

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: TUESDAY, JANUARY 22, 2013 TIME: 7:00PM

AGENDA

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

PRESENTATIONS

1. Report Back Re: Donations for Veterans Memorial in Memorial Park
2. Basing KC-46A at Pease
3. Comprehensive Annual Financial Report (CAFR) – Scott McIntyre of Melanson, Heath & Company, P.C. Auditors' Financial Report for the Year Ending June 30, 2012 (Annual Audit)

V. ACCEPTANCE OF MINUTES – JANUARY 7, 2013

VI. PUBLIC COMMENT SESSION

VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant for Art-Speak (***Sample motion – move to accept a grant to Art-Speak to be used for operational support of Art-Speak, as presented***)
- B. Acceptance of Police Department Grants:
 - Grant from Police Standards and Training in support of Deputy Chief Corey MacDonald's attendance at the Senior Management Institute for Police at Boston University - \$1,000.00
 - Grant from the Fuller Foundation, Inc. to provide training and equipment to investigators and prosecutors - \$5,000.00

(Sample motions – move to approve and accept the grants to the Portsmouth Police Department, as listed)

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First Reading of Proposed Ordinance Amendment to Chapter 1, Article XIV, Section 1.14 – Municipal Fund Balance (***Sample motion – move to pass first reading and schedule a public hearing and second reading on the proposed Fund Balance Ordinance, at the February 4, 2013 City Council meeting***)

- B. Third and Final Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards, Section 10.535 – Dimensional Standards in the Central Business Districts, Relating to the Height Requirements in the CBA and CBB Districts (**Sample motion – move to pass third and final reading of the proposed Ordinance, as presented**)

IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. *Acceptance of Donation to the Coalition Legal Fund:
- Town of Carroll - \$1,000.00
- (Anticipated action – move to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund)**
- B. *Acceptance of Donations to Recreation Department in the amount of \$610.00 in memory of Thomas Leary:
- Robert D. and Mary F. Stella - \$20.00
 - Catherine E. and Dennis P. Fitzgerald - \$25.00
 - Franzoso Revocable Living Trust, Eugene R. Franzoso, Trustee & Colleen R. Franzoso Trustee - \$25.00
 - Charity Lower and Matthew Maniates - \$25.00
 - James G. Sullivan - \$25.00
 - Jerold R. Tostenson - \$40.00
 - Alexander N. Bouzakine and Elena V. Bouzakina - \$50.00
 - Liberty Mutual Commercial Insurance Leadership Team - \$100.00
 - The Electric Barn, Inc. - \$100.00
 - Creek Athletic Club - \$100.00
 - Ernestine L. Morrow - \$100.00
- (Anticipated action – move to approve and accept the donations to the Portsmouth Recreation Department, as listed)**
- C. Letter from Deirdre Barrett and Kimberly McGlinchey, ECO Club Advisors of Portsmouth High School, requesting permission to hold the 3rd Annual “Run for the Sol” 5k Road Race in collaboration with great Bay Community College on Saturday, May 11, 2013 from 1:00 p.m. – 3:00 p.m. (**Anticipated action – move to refer to the City Manager with power**)
- D. Letter from Jeanine Sylvester, Runner’s Alley, LLC, requesting permission to hold the 16th Annual Runner’s Alley/Redhook Brewery Memorial 5k on Sunday, May 26, 2013 at 11:00 a.m. (**Anticipated action – move to refer to the City Manager with power**)
- E. Letter from Calvin Sanborn, AIDS Response Seacoast, requesting permission to hold the 17th Annual Seacoast AIDS Walk and Dog Walk on Sunday, May 5, 2013 from 10:00 a.m. – 5:00 p.m., further permission to place 5 temporary 2’ by 4’ A-frame signs to mark the route (**Anticipated action – move to refer to the City Manager with power**)

- F. Request for Approval of Pole License to install 150 feet of underground conduit located on Vaughan Street ***(Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes)***

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Carl Walton and Paul Schurman, Veterans of Foreign Wars, regarding consideration for Tenancy of former U.S. Army Reserve Center on Cottage Street ***(Sample motion – move to refer to the City Manager for report back)***
- B. Letter from Attorney John Bosen regarding Easement Deed from the City of Portsmouth for property located at 582 Greenside Avenue ***(Sample motion – move to authorize the City Manager to negotiate and execute an easement deed from the City to Alan S. Van Wert and Cheryl L. Jameson for the purpose of allowing the single family residence located at 582 Greenside Avenue to remain in its current location, notwithstanding its minor encroachment into the municipal right-of-way at that location)***

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

Items Which Require Action Under Other Sections of the Agenda

- 1. Consideration of First Reading of Proposed Resolution and Ordinance Amendments:
 - 1.1 First Reading of Proposed Ordinance Amendment to Chapter 1, Article XIV, Section 1.14 – Municipal Fund Balance ***(Action on this item should take place under Section VIII of the Agenda)***
- 2. Third and Final Reading of Proposed Resolution and Ordinance Amendments:
 - 2.1 Third and Final Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards, Section 10.535 – Dimensional Standards in the Central Business Districts, Relating to the Height Requirements in the CBA and CBB Districts ***(Action on this item should take place under Section VIII of the Agenda)***
- 3. 582 Greenside Avenue ***(Action on this item should take place under Section X of the Agenda)***

City Manager's Items Which Require Action

1. Report Back Re: Zoning for Assisted Living Facilities (*Postponed from the January 7, 2013 City Council meeting to the January 22, 2013 City Council meeting*)
2. Elderly and Disabled Exemptions
3. Request to Renew Seacoast Growers' Association (Farmers' Market) Proposed 2013 License Agreement
4. Proposed Lease of 299 Vaughan Street for a Public Parking Lot
5. Proposed Payment in Lieu of Taxes (PILOT) Re: Betty's Dream
6. Acquisition of Easements Re: McDonough/Brewster Streets
7. Request to Establish a Work Session Re: Letter and Petition of Islington Creek Neighborhood Association regarding the Boarding House at 21 Brewster Street
8. Request to Establish a Work Session Re: Wastewater

Informational Items

1. Events Listing
2. City Council Work Session Re: Capital Improvement Plan

B. MAYOR SPEAR

1. Appointments to be Voted:
 - Alison Hamilton, Citizens Advisory Committee
 - Anthony Blenkinsop, reappointment to the Planning Board
2. Report Back from Committee Re: Robin Rousseau

C. COUNCILOR DWYER

1. *Request for Closure of Chestnut Street on February 20, 2013 Re: African Burying Ground Candlelight Memorial (***Sample motion – move to authorize the City Manager to close Chestnut Street on the evening of February 20, 2013 for the African Burying Ground Candlelight Memorial, and further to authorize the City Manager to take whatever actions necessary to implement this event***)

XII. MISCELLANEOUS/UNFINISHED BUSINESS

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

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

**Indicates Verbal Report*

INFORMATIONAL ITEMS

1. Notification that the Historic District Commission Minutes of the September 5, 2012 meeting are available on the City's website for your review
2. Notification that the Site Review Technical Advisory Committee Minutes of the September 11, 2012 meeting are available on the City's website for your review
3. Notification that the Site Review Technical Advisory Committee Minutes of the October 2, 2012 meeting are available on the City's website for your review
4. Notification that the Site Review Technical Advisory Committee Minutes of the January 8, 2013 meeting 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.

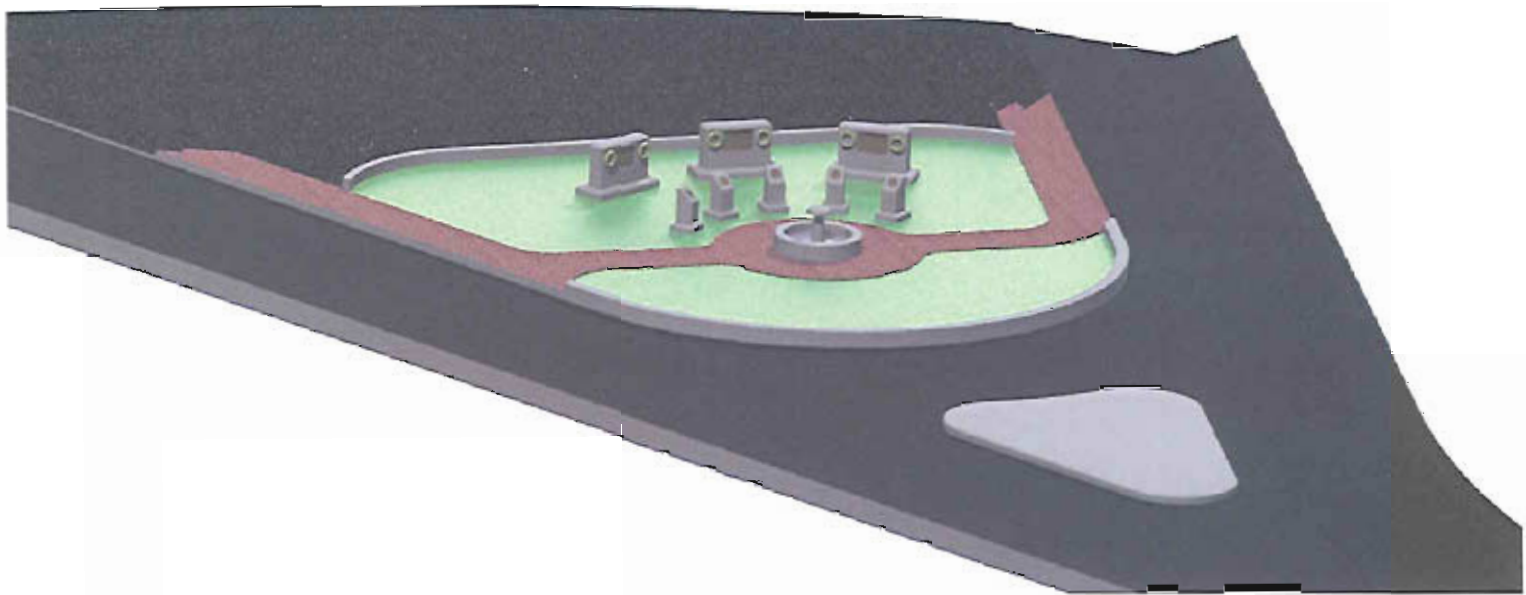
PROPOSED MEMORIAL BRIDGE ENTRANCE MEMORIAL



DONATED BY JIM & LAURIE TEETZEL

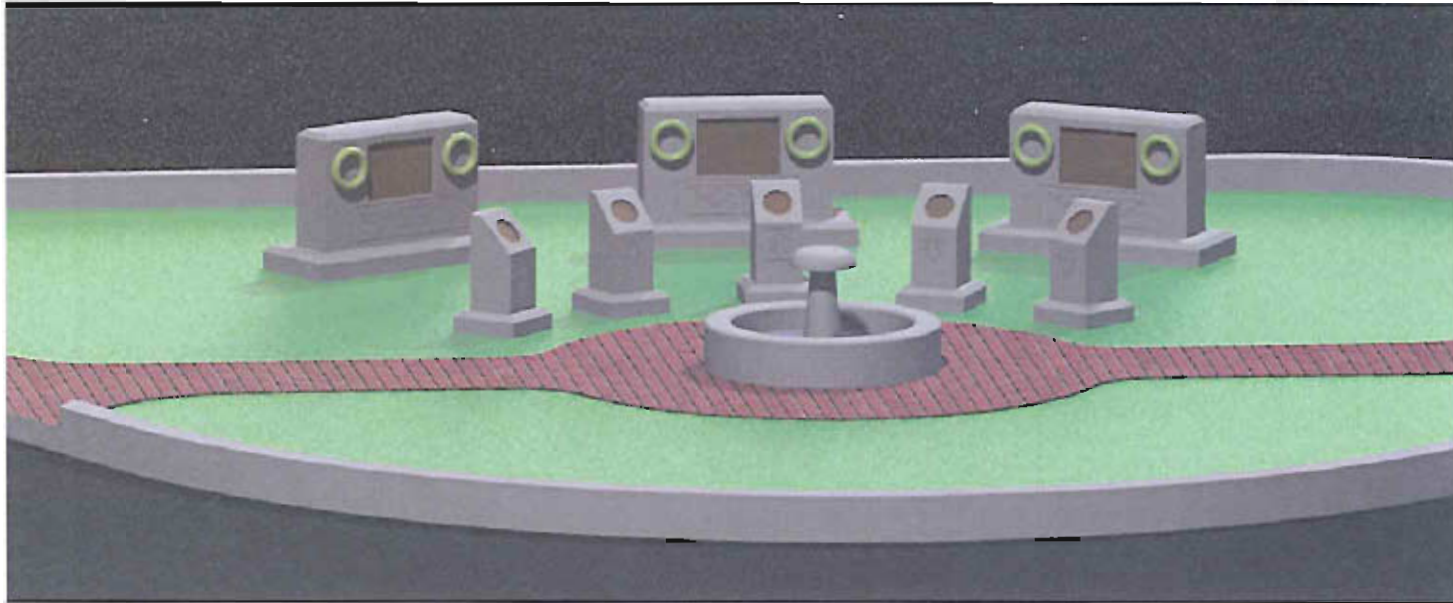
11/21/2012

WWII MEMORIAL PARK LAYOUT



- EXISTING ROAD AND TRAFFIC PLAN WILL REMAIN AS DESIGNED
- RECYCLE OLD GRANITE BLOCKING FROM ORIGINAL MEMORIAL BRIDGE RETAINING WALLS FOR NEW WWII MEMORIAL STRUCTURES

