Ordinance items from the Downtown Parking Omnibus to the Planning Board for a report back. For your information, [attached is a memo from Planning Board Chairman John Ricci](#), dated May 24, 2011, which outlines an Interim Report Back on Downtown Parking Zoning Strategies.

3. **African Burying Ground Trust Donations.** The African Burying Ground Committee has received the following donations to the African Burying Ground Trust since its May 12, 2011 memo to City Council. The total donated to the trust, by individuals, to date is \$6,640.04.

➤ Dale Rollins Valena & Edward J. Valena	\$ 50.00
➤ Laurinda Hill	\$ 50.00
➤ George Carlisle, Olde Port Properties	\$1,000.00

4. **Report Back Re: Electronic Communication with City Council Constituents.** In response to an inquiry by Councilor Eric Spear, I offer the following regarding electronic communication with City Council constituents.

To facilitate communication between the public and the Portsmouth City Council, in a manner consistent with current electronic media, the City of Portsmouth web site proposes to include the following functionality:

- A web page with pictures of all the City Councilors;
- There will be a link at the top of this page allowing an electronic message to be sent to all Councilors;
- Additionally, each image may be clicked on, then displaying the contact information for that Councilor;
- The contact information displayed will include:
 - Name and Address
 - Telephone number and Fax number
 - An electronic submission form;
- The electronic submission form will allow input of the following from the individual wishing to contact the selected Councilor:
 - Name and Address
 - Subject
 - E-mail address (of the individual contacting the Councilor)
 - The message to the Councilor;
- When an electronic submission form is completed an e-mail will be sent to the City Councilor (or Councilors) and copied to a unique e-mail address on the City's e-mail server, solely for the purpose of collecting all the e-mails to the Councilors; and,

- As a part of the setup of the web page and electronic submission form, each Councilor will be asked to contact me and provide an e-mail address which they wish to use for electronic communication with the public.

This will provide a simple and concise method for the public to contact the Portsmouth City Council Members. Unless I hear concerns with this proposal, I will implement it immediately.

5. **Report Back Re: Revenue Sunday Hours.** As a request of Councilor Jerry Hejtmanek, I am reporting back regarding revenue for Sunday hours.

The following is the meter revenue generated on the 5 Sundays prior to the implementation of Sunday enforcement hours:

April 3 rd	\$ 144.15
April 10 th	\$ 150.00
April 17 th	\$ 124.55
April 24 th	\$ 49.85
May 1 st	\$ 188.95

Following implementation of Sunday enforcement, we did not actively enforce on May 8th due to Mother's Day, and we issued warning notices on May 15th and May 22nd. The following is the meter revenue generated on those 3 Sundays:

May 8 th	\$1,822.60
May 15 th	\$1,990.00
May 22 nd	\$2,413.00

May 29th was the first day we actively enforced the Sunday hours and as a result, \$3,320.05 was generated in meter revenue and \$1,955 in violations revenue, for a total of \$5,275.05.