DETAILS OF MEMORIAL



3 BRONZE FLAGS

- USA (CENTER)
- STATE OF NH (LEFT)
- PORTSMOUTH NH (RIGHT)



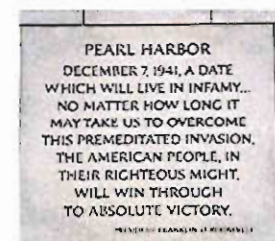
8 CAST COPPER WREATHS

(ADJACENT TO
FLAGS)



BRONZE MILITARY SYMBOLS INLAID INTO GRANITE

- NAVY
- ARMY
- MARINES
- COAST GUARD
- MISSING IN ACTION (CENTER)
- AIR FORCE



TEXT EXAMPLE

(ENGRAVED INTO
GRANITE)

HONORARY RESOLUTION

THE CITY OF PORTSMOUTH
TWO THOUSAND ELEVEN
PORTSMOUTH, NEW HAMPSHIRE

BE IT RESOLVED: A RESOLUTION OF SUPPORT FOR THE BASING OF THE KC-X
AT PEASE ANGB

WHEREAS, the Mayor and Council of Portsmouth recognize the current and long-standing support of the U.S. Military and the local bases by the residents of the City of Portsmouth.

WHEREAS, there is specific support of the ongoing Global Mobility Mission of the 157th Air Refueling Wing at Pease Air National Guard Base.

WHEREAS, the Mayor and Council of Portsmouth further recognize the continuing positive impacts of the integration of an Air National Guard Unit into our community.

NOW THEREFORE, BE IT RESOLVED, the Mayor and City Council of the City of Portsmouth, County of Rockingham, State of New Hampshire, United States of America, hereby support and endorse the basing of mobility aircraft at Pease ANGB.

BE IT FURTHER RESOLVED, the elected leadership of this community strongly support and encourage the basing of the new tanker aircraft, KC-46A at Pease ANGB.

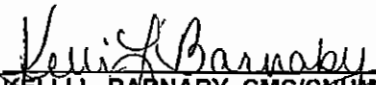
This Resolution shall take effect upon passage.

APPROVED:



THOMAS G. FERRINI, MAYOR

ADOPTED BY THE CITY COUNCIL:
JUNE 6, 2011



KELLI L. BARNABY, CMC/CNHMC
CITY CLERK



National Guard Association of New Hampshire

20 May 2011

William K. Sylla
National Guard Association of New Hampshire
323 Union St.
Portsmouth, NH 03801

City of Portsmouth
City Clerk's Office
1 Junkins Avenue
Portsmouth, NH 03801

Dear Council Members,

I am writing on behalf of the National Guard Association of New Hampshire, as well as a citizen of Portsmouth. I am requesting some time on the agenda to speak before the council. The goal of my presentation would be a resolution of continuing support of the Global Mobility Mission currently flown by our KC-135 aircraft and the basing of the KC-46A replacement tanker at Pease to continue this mission.

My presentation would be 5-10 minutes in length, discussing some of the economic, educational, and employment benefits of the base. Followed by a discussion our current mission and how the KC-46 tanker will allow us to continue this mission.

I have attached a draft copy of the resolution.

Sincerely,

WILLIAM K. SYLLA

Community Impact of Pease ANGB and KC-46 Basing



Bill Sylla,
National Guard Association of NH,
Resident of 323 Union, Portsmouth
XX May, 2011

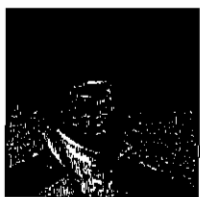
Guarding America - Defending Freedom



Outline

- Employment Benefits
- Educational Benefits
- Economic Benefits
- Global Mobility:
 - Current Aircraft
 - Proposed Aircraft: KC-46A
- Resolution of Support & Questions





Employment Benefits

- 323 Full-Time Community-Based Jobs
 - 212 GS-Scale Federal Civilians
 - 111 Military Status
- 1087 Total Guard Jobs
- Another 128 Regular AF Members Stationed at Pease





Educational Benefits

- UNH Tuition Waiver
 - Current Members
- GI Bill (Pays for one State College Education)
 - Member or Dependents
- Air Force Skills Training
 - ATC, Logistics, Budget, IT, Law Enforcement, Mechanics, Pilots, Civil Engineers, Managers, etc.





Economic Benefits

- Over \$23 Million in Full-Time Salary
- Total Operating Budget of over \$80 Million
 - Hotel Rooms
 - Office Supplies
 - Equipment
 - Meals
- Construction
 - Over \$23 Million since 2002
- Provide 24/7 Support to Airport
 - Firefighters & Air Traffic Control





Current Mission

- Global Mobility
- Provide Air-to-Air Refueling, Airlift of Cargo/Personnel & Aero-Medical Evac
 - KC-135R
 - 50 Years Old
- Provide Air-to-Air Refueling, Airlift of Cargo/Personnel & Aero-Medical Evac
 - KC-46A
 - Newer technology
 - Based upon Stage III Noise Abatement 767





Summary

- Employment Benefits
- Educational Benefits
- Economic Benefits
- Global Mobility:
 - Current Aircraft
 - Proposed Aircraft
- Resolution of Support & Questions





Contact Info

- William Sylla, NHANG
 - BillSylla@gmail.com
 - Comm: 603.988.2545
 - 323 Union St.
 - Portsmouth, NH 03801



January 22, 2013
City Council Meeting

PRESENTATION ITEM #3

COMPREHENSIVE ANNUAL FINANCIAL REPORT
(CAFR)

Please see www.cityofportsmouth.com
for complete report document

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, JANUARY 7, 2013

PORTSMOUTH, NH
TIME: 7:00 PM [or thereafter]

At 6:30 p.m., an Anticipated "Non-Meeting" with Counsel was held – RSA 91-A:2 I (b-c).

I. CALL TO ORDER [7:00PM or thereafter]

Mayor Spear called the meeting to order at 7:15 p.m.

II. ROLL CALL

Present: Mayor Spear, Assistant Mayor Lister, Councilors Coviello, Kennedy, Novelline Clayburgh, Lown, Dwyer, Smith and Thorsen

III. INVOCATION

Mayor Spear asked everyone to join in a moment of Silent Prayer.

IV. PLEDGE OF ALLEGIANCE

Councilor Novelline Clayburgh led the Pledge of Allegiance to the Flag.

PRESENTATION

1. Portsmouth US Route 1 Bypass Bridge Replacement Projects Update – Alex Vogt, Project Manager, NH DOT Highway Design

Alex Vogt provided an update to the City Council on the following projects:

- Replacement of Middle Road bridge over Bypass & Replacement of Islington Street bridge over Bypass – Advertising date: February 19, 2013 with a construction cost of \$6,200,000.00;
- Replacement of Woodbury Avenue bridge over Bypass & Replacement of Stark Street bridge over Bypass – Advertising date: May 20, 2014 with a construction cost of \$6,930,000.00;
- Replacement of Maplewood Avenue bridge over Bypass – Advertising date: July 2, 2013 with a construction cost of \$5,000,000.00;
- Removal of bridge over Bypass Extend Lafayette Road to new signal on Bypass – Construction Cost is \$4,950,000.00 with an expected date of completion of August 2014

Mr. Vogt said it has been a pleasure to work with the City and staff on these projects.

Councilor Smith said later under the Parking and Traffic Safety Committee minutes we will review with City Council the discussion held by the committee regarding the intersection coming off the Bypass to Maplewood Avenue. He asked Mr. Vogt if there will be changes in traffic patterns with that project. Councilor Smith spoke regarding the illegal left turn going west bound on Maplewood Avenue.

Mr. Vogt said there are no plans to change the traffic patterns or install a signal. Councilor Smith also spoke regarding the intersection of Maplewood Avenue and Cutts Street and whether there are plans to install a traffic signal. Mr. Vogt said the left onto the ramp will remain and there are no plans for a traffic signal at this time. Councilor Smith inquired as to the illegal left turns taking place. Mr. Vogt said it would be dependent on sight distances.

Councilor Coviello spoke regarding the changes to the rotary and the project. Mr. Vogt said due to the economy the project changed.

Mayor Spear asked about Coakley Road intersection with pedestrian crosswalks and if there will be bike paths added. Mr. Vogt said there would be bike paths added.

V. ACCEPTANCE OF MINUTES – DECEMBER 3, 2012 AND DECEMBER 17, 2012

Councilor Coviello moved to approve and accept the minutes of the December 3, 2012 and December 17, 2012 City Council meetings. Seconded by Assistant Mayor Lister and voted.

VI. PUBLIC COMMENT SESSION

Tom Carroll brought a tire from his vehicle which picked up scrap metal from Market Street Extension and caused him to have it replaced. He said this is the third time he has had to replace his tire and it costs \$200.00 each time. Mr. Carroll requested that the City have someone collect the material along Market Street Extension so that they can fully understand the extent of this problem.

Dixie Tarbell said she has submitted 2 letters to the editor regarding the Portwalk developer taking advantage of a loop hole in the zoning ordinance relative to height requirements. She said that there have been impacts from this project and would like to know how much groundwater has been created from the construction of building.

VII. PUBLIC HEARING

- A. AMENDMENTS TO CHAPTER 10 – ZONING ORDINANCE, ARTICLE 5 – DIMENSIONAL AND INTENSITY STANDARDS, SECTION 10.535 – DIMENSIONAL STANDARDS IN THE CENTRAL BUSINESS DISTRICTS, RELATING TO THE HEIGHT REQUIREMENTS IN THE CBA AND CBB DISTRICTS

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

Nick Cracknell, Planner, spoke on behalf of Planning Director Taintor who was unable to attend this evening due to a death in his family. He addressed the ordinance relating to height requirements in the CBA and the CBB districts. He said the amendment is as follows:

Section 10.535.12 Central Business A and B – Maximum Elevation Above Street

Within 25 feet of any street line, the elevation of the highest point of a building above the grade at the street line shall not exceed 50 feet in the Central Business A district and 60 feet in the Central Business B district. This provision shall apply to a parapet wall, fence, railing or similar structure, or roof appurtenance that extends more than 2 feet above the roof surface; but shall not apply to any such structure or device that does not extend more than 2 feet above the roof surface.

Mr. Cracknell reported that the “street line” is the edge of the municipal right of way, which in the downtown area is approximately at the back of the sidewalk. He said to accommodate two identified development projects that have initiated a formal process with the City’s land use boards (and thereby demonstrated significant investment in project design); the proposed ordinance also exempts applications which have been the subject of legal notice for a hearing before the Zoning Board of Adjustment.

Lisa DeStefano said she appreciates the awards of the Planning Department and meetings held with stakeholders regarding this ordinance amendment. She said the loop hole has been in the zoning ordinance for years. She stated it is similar to other zoning ordinances that became a challenge and developers adjust. Ms. DeStefano said a challenge in the permitting process exists. She said moving through the process we find it not to be anchored until the public hearing and that it is a challenge to property owners and an economic development issue for the City. She advised the Council that she currently has two property owners holding back because of amendments to the zoning ordinance. She recommended that the Council approve the ordinance amendments including language for the two projects that are in the Board of Adjustment process, and the Planning Department come back with amendments to the building permit process. She spoke of a flow chart that existed in the past which outlined the permitting process and recommended bringing that chart back.

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

VIII. APPROVAL OF GRANTS/DONATIONS

- A. Grant Application for New Hampshire Department of Transportation Safe Routes to School Program

Assistant Mayor Lister moved to authorize the City Manager to apply for, accept, and expend a \$250,000.00 grant from the NH DOT Safe Routes to School Program for the purpose of implementing infrastructure projects and non-infrastructure programming to encourage and enable elementary and middle school children to safely walk and ride bicycles to school. Seconded by Councilor Coviello and voted.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards, Section 10.535 – Dimensional Standards in the Central Business Districts, Relating to the Height Requirements in the CBA and CBB Districts

Councilor Novelline Clayburgh moved to pass second reading and schedule a third and final reading of the proposed Ordinance, as presented, at the January 22, 2013 City Council meeting. Seconded by Councilor Coviello.

Councilor Kennedy expressed concern allowing the grandfathering of two projects that are already in the process.

Councilor Kennedy moved to amend the ordinance by deleting the paragraph which reads “This shall not apply to any application which has been the subject of notice by the Zoning Board of Adjustment after June 1, 2012, and prior to the first legal notice of the second reading and public hearing on this amendment at the City Council”. Seconded by Councilor Dwyer.

Councilor Kennedy said she wants to know that staff is looking at the zoning ordinance for amendments that are needed. She said she would like a figure for the height requirement. Councilor Coviello stated that it is not easy to just provide a figure, and no lot is perfectly flat. He also indicated that we are talking about 50 feet to 60 feet, and there is a need to know where to measure the building front and the grade. Councilor Coviello spoke in favor of moving forward. Mr. Cracknell said that this amendment requires 50 feet to 60 feet only for the wall that abuts the street in the first 25 feet of the street.

Councilor Coviello said most people developing a project go to the Historic District Commission for a period of time and then proceed to Planning Board. He asked the Council if they thought there needed to be a more defined process for people to understand the rules. Mr. Cracknell stated that you want to begin the process with the Historic District Commission because they have the ability to lower the building height from the 60 feet before going to the Planning Board and Site Review for approvals. City Manager stated that this could be discussed internally and with other agencies in the City to see what can be done without unintended consequences. Councilor Coviello said there is no method currently for following a project, and we need to work towards that as our next goal.

Councilor Novelline Clayburgh stated she would not support the amendment by Councilor Kennedy because the current projects have gone through a great deal with City Boards at this point.

Councilor Thorsen said that this is a process issue. He said there needs to be a clear process and exceptions should not be made into ordinances.

Councilor Dwyer said that design review is a plan for the future.

On a roll call vote 4-5, motion to amend the ordinance by deleting the paragraph which reads “This shall not apply to any application which has been the subject of notice by the Zoning Board of Adjustment after June 1, 2012, and prior to the first legal notice of the second reading and public hearing on this amendment at the City Council” *failed* to pass. Assistant Mayor Lister, Councilors Kennedy, Dwyer and Thorsen voted in favor. Councilors Coviello, Novelline Clayburgh, Lown, Smith and Mayor Spear voted opposed.

City Attorney Sullivan informed the Council that effectively the language within the ordinance contained in the paragraph after the amendment, will be listed as a notation at the end of the ordinance.

Main motion passed.

- B. Third and Final Reading of Proposed Amendments to Chapter 10 - Zoning Ordinance, Article 6 – Overlay Districts, Section 10.633.20 – Exemptions from Certificate of Approval in the Historic District; and to Article 15 - Definitions, Section 10.1530 – Terms of General Applicability, Defining the term “Contributing Structure”

Councilor Novelline Clayburgh moved to pass third and final reading of the proposed Ordinance. Seconded by Councilor Coviello and voted.

X. CONSENT AGENDA

- A. Letter from Kim Blanchard, National Multiple Sclerosis Society, requesting permission to hold the 2013 Walk MS Portsmouth on Saturday, April 13, 2013 from 10:00 a.m. – 2:00 p.m. ***(Anticipated action – move to refer to the City Manager with power)***
- B. Letter from Zhana Morris, Production Manager, The Music Hall, requesting Meter Bags for 2012-2013 Season ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Dave Abbett, Founder, Sub 5 Race Management, requesting permission to hold the 2013 Friends on the Fourth 5K road race on Thursday, July 4, 2013 ***(Anticipated action – move to refer to the City Manager with power)***
- D. Letter from Garfield Jones, Fattman Productions, requesting permission to hold a portion of 24 hour relay race on Saturday, June 22, 2013 – Sunday, June 23, 2013 ***(Anticipated action – move to refer to the City Manager with power)***
- E. Letter from Caitlyn Mosher Ellis, Alzheimer’s Association, requesting permission to hold the 2013 Walk to End Alzheimer’s on Sunday, September 29, 2013 ***(Anticipated action – move to refer to the City Manager with power)***

- F. Request for Approval of Pole License of one pole, one electrical manhole and 710 feet of underground conduit located on Hanover and Bridge Streets
(Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes)

Councilor Novelline Clayburgh moved to adopt the Consent Agenda. Seconded by Assistant Mayor Lister and voted.

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

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

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Proposed Revisions to Fund Balance Ordinance

City Manager Bohenko informed the Council that he would like to bring back for first reading at the January 22, 2013 Council meeting amendments to the Fund Balance Ordinance. He indicated that the amendments would help put the City in a better position to receive an AAA bond rating. He stated that the unassigned balance could not go below 10%.

Councilor Coviello moved to allow the City Manager to bring back Proposed Revisions to the Fund Balance Ordinance at the Tuesday, January 22, 2013 City Council meeting. Seconded by Councilor Novelline Clayburgh.

Councilor Thorsen said he would like to see the marginal benefit between an AA+ and AAA rating. Councilor Kennedy asked what other types of criteria do the rate agencies use to assign a bond rating.

Motion passed.

2. Report Back Re: Cemetery Setbacks

City Attorney Sullivan reported that in the absence of local zoning regulations regarding setbacks from cemeteries; State law (RSA 289:3) establishes a minimum 25 foot setback. He stated our zoning ordinance does not address setbacks from cemeteries; therefore, the State's minimum setback requirement applies. City Attorney Sullivan said State law was enacted in order to guard against accidental disturbance of human remains, which are often buried outside the boundaries of historic cemeteries. For example, slaves, Native Americans, people who did not attend church, and poor people were customarily buried outside cemeteries and their burial places may be unmarked. In other cases, walls and fences were later erected around old cemeteries with no real knowledge as to the outer limits of burials.

Councilor Kennedy moved to accept the Planning Board's recommendation to not vote to enact a zoning ordinance regarding setbacks from cemeteries as requested. Seconded by Councilor Coviello.

Councilor Lown said he does not agree with the recommendation from the Planning Board and feels that Attorney Noucas' clients should be given an exception to construct a garage along the rear boundary line of property located at 32 Livermore Street. He said the owners want to build in a specific area and on the surface of the ground.

Councilor Thorsen said he agrees with Councilor Lown, and the Council should create an ordinance and grant the owners a variance. He stated with an ordinance each request could be reviewed individually. He feels we should have an ordinance which allows local control.

Councilor Coviello said some good points came forward and he would not feel comfortable building above a grave. He said he would like to hear the points of the State Archaeologist in order to receive further information.

Councilor Lown said Attorney Noucas has indicated with the law the memorial for Chestnut Street will be prohibited by the City. Councilor Dwyer said Attorney Noucas was incorrect. The role of the African Burial Ground is memorializing the site rather than building on the site.

Councilor Kennedy said this is our history and we need to celebrate it. She said people come to Portsmouth for its arts, culture and richness in history.

Councilor Lown said these are valuable historic areas and should be controlled by the City, not the State. He said the City could increase the buffer zone.

Councilor Smith said he would like an ordinance brought forward to protect our cemeteries and historic meaning. He said he would not want to see anyone building over a burial site.

On roll call 7-2, voted to accept the Planning Board's recommendation to not vote to enact a zoning ordinance regarding setbacks from cemeteries as requested. Assistant Mayor Lister, Councilors Coviello, Kennedy, Novelline Clayburgh, Dwyer, Smith and Mayor Spear voted in favor. Councilors Lown and Thorsen voted opposed.

3. Report Back Re: Zoning for Assisted Living Facilities

City Manager Bohenko stated he would postpone this item until the January 22, 2013 City Council meeting, as Planning Director Taintor could not be present this evening due to a death in his family.

4. Request to Establish Work Session Re: Water/Sewer Rate Study

City Manager Bohenko recommended holding a Work Session on the Water/Sewer Rate Study on February 11, 2013.

Councilor Dwyer moved to establish a Work Session on Monday, February 11, 2013 at 6:30 p.m., regarding the Water/Sewer Rate Study. Seconded by Councilor Smith and voted.

B. MAYOR SPEAR

1. Appointments to be Considered:
 - Alison Hamilton, Citizens Advisory Committee
 - Anthony Blenkinsop, reappointment to the Planning Board

The City Council considered the above listed appointments that will be voted on at the January 22, 2013 City Council meeting.

2. Appointments to be Voted:
 - Elizabeth Moreau appointment as an alternate to the Planning Board
 - Karina Quintans appointment as a regular member to the Planning Board (*current alternate*)
 - Thomas Watson reappointment to the Trustees of the Trust Fund

Councilor Smith moved to appoint Elizabeth Moreau as an alternate to the Planning Board until December 31, 2015; appointment of Karina Quintans as a regular member to the Planning Board (*current alternate*) until December 31, 2015 and reappointment of Thomas Watson to the Trustees of the Trust Fund until January 1, 2016. Seconded by Assistant Mayor Lister and voted.

Councilor Smith asked for an update on the Brewster Street Boarding House matter. City Manager Bohenko said he has given the matter to City Attorney Sullivan who has been meeting with residents. He reported the staff has indicated that the license is due in March. He also indicated that Deputy City Manager Allen will set up a Committee to review concerns of the residents, and provide a report back to him that he will bring to the Council. City Manager Bohenko stated that we are being deliberate on this matter because it has ramifications.

C. COUNCILOR SMITH

1. Parking and Traffic Safety Committee Action Sheet and Minutes of December 13, 2012

Councilor Smith moved to approve and accept the action sheet and minutes of the December 13, 2012 Parking and Traffic Safety Committee meeting. Seconded by Assistant Mayor Lister.

Councilor Smith reported that there are no requirements for ordinance amendments in the action sheet and minutes from this meeting.

Motion passed. Councilor Kennedy voted opposed.

Councilor Kennedy asked where the City is with regards to the meters on Maplewood Avenue which had the meter heads removed. She stated if this is a long term issue it requires an ordinance change, which has not come before the Council. City Manager Bohenko reported that there are 41 meters in that area, with 10 being meters and 31 not. Back in October, the issue was discussed to allow for a pilot program where 5 of the meter heads were removed to see if it would make a difference with turnover at the meters. City Manager Bohenko stated this matter will come back to the Parking and Traffic Safety Committee in February and we need to make a decision on whether to meter all of the 41 spaces. Councilor Smith said he agrees with the comments of City Manager Bohenko and that this matter is under review, and there will be a study of the area. Councilor Coviello stated he suggested the pilot study because of the high usage of spaces not metered versus those metered.

Councilor Novelline Clayburgh asked for an update from the Parking and Traffic Safety Committee on Resident Only Parking. Councilor Smith reported the Parking and Traffic Safety Committee will be looking at adding Sutton Avenue, and will be conducting an over all review of Resident Only Parking. He said some neighborhoods do not want to create resident parking.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Coviello asked if there was interest by the Council to review the Holiday Free Parking Program. Councilor Smith spoke to the success of the program and the economic benefit to downtown merchants and restaurants. Councilor Lown said that the program costs the City \$30,000.00 in revenue, and perhaps people are abusing the program. Mayor Spear stated more discussion on this matter could take place during the budget work session. City Manager Bohenko reminded the Council that the City does enforce the 2 hour parking limit by chalking tires during the free holiday parking. Mayor Spear said the matter should be discussed during the work session on the budget under the Parking and Transportation Department.

Councilor Coviello informed the City Council he will bring forward on the January 22, 2013 Council Agenda, under his name, a request to fund a downtown shuttle.

Mayor Spear asked that the Recreation Board consider changing the date of trick or treat to October 31st when Halloween is celebrated, rather than October 30th and report back their recommendation to the Council.

Councilor Dwyer reported Attorney Tom Watson was interested in having re-given to the State Legislature the Petition of the Slaves of 1779. Senator Clark introduced this to the Legislature for it to be voted on. In addition, because there were Portsmouth citizens, it's a Portsmouth Petition. The Legislature will vote to Resolve the Petition which was given 234 years ago.

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

At 8:35 p.m., Councilor Novelline Clayburgh moved to adjourn. Seconded by Councilor Coviello and voted.

A handwritten signature in black ink that reads "Kelli L. Barnaby". The signature is written in a cursive, flowing style.

Kelli L. Barnaby, CMC/CNHMC
City Clerk



NEW HAMPSHIRE
CHARITABLE FOUNDATION

December 18, 2012

Art-Speak
1 Junkins Avenue
Portsmouth, NH 03801

Grant ID#: 83674

To Whom It May Concern:

I am pleased to inform you that a \$250.00 grant has been approved to your organization from the Geoffrey E. Clark and Martha Fuller Clark Fund, one of the Foundation's advised funds. The grant is for general support.

Payment of your award may be included with this letter or sent separately. Your check will reference the grant ID number as shown above. A Terms of Award information sheet which explains the terms and conditions of the grant accompanies this letter. Please review this document carefully. Deposit of the grant award check signifies your acceptance and intent to comply with the terms of the award; it also serves as our receipt for this payment.

We ask that publicity for your program make reference to the support provided by the Geoffrey E. Clark and Martha Fuller Clark Fund of the New Hampshire Charitable Foundation. If you would like additional information about the Foundation's publicity guidelines, including logos, please visit our website at www.nhcf.org/publicity.

If you have any questions, please contact Stefanie Crystal at the Foundation.

Our best wishes for the success of your programs.

Sincerely,

Judith T. Burrows
Director of Program Operations

PLEASE NOTE: By accepting this gift, the grant recipient acknowledges that the entire value of this contribution is for charitable purposes and no goods, services or benefits were provided to any individuals affiliated with said donor advised fund.

New Hampshire Charitable Foundation

Check Date: 12/17/2012
 Check Number: 184555

To: Art-Speak
 1 Junkins Avenue
 Portsmouth, NH 03801

Invoice Number	Date	Description	Amount	Discount	Net Amount
GE-DA012-83674-1	12/14/2012	Art-Speak	\$250.00	\$0.00	\$250.00
		Totals:	\$250.00	\$0.00	\$250.00

New Hampshire Charitable Foundation
 37 Pleasant St
 Concord, NH 03301

Citizens Bank
 Manchester, NH

011401633

CHECK DATE	CHECK NO.
12/17/2012	184555
CHECK AMOUNT	

PAY **Two hundred fifty and 00/100 Dollars**

\$** 250.00

TO
 THE
 ORDER
 OF

Art-Speak
 1 Junkins Avenue
 Portsmouth, NH 03801

Richard Clavin

AUTHORIZED SIGNATURE

PORTSMOUTH POLICE DEPARTMENT

MEMORANDUM

JAN - 4 2013

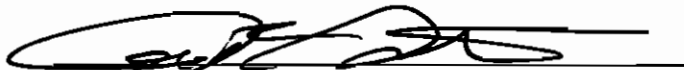
DATE: 19 DECEMBER, 2012
TO: JOHN P. BOHENKO, CITY MANAGER
FROM: JOHN F. GOLUMB, CHAIRMAN, PORTSMOUTH POLICE COMMISSION
STEPHEN J. DUBOIS, CHIEF OF POLICE
RE: GRANTS & DONATIONS

At the December 19th, monthly Police Commission meeting, the Board of Police Commissioners approved and accepted the following grants:

1. A grant for a maximum amount of \$1,000 from Police Standards and Training in support of Deputy Chief Corey MacDonald's attendance at the Senior Management Institute for Police at Boston University. The Institute commences June 2, 2013.
2. A grant in the amount of \$5,000 from the Fuller Foundation, Inc. to provide training & equipment to investigators and prosecutors.

We submit the information to you pursuant to City Policy Memorandum #94-36, for the City Council's consideration and approval at their next meeting.

Respectfully submitted,



John F. Golumb, Chairman
Board of Police Commissioners



Stephen J. DuBois, Chief of Police

cc: Board of Police Commissioners
Finance Director Judie Belanger
Admin. Captain Frank Warchol
Budget Coordinator Tammie Perez



State of New Hampshire
POLICE STANDARDS & TRAINING COUNCIL
ARTHUR D. KEHAS
LAW ENFORCEMENT TRAINING FACILITY & CAMPUS
17 Institute Drive — Concord, N.H. 03301-7413
603-271-2133 FAX 603-271-1785
TDD Access: Relay NH 1-800-735-2964



Sheriff Michael L. Prozzo, Jr.
Chairman

Donald L. Vittum
Director

December 3, 2012

DEC 6 - 2012

Chief Stephen DuBois
Portsmouth Police Department
3 Junkins Ave
Portsmouth, NH 03801

Dear Chief DuBois,

This letter is to confirm that the Police Standards & Training Council, at their meeting on November 27, 2012, approved your requested training grant for a maximum of \$1,000 for Deputy Chief Corey MacDonald to attend the Senior Management Institute for Police Course at Boston University beginning June 2, 2013.

Rental car fees are not a permissible expense under the Council's published guidelines, and disbursement of grant funds will be made only after the department sends PSTC staff all receipts for expenses incurred in conjunction with the training. Upon the officer's completion of the program, the Council requires that the department forward certificates of completion from the training organization to my attention. These certificates of completion must accompany the receipts in order to receive reimbursement of training grant funds.

Further, the Council has instituted a policy regarding the disbursement and distribution of training grant funds; that is, when training grants are awarded the agency will have **30 days** from the completion date of the approved training to submit all required paperwork to receive reimbursement. If the agency does not comply with this policy, the approved monies will be returned to the Specialized Training Grant Fund to fund future grant requests.

If you have any questions regarding this matter, please feel free to contact me at 271-8278.

Sincerely,

Captain Benjamin R. Jean
Support Bureau Commander

ORDINANCE #
THE CITY OF PORTSMOUTH ORDAINS

That Chapter 1, Article XIV, Section 1.14 – MUNICIPAL FUND BALANCE of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

Section 1.1401: MANDATED FUND BALANCE

The General Fund Balance of the City, at the end of any fiscal year as recorded in accordance with generally accepted accounting principles (GAAP) and excluding any and all reserves, and any dedicated fund balances of the General Fund (otherwise referred to as Unassigned Fund Balance of the General Fund) shall be maintained at the prescribed amount of not less than ~~7%~~ **(10%)** of the actual Total General Fund appropriations for that fiscal year.

Section 1.1402: OPERATIONAL OBJECTIVE

Notwithstanding the provision of 1.1401, it is recognized that the financial management goal of the City of Portsmouth is to annually maintain an Unassigned Fund Balance of ~~greater than~~ **between 10% and 17%** of total general fund appropriations.

Section 1.1403: USE OF UNASSIGNED FUND BALANCE

In any subsequent fiscal year, the City Council may utilize the excess of actual Unassigned Fund Balance of the General Fund (as determined by the annual financial audit of the City) over the prescribed level in **Section 1.1401** from the prior fiscal year for capital projects, transfers to capital reserve, or any other appropriation nonrecurring in nature.

Section 1.1404: EMERGENCY APPROPRIATIONS

At any time, in any budget year, the City Council may, after notice and public hearing, make emergency appropriations from Fund Balance to meet an essential need for public expenditure. Such appropriations shall be adopted by written resolution, after notice and public hearing by a favorable vote of a majority of the members of the City Council. If such appropriation reduces the Unassigned Fund Balance to a level below that prescribed by 1.1401 of this ordinance, the resolution authorizing such appropriation shall include a plan to restore the funds within a period not to exceed two (2) years to the prescribed level. The City Council may, by a two-thirds (2/3) majority vote appropriate from the Unassigned Fund Balance for non-emergency appropriations by following the foregoing procedure, provided that such appropriation does not reduce the Unassigned Fund Balance below the minimum balance required by 1.1401 of this ordinance.

Section 1.1405: RESTORATION PLAN

Whenever the Unassigned Fund Balance of the General Fund is less than the prescribed level, the City Council shall be required, within the fiscal year, to formulate

and implement a plan to restore such prescribed amount to the General Fund, such plan shall not exceed a two (2) year period.

(Article XIV - Adopted in its entirety 8/18/97; Amended 04-02-2012 replaced "Undesignated" with "Unassigned"; **further amended _____, 2013**)

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

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

This ordinance shall take effect upon its passage.

APPROVED:

Eric Spear, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

ORDINANCE #
THE CITY OF PORTSMOUTH ORDAINS

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

(1) Amend Article 5 – Dimensional and Intensity Standards, Section 10.530 – Business and Industrial Districts, as follows:

10.535 Exceptions to Dimensional Standards in the Central Business Districts

10.535.10 Building Height

In addition to the standards set forth in Sections 10.517 and 10.531, buildings in the Central Business A and B districts shall also comply with the following standards:

10.535.4011 Central Business A – Building Height Setback from Street

In Central Business A, no portion of a building within 10 feet of a street right of way line shall exceed 40 feet in height.

10.535.12 Central Business A and B – Maximum Elevation Above Street

Within 25 feet of any street line, the elevation of the highest point of a building above the grade at the street line shall not exceed 50 feet in the Central Business A district and 60 feet in the Central Business B district. This provision shall apply to a parapet wall, fence, railing or similar structure, or roof appurtenance that extends more than 2 feet above the roof surface; but shall not apply to any such structure or device that does not extend more than 2 feet above the roof surface.

This amendment shall not apply to any application which has been the subject of notice by the Zoning Board of Adjustment after June 1, 2012, and prior to the first legal notice of the second reading and public hearing on this amendment at the City Council.

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

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

This ordinance shall take effect upon its passage.

APPROVED:

Eric Spear, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

ZO amend building height 121211.doc

MEMORANDUM

TO: John P. Bohenko, City Manager
FROM: Rick Taintor, Planning Director *RT.*
DATE: December 11, 2012
RE: Proposed Zoning Ordinance Amendment Regarding Building Height in the Central Business Districts

As you know, a recent application of the Zoning Ordinance's definition of "building height" has raised concerns by City Council members, Planning Department staff and others in the City. In order to address these concerns, on November 6, 2012, I submitted a proposed Zoning Ordinance amendment to modify the requirements for building height in the Central Business Districts. On November 13th the City Council voted to refer this proposed amendment to the Planning Board for a report back; and on November 15th the Planning Board voted to recommend adoption of the proposed amendment with one relatively minor change. The ordinance was scheduled for first reading at the City Council meeting on December 3, 2012.

At the December 3rd City Council meeting, representatives of several downtown developers raised concerns about potential impacts of the amendment and requested that it not be moved forward. In response, the City Council voted to postpone first reading to the December 17th City Council meeting, and staff were asked to review the draft ordinance further and to meet with stakeholders to discuss their concerns.

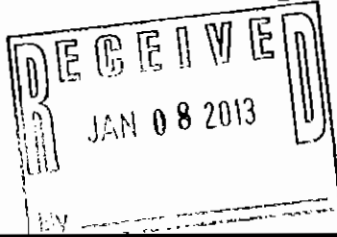
Planning Department staff revised the initial proposal and met with a group of architects and designers on December 7th to discuss the revised draft. The revised amendment (attached to this memo) is simpler than the previous version and would make the following changes to the building height provisions in the Central Business Districts:

- a) Require that within 25 feet of a street line, no portion of a building be higher than 50 feet above the street in the CBA district or 60 feet above the street in the CBB district. (The "street line" is the edge of the municipal right of way, which in the downtown area is approximately at the back of the sidewalk.)
- b) Exempt from this requirement parapet walls, railings, fences, and roof appurtenances (such as HVAC equipment or antennas) that are no more than 2 feet above the roof surface.

In order to accommodate two identified development projects that have initiated a formal process with the City's land use boards (and thereby demonstrated significant investment in project design), the proposed ordinance also exempts applications which have been the subject of legal notice for a hearing before the Zoning Board of Adjustment.



PORTSMOUTH SCHOOL DEPARTMENT



PORTSMOUTH HIGH SCHOOL

January 3, 2013

JEFFREY T. COLLINS
PRINCIPAL

KATHLEEN A. BLAKE
ASSISTANT PRINCIPAL

SHAWN C. DONOVAN
ASSISTANT PRINCIPAL

Members, Portsmouth City Council
Portsmouth Municipal Building
1 Junkins Avenue
Portsmouth, New Hampshire 03801

**"THE PURPOSE OF
THE PORTSMOUTH
SCHOOLS IS TO
EDUCATE ALL
STUDENTS BY
CHALLENGING
THEM TO BECOME
THINKING,
RESPONSIBLE,
CONTRIBUTING
CITIZENS WHO
CONTINUE TO
LEARN
THROUGHOUT
THEIR LIVES."**

Dear City Councilors,

We are writing to request permission from the City of Portsmouth to hold the 3rd annual 5K road race in collaboration with Great Bay Community College on Saturday, May 11, 2013 from 1:00 to 3:00 pm. The race, called "Run for the Sol", is to raise funds for the addition of solar panels at Portsmouth High School. We are planning to run the race in the same format as last year and have partnered with the Portsmouth Chamber of Commerce in order to make this race an even greater success than in previous years.

We have been working with Marie Aleksy of the TradePort to secure permission and have submitted a request form and a plan. The start and finish lines are Great Bay Community College. The college has offered us full access to parking and restroom facilities. As in the past, we will need police assistance in order to facilitate the safety at intersections and crossings. The race course map is attached for your information.

If you require further information please contact us at 436-7100 or email Dee Barrett, d Barrett@portsmouth.k12.nh.us, or Kimberly McGlinchey, kmcglinchey@portsmouth.k12.nh.us. Information is also available on our web page at www.runforthesol.com. Thank you for your consideration of this request.

Sincerely,

Deirdre Barrett
ECO Club Advisor

Kimberly McGlinchey
ECO Club Advisor

Cc: Edward McDonough, Superintendent
Jeffrey Collins, Principal

received
1/8/13



THE KREMPELS BRAIN INJURY FOUNDATION

January 7, 2013

Dear Mayor Spear/City Council,

Plans for the 16th Annual Runner's Alley/Redhook Brewery Memorial 5k are beginning to take shape and once again we look for your approval to hold the race. This year's race is scheduled for May 26, 2013 at 11:00AM. All the logistics remain the same with the start and finish continuing to be at the Redhook Brewery. One hundred percent of the proceeds from the race will be donated to The Krempels Center, based out of the Community Campus here in Portsmouth. If you are not familiar with The Krempels Center, I urge you to visit their website for a truly moving picture of what they are all about (www.krempelscenter.org).

We look forward to your support once more, with over 2000 runners last year as well as thousands of supporters and volunteers, we're very excited for an even better year! Voted as 1 of New England's top 100 races by New England Runner Magazine this race attracts runners and visitors from all over New England making it a wonderful asset to the entire Portsmouth community. Please consider granting us your permission to conduct another successful event, while raising seriously needed funds for an incredibly inspiring nonprofit organization, The Krempels Center. As always we will work closely with the police department and the PDA to ensure we are abiding by all necessary rules and regulations.

Thank you for your time and consideration,

Jeanine Sylvester
Proprietor
Runner's Alley, LLC

Runner's Alley
104 Congress Street, Suite 101
Portsmouth, NH 03801
603.430.1212

Redhook Brewery
35 Corporate Drive
Portsmouth, NH 03801
603.430.8600

Krempels Brain Injury Foundation
PO Box 4388
Portsmouth, NH 03802-4388
603.430.7668



received
1/10/15

January 7, 2013

John Bohenko and The Portsmouth City Council
1 Junkins Ave.
Portsmouth, NH 03801

To Whom It May Concern:

The purpose of this letter is to seek permission from the Portsmouth City Council to conduct our 17th Annual Seacoast AIDS Walk and Dog Walk on Sunday, May 5, 2013 from 10:00 AM to 5:00 PM. The walk will begin at 2PM and end around 5PM in the lower parking lot at City Hall. Approximately 400 persons will be in attendance. In addition we would like permission to put up 5 temporary 2' by 4' a-frame signs to mark the route. The route will be the same as previous years -- a map has been attached for your review.

Thank you for your consideration of our request. AIDS Response Seacoast greatly appreciates your support in years past. The Annual Seacoast AIDS Walk has become an increasingly popular and successful event for us in the last few years, and we rely upon it to increase awareness about our agency and mission within the Seacoast community. In addition, the Seacoast AIDS Walk has become our most important annual fundraiser.

If you have any questions about this request or our agency, please do not hesitate to contact me.

Thank you.

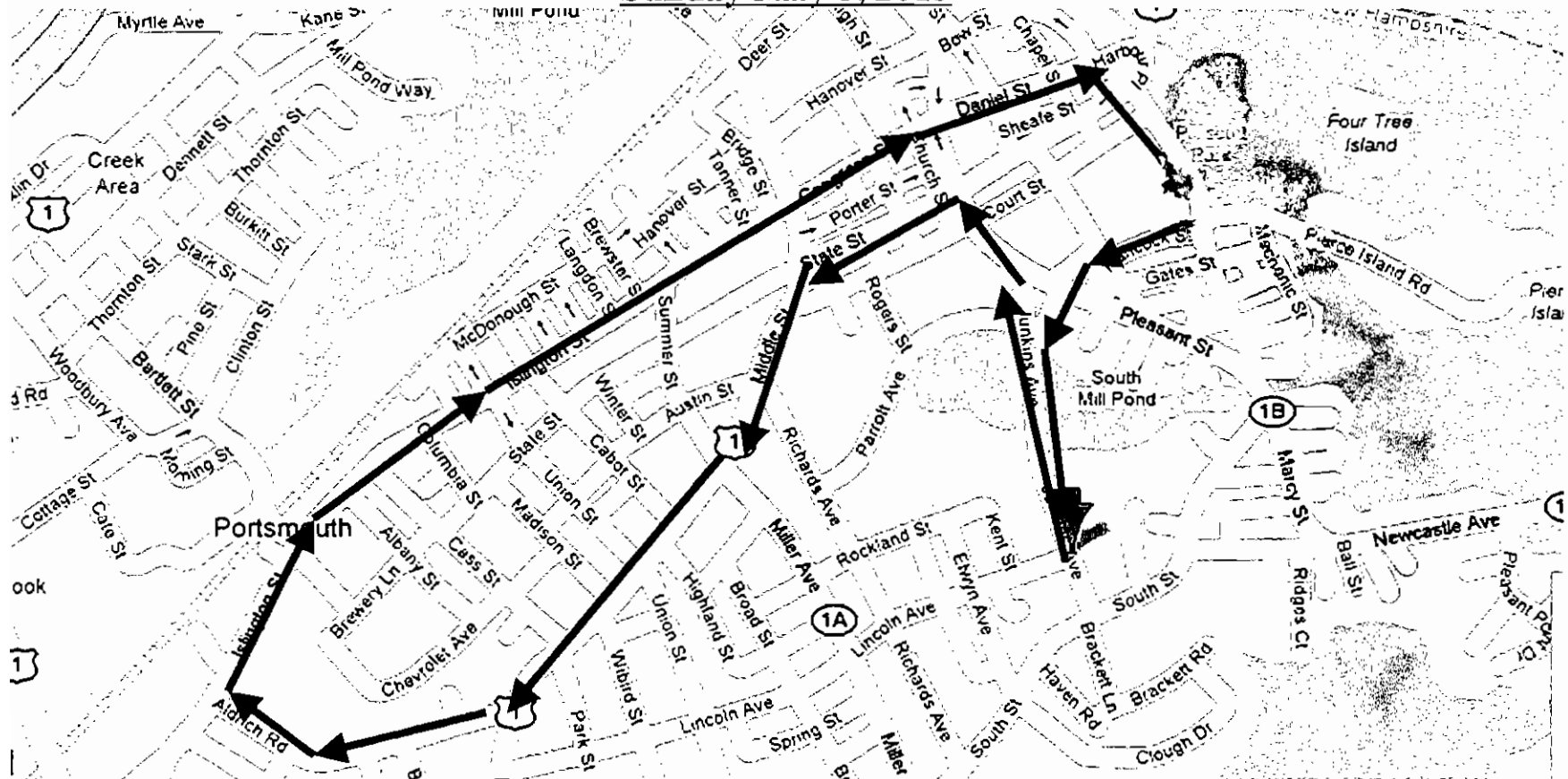
Sincerely,

A handwritten signature in black ink, appearing to read "Calvin Sanborn".

Calvin Sanborn
Board of Directors & Co-Chair of the Walk Committee
csanborn@stgeorgesnyorkharbor.org
207-363-7376 (work)

2013 Seacoast AIDS Walk

Sunday May 5, 2013



The 2013 Seacoast AIDS Walk begins and ends at the Portsmouth City Hall, 1 Junkins Ave, Portsmouth NH. Doggie Bags will be provided prior to departure, and there will be refuse and water stops along the way.

The walk in a nutshell:

Right on Junkins, left on Pleasant, left on State, left on Middle, cross Middle at cross walk after Naber's market, right on Aldrich, right on Islington, straight through Congress and Daniel, through parking lot and through center island, down stairs, cross State St. onto Marcy, walk along the sidewalk beside Strawberry Banke, right on Hancock, through the park, then left on Junkins.

Please use Caution, Stay on the Sidewalks, and use the Cross-Walks. Be Safe and Have Fun

InterOffice Memo

To: John P. Bohenko, City Manager
From: Tom Richter, Engineering Technician
Date: January 8, 2013
Subject: PSNH License Agreement 63-0548

I have reviewed the pole and underground conduit location information provided by PSNH for Petition and Pole License 63-0548.

This request is to license 150 feet of underground conduit located on Vaughan Street in accordance with the attached Location Plan. During the development of 111 Maplewood Avenue PSNH needed to provide electrical upgrades that included removing old switching gear from inside of 32A/MH10 and installing a new cabinet aboveground on private property.

The installation of this system posed no impact to existing city infrastructure. The Public Works Department recommends approval of this license.

Attached are pictures of the site. Please call with any questions you may have.

cc: Peter Rice, P.E. Deputy Director of Public Works
Kelli Barnaby, City Clerk



**Public Service
of New Hampshire**

60 W. Pennacook Street, Manchester, NH 03101

Public Service Company of New Hampshire
P.O. Box 330
Manchester, NH 03105-0330
(603) 669-4000

The Northeast Utilities System

October 10, 2012

Office of the City Clerk
City of Portsmouth
One Junkins Avenue
Portsmouth, NH 03801

Dear City Clerk,

Public Service of New Hampshire is hereby requesting permission to install/replace Underground Service located in the City of Portsmouth. Enclosed for your review is pole license petition 63-0548 for Underground Service located in the City of Portsmouth.

Upon approval, please have the license section signed by the proper authority. The copy labeled "**Portsmouth**" should be retained for your records.

Please return the remaining copies along with any invoices for payment to my attention at the address below.

If the petition is rejected, please return all copies of the license petitions with an explanation of rejection.

If you have any additional questions or require more information, please contact me at 603-634-2218.

Respectfully,

Lisa-Marie Pinkes

Lisa-Marie Pinkes
Representative-A Records
Public Service of New Hampshire
60 West Pennacook Street PO Box 330
Manchester, NH 03105-9989

Enclosure(s)

**PETITION AND POLE LICENSE
PETITION**

Manchester, New Hampshire

October 10, 2012

To the City Council of the City of Portsmouth, New Hampshire.

PUBLIC SERVICE OF NEW HAMPSHIRE requests a license to install and maintain underground conduits, cable and wires, and maintain poles and structures with wires, cables, conduits and devices thereon, together with such sustaining, strengthening and protecting fixtures as may be necessary along, and under the following public ways:

License on ^{TEMP} ~~(1) poles~~, 150' Underground Cable- Running 120' from MH 10A to MH 10 then Running 30' from MH 10 to MH 10T1 on Vaughan Street in the City of Portsmouth.

PUBLIC SERVICE OF NEW HAMPSHIRE

BY: *Lisa-Marie Pinkes*
Lisa-Marie Pinkes, PSNH CO Support / Licensing

LICENSE

Upon the foregoing petition and it appearing that the public good so requires, it is hereby

ORDERED

This 10th day of October, 2012, that, PUBLIC SERVICE OF NEW HAMPSHIRE be granted a license to erect and maintain poles and structures, with wires, cables, conduits and devices thereon, together with sustaining, strengthening and protecting fixtures, in the public ways covered by said petition. All of said wires, except such as are vertically attached to poles and structures, shall be placed in accordance with the National Electrical Safety Code in effect at the time of petition and/or license is granted.

The approximate location of the poles and structures shall be shown on plan marked "PUBLIC SERVICE OF NEW HAMPSHIRE" No. 63-0548, dated 10/10/2012, attached to and made a part hereof.

Town of Portsmouth, New Hampshire

Town of Portsmouth, New Hampshire

BY: _____

BY: _____

BY: _____

BY: _____

BY: _____

BY: _____

Received and entered in the records of the Town of Portsmouth, New Hampshire, Book _____, Page _____

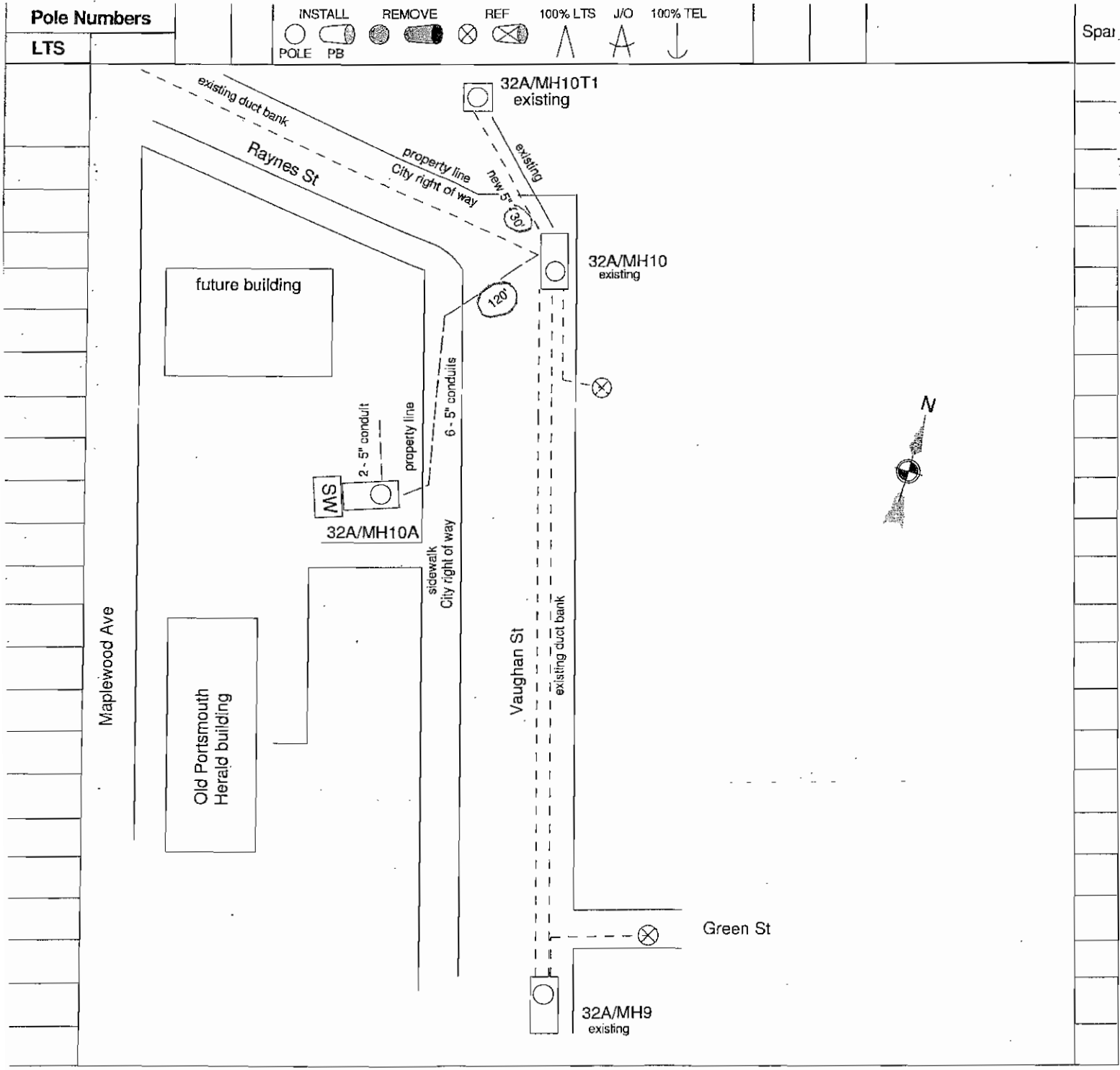
Date: _____

ATTEST: _____
Town Clerk

POLE LOCATION PLAN

DATE 10/10/2012
 MUNICIPALITY: Portsmouth
 STREET / ROAD: Vaughan Street
 PSNH OFFICE: Portsmouth
 PSNH ENGINEER: Jim Osburn
 TELCO ENGINEER: _____

LICENSE NO. 63-0548
 STATE HWY. DIV. NO. 6
 STATE LICENSE NO. _____
 WORK REQUEST# 1954385
 WORK FINANCIAL # 9P220525
 TELCO PROJECT # _____



ADDENDUM PER RSA 231:163

- 1) All licensee(s) and any other entity using and/or occupying property of the City pursuant to a license, lease or other agreement shall provide for the payment of properly assessed real and personal property taxes by the party using or occupying said property no later than the due date.
- 2) All licensee(s) and any other entity using and/or occupying property of the City shall provide for the payment of properly assessed real and personal property taxes on structures or improvements added by the licensee(s) or any other entity using or occupying property of the city; and
- 3) Failure of the licensee(s) and any other entity using and/or occupying property of the City to pay duly assessed personal and real taxes when due shall be cause to terminate said agreement by the lessor.

The changes to the licenses, leases and other agreements set forth in the preceding paragraphs shall remain in effect until changed in accordance with the requirements of RSA 231:163.

Approved by City Council:







Veterans of Foreign Wars

Of the United States

Emerson Hovey Post 168
238 Deer Street
Portsmouth, New Hampshire 03801
603-436-9724
Vfw168@aol.com

Carl Walton, Commander

JAN - 9 2013

January 8, 2013

City of Portsmouth
City Council
One Junkins Avenue
Portsmouth, NH 03801

Subject: Consideration for Tenancy of former U.S. Army Reserve Center – Cottage Street

Dear Honorable Councilors:

Recently, the local post command staff has become aware of the dire need for our headquarters to be relocated to another site within the city. The Emerson Hovey Post, the oldest VFW post in the state, has been an active civic organization within Portsmouth since the organization's inception. Formerly located on Parrott Avenue around 1919, the post has been at its present location on Deer Street since the mid-1950's. During that time the post has contributed its members' time and funds to such worthy activities as the Portsmouth Little League, Boys' Junior Basket Ball League, and has provided safety Halloween trick-or-treat bags to the various schools within the city. In addition, the post continually supports its veteran citizens through its annual Christmas breakfast and party for the dependent children of our deployed servicemen and women, and it often provides specialized relief to destitute veterans in need.

Like most civic organizations, Post 168 supports such charities as the Salvation Army, Crossroads, and Operation Blessing. The post hosts the scheduled meetings of the local police union and contributes to the police annual yearbook. It actively participates in Eagle Scout award ceremonies several times each year. Further, it also acts as a conduit for local businesses to contribute items that are used in support the post's programs. In addition, Post 168 is an active partner in the Central Veterans Council and participates in patriotic celebrations like the Memorial Day and Veterans Day parades and services.

With limited parking, the post has been a welcome and convenient venue for local organizations and private citizens to hold functions within its hall. It is a center where veterans may meet and share common experiences endured during this country's conflicts. It is also the home to the general VFW membership and its women's and men's auxiliary monthly meetings. It is because of the issue of limited parking, soon to be no parking, that the post needs to find a new home.

Your VFW post has been proud to represent Portsmouth to the state and it truly appreciates the support that the city has given it in the past in return. That said, it is our earnest desire that the post be considered for the future tenancy of the former U.S. Army Reserve Center on Cottage Street. Thank you, in advance, for your consideration of our request.

Sincerely,

Carl Walton, Commander

PAUL SCHURMAN ADJ.

BOSEN & ASSOCIATES, P.L.L.C.
ATTORNEYS AT LAW

JAN 11 2013

January 10, 2013

John K. Bosen
Admitted in NH & MA

Christopher P. Mulligan
Admitted in NH & ME

Molly C. Ferrara
Admitted in NH

Via: Fax #427-1526 and U.S. Mail

Portsmouth City Council
Mayor, Eric Spear
City Manager, John P. Bohenko
1 Junkins Avenue
Portsmouth, NH 03801

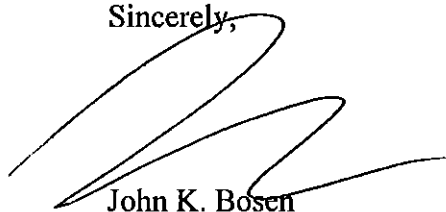
RE: Easement Deed from the City of Portsmouth regarding 582 Greenside Avenue,
Portsmouth, New Hampshire

Dear Ladies & Gentlemen,

Enclosed please find an Easement Deed from the City of Portsmouth to Alan S. Van Wert and Cheryl L. Jameson. This Easement deed was reviewed and voted on by the City Council in 1988 and conveyed to a prior owner by mistake after the property was conveyed to Van Wert and Jameson. Van Wert and Jameson are now selling the property and it was discovered that the Easement recorded in the Rockingham County Registry of Deeds at Book 2753, Page 1271 (attached) was recorded after the property was conveyed to Van Wert and Jameson. Attorney Robert Sullivan has reviewed the Planning Board and City Council records from 1988 and suggested that I write to the Mayor and Council requesting that the City Manager be authorized to execute a new Easement deed to correct this situation. A proposed deed for that purpose is attached.

If you have any questions, please do not hesitate to contact me.

Sincerely,



John K. Bosen

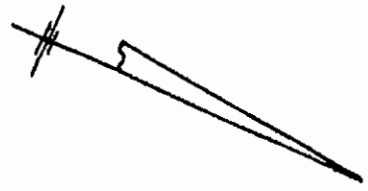
Cc: Robert P. Sullivan, Esq.

MORTGAGE PLOT PLAN

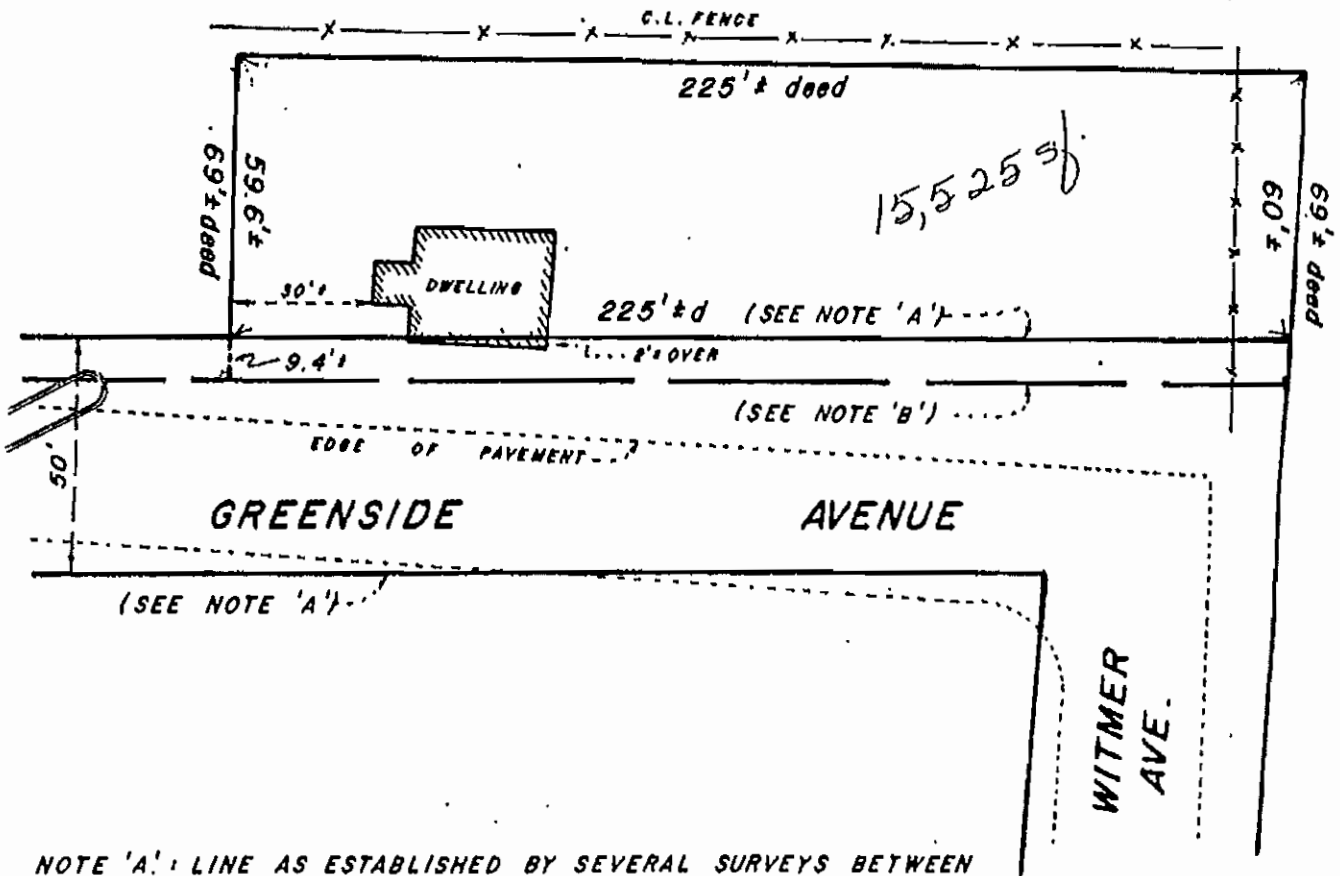
582 GREENSIDE AVE.
PORTSMOUTH, N.H.

SCALE 1" = 40' OCT. 13, 1983

RICHARD E. CUOCO
LAND SURVEYING
P.O. BOX 3574 WASHUA, N.H.



APPENDIX "A"



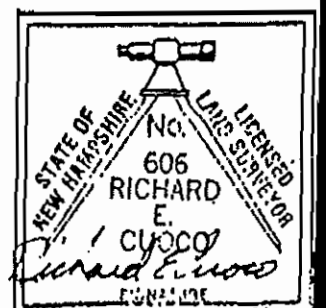
NOTE 'A': LINE AS ESTABLISHED BY SEVERAL SURVEYS BETWEEN 1943 & 1950 BY JOHN W. DURGIN, ENGINEER.

NOTE 'B': LINE AS DESCRIBED IN DEEDS.

I CERTIFY TO THE TITLE INSUROR AND TO THE MORTGAGEE THAT THE DWELLING IS LOCATED ON THE LOT AS SHOWN AND THAT IT DOES NOT CONFORM WITH THE CITY OF PORTSMOUTH ZONING REGULATIONS REGARDING SETBACKS FROM STREET LINES AND LOT LINES.

I FURTHER CERTIFY THAT THE DWELLING IS NOT LOCATED IN A FEDERAL FLOOD HAZARD AREA AS SHOWN ON FLOOD INSURANCE RATE MAP DATED MAY 17, 1982.

THIS PLAN IS FOR MORTGAGE PURPOSES ONLY AND NOT FOR BOUNDARY DETERMINATION. BOUNDARY INFORMATION TAKEN FROM: VOL. 2402 PG 1158 AND FROM NOTE 'A'.



EASEMENT DEED

KNOW ALL MEN BY THESE PRESENTS, that **The City of Portsmouth**, a municipal corporation having a place of business at 1 Junkins Avenue, Portsmouth, New Hampshire 03801, for consideration paid, do hereby grant to **Alan S. Van Wert and Cheryl L. Jameson, n/k/a Cheryl Jameson Van Wert**, of 582 Greenside Avenue, Portsmouth, County of Rockingham, State of New Hampshire, as joint tenants with rights of survivorship, with QUITCLAIM COVENANTS, the following described premises:

A permanent easement upon a certain tract of land situate in Portsmouth, County of Rockingham, State of New Hampshire, bounded and described as follows:

That portion of public right-of-way along Greenside Avenue which abuts the lot known as 582 Greenside Avenue, Portsmouth, New Hampshire, owned by the Grantees, which is encroached upon by the dwelling as it is presently located upon said lot known as 582 Greenside Avenue, together with a right to enter upon said public right-of-way to repair and maintain said dwelling.

Meaning and intending to describe and convey an easement for the purpose of a single-family residence within the dwelling as it now exits upon the City Assessor's Plan No. R61, as Lot 30.

This grant of easement contains the express restriction that said dwelling may not be expanded such that it will further encroach upon said public right-of-way.

This easement was conveyed to the prior owners of the property, Keith H. Goodwin and Alice (Goodwin) Law by The City of Portsmouth dated July 18, 1988 and recorded in the Rockingham County Registry of deeds at Book 2753, Page 1271 recorded on August 4, 1988 after the Goodwin's conveyed the property to Alan S. Van Wert and Cheryl L. Jameson on July 1, 1988 at Book 2748, Page 826. The easement is being replaced and conveyed to the current owners of the property.

Witness my hand and seal this _____ day of January, 2013.

The City of Portsmouth

Witness

By: John P. Bohenko

STATE OF New Hampshire
COUNTY OF Rockingham

The foregoing instrument was acknowledged before me this ____ day of January, 2013 by John Bohenko, City Manager of the City of Portsmouth on behalf of the City.

Before me,

Justice of the Peace/Notary Public

My Commission Expires:_____



CITY OF PORTSMOUTH

Legal Department
Robert P. Sullivan,
City Attorney

City Hall, 126 Daniel Street
Portsmouth, New Hampshire 03801
(603) 431-2000, ext. 204

RECEIVED
JUL 18 1988

July 18, 1988

Geoffrey Crompton, Esquire
536 State Street
Portsmouth, New Hampshire 03801

Re: Easement Deed - Keith Goodwin and Alice (Goodwin) Law

Dear Geoff:

Enclosed herewith is original Easement Deed in the above matter,
duly executed by City Manager Calvin Canney.

Sincerely,

Robert P. Sullivan
City Attorney

RPS:bh

Enclosure

EASEMENT DEED

KNOW ALL MEN BY THESE PRESENTS, That the City of Portsmouth, Rockingham County, State of New Hampshire

for consideration paid, grants to KEITH H. GOODWIN and ALICE (GOODWIN) LAW, of 582 Greenside Avenue, Portsmouth, County of Rockingham and State of New Hampshire and 1 Freedom Circle, Portsmouth, County of Rockingham and State of New Hampshire, respectively,

with QUITCLAIM COVENANTS

A permanent easement upon a certain tract of land situate in Portsmouth, County of Rockingham and State of New Hampshire, bounded and described as follows:

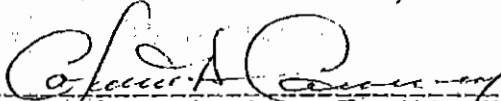
That portion of the public right-of-way along Greenside Avenue which abuts the lot known as 582 Greenside Avenue, Portsmouth, New Hampshire, owned by the Grantees, which is encroached upon by the dwelling as it is presently located upon said lot known as 582 Greenside Avenue, together with a right to enter upon said public right-of-way to repair and maintain said dwelling.

Meaning and intending to describe and convey an easement for the purposes of a single-family residence within the dwelling as it now exists upon the City Assessor's Plan No. R61, as Lot 30.

This grant of easement contains the express restriction that said dwelling may not be expanded such that it will further encroach upon said public right-of-way.

Signed this 18th day of July, 1988.

THE CITY OF PORTSMOUTH, NEW HAMPSHIRE


By: Calvin A. Canney, City Manager L.S.
Pursuant to Authority granted by
the Portsmouth City Council
on July 11, 1988

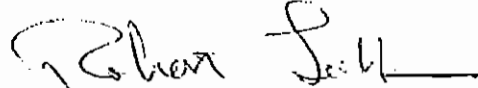
STATE OF NEW HAMPSHIRE
ROCKINGHAM, SS.

A.D. 1988

Personally appeared Calvin A. Canney, City Manager of the City of Portsmouth, New Hampshire, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes herein contained.

My Commission Expires:

12 | 14 | 88



Justice of the Peace

give another easent to current owner

EASEMENT DEED

BK2753 P1271

KNOW ALL MEN BY THESE PRESENTS, That the City of Portsmouth, Rockingham County, State of New Hampshire

for consideration paid, grants to KEITH H. GOODWIN and ALICE (GOODWIN) LAW, of 582 Greenside Avenue, Portsmouth, County of Rockingham and State of New Hampshire and 1 Freedom Circle, Portsmouth, County of Rockingham and State of New Hampshire, respectively,

with QUITCLAIM COVENANTS

A permanent easement upon a certain tract of land situate in Portsmouth, County of Rockingham and State of New Hampshire, bounded and described as follows:

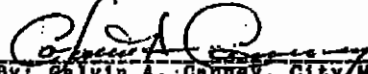
That portion of the public right-of-way along Greenside Avenue which abuts the lot known as 582 Greenside Avenue, Portsmouth, New Hampshire, owned by the Grantees, which is encroached upon by the dwelling as it is presently located upon said lot known as 582 Greenside Avenue, together with a right to enter upon said public right-of-way to repair and maintain said dwelling.

Meaning and intending to describe and convey an easement for the purposes of a single-family residence within the dwelling as it now exists upon the City Assessor's Plan No. R61, as Lot 30.

This grant of easement contains the express restriction that said dwelling may not be expanded such that it will further encroach upon said public right-of-way.

Signed this 18th day of July, 1988.

THE CITY OF PORTSMOUTH, NEW HAMPSHIRE


By: Calvin A. Gannay, City Manager L.S.
Pursuant to Authority granted by
the Portsmouth City Council
on July 11, 1988

37643
JUL 19 1988
ROCKINGHAM COUNTY
REGISTRY OF DEEDS

BK2753 P1272

-2-

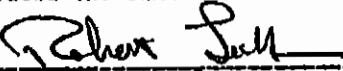
STATE OF NEW HAMPSHIRE
ROCKINGHAM, SS.

A.D. 1988

Personally appeared Calvin A. Canney, City Manager of the City of Portsmouth, New Hampshire, known to me or satisfactorily proven to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes herein contained.

My Commission Expires:

12/14/88


Justice of the Peace
~~Notary Public~~

BK2748 P0826

WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, That Keith H. Goodwin, a married person of 582 Greenside Avenue, Portsmouth, County of Rockingham and State of New Hampshire and Alice J. Law, formerly known as Alice J. Goodwin, a single person, of 7 Freedom Circle, Portsmouth, County of Rockingham and State of New Hampshire

for consideration paid, grant to Alan S. Van Wert and Cheryl L. Jameson, both single persons, of 200 Landing Road, Hampton, County of Rockingham and State of New Hampshire, as joint tenants with rights of survivorship,

with WARRANTY COVENANTS

A certain lot or parcel of land, with the buildings thereon, situated in Portsmouth, County of Rockingham and State of New Hampshire, more particularly bounded and described as follows:

BEGINNING in the Westerly side of Greenside Avenue at a point One Hundred Five (105) feet distant Northerly from land now or formerly of John Geisbuhler, at the Northeasterly corner of land now or formerly of Robert B. and Barbara M. Caewell; thence running Northerly by said Greenside Avenue Two Hundred Twenty-five (225) feet more or less, to land now or formerly of Gerald W. Pierce; thence turning and running Westerly by said land of said Pierce Sixty-nine (69) feet, more or less, to land now or formerly of the Portsmouth Country Club; thence turning and running Southerly by said last named land Two Hundred Twenty-five (225) feet, more or less, to the Northwesterly corner of said Caewell's said land; thence turning and running Easterly by said Caewell's said land Sixty-nine (69) feet, more or less, to said Greenside Avenue to the point begun at.

BEING THE SAME PREMISES conveyed to Keith H. Goodwin and Alice J. Goodwin by Warranty Deed of Benjamin F. Redden and Judith M. Redden dated October 25, 1983 and recorded in the Rockingham County Registry of Deeds at Book 2466, Page 691.

We, being said grantors, release to said grantees, all rights of dower curtesy and homestead and other interests therein.

JUNE 30, 1988

Keith H. Goodwin
Keith H. Goodwin

JUNE 27, 1988

Dagne E. Goodwin
Dagne E. Goodwin (wife of
Keith H. Goodwin)

JUNE 30, 1988

Alice J. Law
Alice J. Law
(f/k/a Alice J. Goodwin)

31222
JUN 1 11 AM '88
ROCKINGHAM COUNTY
REGISTRY OF DEEDS

BK2748 P0827

STATE OF NEW HAMPSHIRE
ROCKINGHAM, SS.

On the 30th day of June, 1988, personally appeared before me the above named Keith H. Goodwin known to me, or satisfactorily proven, to be the person whose name is subscribed to the foregoing instrument and acknowledged that he executed the same for the purposes therein contained.


My commission expires:
July 23, 1991



Justice of the Peace
Notary Public

STATE OF NEW HAMPSHIRE
ROCKINGHAM, SS.

On the 27th day of June, 1988, personally appeared before me the above named Dagne E. Goodwin, known to me, or satisfactorily proven, to be person whose name is subscribed to the foregoing instrument and acknowledged that she executed the same for the purposes therein contained.

My Commission Expires September 16, 1990


Justice of the Peace
Notary Public



STATE OF NEW HAMPSHIRE
ROCKINGHAM, SS.

On the 30th day of June, 1988, personally appeared before me the above named Alice J. Lav, r/k/a Alice J. Goodwin, known to me, or satisfactorily proven, to be the person whose name is subscribed to the foregoing instrument and acknowledged that she executed the same for the purposes therein contained.

My commission expires:
July 23, 1991



Justice of the Peace
Notary Public

163484 STATE OF NEW HAMPSHIRE
TAX ON TRANSFER OF REAL PROPERTY
JUL 1 1988 721.00
1688



**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: January 17, 2013
To: Honorable Mayor Eric Spear and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on January 22, 2013 City Council Agenda

Presentations:

1. **Report Back Re: Donations for Veterans Memorial in Memorial Park.** You may recall that in 2012 Attorney Noucas wrote to the City Council regarding an offer from his clients Jim and Laurie Teetzel. The letter states that, "as a means of reinforcing the concept of the Memorial Bridge as a tribute to American Veterans Jim and Laurie are pledging \$25,000 towards construction of a new tribute to American Veterans in Memorial Park."

Over the past several months, staff has been working with Jim Teetzel, Attorney Noucas, representatives of NHDOT and the bridge contractor Archer Western on a concept for the memorial to be constructed in the new Memorial Park and to include granite markers with bronze wreaths representing the branches of the military service as well as granite markers with engraved American, State of New Hampshire and City of Portsmouth flags. It is anticipated that the materials for the memorials will be recycled from the original Memorial Bridge abutments. **Attached is a preliminary concept of the memorial and its location within the park.** All costs associated with the project will be donated by the Teetzels with some in-kind donations from Archer Western.

As a means of reporting back to the Council on this offer, there will be a presentation on the proposed concept of the memorial to veterans in the park on Tuesday evening.

2. **Basing of KC-46A at Pease.** On Tuesday evening, William Sylla, on behalf of the 157th Air Refueling Wing, will make a presentation regarding the re-affirmation of the City Council's Resolution of June 6, 2011 for continuing support of the Global Mobility Mission currently flown by their KC-135 aircraft (see attached information from presentation discussion May 2011) and the basing of the KC-46A at Pease to continue this mission, as well as the economic, educational, and employment benefits of the base.
3. **Comprehensive Annual Financial Report (CAFR) – Scott McIntyre of Melanson, Heath & Company, P.C. Auditors' Financial Report for the Year Ending June 30, 2012 (Annual Audit).** On the inside cover of your packet, I am providing you with a copy of the City's Comprehensive Annual Financial Report (CAFR), which includes the financial statements for the fiscal year ending June 30, 2012 (Annual Audit). The Fiscal Year 2012 Audit was prepared by the firm of Melanson, Heath & Company, P.C. Also, enclosed on the inside cover of your packet is the Management Letter for the year ending June 30, 2012, prepared by our auditor. On Tuesday evening, Scott McIntyre from Melanson, Heath & Company will be in attendance to make a presentation on the aforementioned report.

Acceptance of Grants and Donations:

1. **Acceptance of Grant for Art-Speak.** Art-Speak requests that the City Council accept a \$250 grant from the Geoffrey E. Clark and Martha Fuller Clark Fund of the New Hampshire Charitable Foundation (see attached letter). The grant is for operational support of Art-Speak, the City's Cultural Commission.

I would recommend the City Council move to accept a grant to Art-Speak to be used for operational support of Art-Speak, as presented. Action on this item should take place under Section VII of the Agenda.

2. **Acceptance of Police Department Grants.** Attached under Section VII of the Agenda is a memorandum, dated December 19, 2012, from John F. Golomb, Chairman of the Portsmouth Police Commissioners, and Police Chief Stephen J. DuBois, requesting that the City Council approve the following grants:
 1. A grant for a maximum amount of \$1,000 from Police Standards and Training in support of Deputy Chief Corey MacDonald's attendance at the Senior Management Institute for Police at Boston University. The Institute commences June 2, 2013.
 2. A grant in the amount of \$5,000 from the Fuller Foundation, Inc. to provide training and equipment to investigators and prosecutors.

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 move to approve and accept the grants to the Portsmouth Police Department, as listed. Action on this matter should take place under Section VII of the Agenda.

Items Which Require Action Under Other Sections of the Agenda:

1. Consideration of First Reading of Proposed Resolution and Ordinance Amendments:

- 1.1 **First Reading of Proposed Ordinance Amendment to Chapter 1, Article XIV, Section 1.14 – Municipal Fund Balance.** As a result of the January 7th City Council meeting, under Section VIII of the Agenda, I am bringing back for first reading the **attached proposed Ordinance amendment** to Chapter 1, Article XIV, Section 1.14 – Municipal Fund Balance, which would maintain an unassigned fund balance of not less than 10% with a goal of 17%.

Please note further that use of unassigned fund balance typically should be used for appropriations that are nonrecurring in nature.

As you will recall, at the October 27, 2012 City Council Retreat, there was a request to review the existing Fund Balance Ordinance to determine if it needed any revisions that would place the City in a better position to obtain a AAA bond rating. As you are aware, the City presently has a bond rating of AA+ which is one step below AAA.

Since 1997, the City has received four bond upgrades which have been attributed directly to financial policies that the City has enacted (stable tax rate, health insurance stabilization fund, leave at termination fund, capital improvement plan and fund balance ordinance).

In reviewing AAA ratings in other communities, it appears that the one thing they have in common is a fund balance policy and/or an ordinance that strives to maintain an unassigned fund balance between 10% and 17% of general fund appropriations.

As part of the discussion at the January 7, 2013 meeting regarding this matter, there were two inquiries which required a report back as follows:

Question 1:

Councilor Thorsen - What is the marginal benefit between an AA+ and AAA rating?

Below is an estimate of the interest savings the City would realize on a \$20 million bond issue, issued for 20 years, if the City's bond rating was upgraded to AAA from AA+. These interest rates are compiled by Municipal Market Data (MMD), which collects interest rate information on bonds in the market and reports the rates daily by rating category and by maturity dates. The analysis shows, under current market conditions, the City would expect to save approximately \$236,000 in interest over the life of a \$20 million, 20 year bond issue as a result of the upgrade.

Estimated current benefit of an upgrade from AA+ to AAA on \$20 million Bond Issue

Year	AAA	AA+	AA	Interest Rate Difference Between AA+ and AAA	Assumed Principal	Interest
1 2014	0.20	0.23	0.25	0.03%	1,000,000	19,950
2 2015	0.34	0.39	0.43	0.05%	1,000,000	19,700
3 2016	0.47	0.52	0.57	0.05%	1,000,000	19,250
4 2017	0.61	0.69	0.77	0.08%	1,000,000	18,750
5 2018	0.76	0.85	0.93	0.09%	1,000,000	17,950
6 2019	0.88	0.98	1.07	0.10%	1,000,000	17,100
7 2020	1.09	1.19	1.29	0.10%	1,000,000	16,150
8 2021	1.31	1.42	1.52	0.11%	1,000,000	15,150
9 2022	1.51	1.62	1.73	0.11%	1,000,000	14,100
10 2023	1.70	1.81	1.92	0.11%	1,000,000	13,000
11 2024	1.82	1.94	2.05	0.12%	1,000,000	11,900
12 2025	1.90	2.02	2.13	0.12%	1,000,000	10,750
13 2026	1.98	2.10	2.22	0.12%	1,000,000	9,600
14 2027	2.06	2.18	2.30	0.12%	1,000,000	8,400
15 2028	2.13	2.25	2.37	0.12%	1,000,000	7,200
16 2029	2.20	2.32	2.44	0.12%	1,000,000	6,000
17 2030	2.26	2.38	2.50	0.12%	1,000,000	4,800
18 2031	2.32	2.44	2.56	0.12%	1,000,000	3,600
19 2032	2.38	2.50	2.62	0.12%	1,000,000	2,400
20 2033	2.44	2.56	2.68	0.12%	1,000,000	1,200
Total					20,000,000	236,950

It is important to note that the difference in interest rates between different rating categories, referred to as the quality spread, is not fixed. When interest rates are high, the quality spread expands. So, although the interest cost difference between a AAA rated credit and a AA+ rated credit is relatively small right now, as rates rise, the quality spread will expand and the City can expect the impact to be greater.

Question 2:

Councilor Kennedy-What other types of criteria do the rating agencies use to assign a bond rating?

The City uses both Standard and Poor's and Moody's Investors Services to assign a credit rating before issuing bonds. Publications from both agencies use similar evaluation criteria for management to utilize and better position their governments for maximum stability in the short and long-term.

When reviewing an entity, Standard and Poor's states "*Proactive budget and liability planning, strong liquidity management, and the establishment of reserves are among the factors the strongest issuers share.*" Moody's Investor's Services states "*A strong governmental management team prepares well for economic downturns, maintains strong controls during boom times, and manages well during all economic cycles*".

The following are key focus areas for rating agencies:

- **Focus on Structural Balance - Conservative Budgeting Techniques**
Preparing a balanced budget where recurring revenues match recurring expenditures. Not relying on one-time measures without the appropriate re-alignment of revenues and expenditures.
 - Recurring revenues match recurring expenditures
 - Conservative revenue forecasting
- **Fund Balance Policies**
A formalized policy for Fund Balance which identifies target level and the instances in which reserves may be used.
 - Unassigned Fund Balance Ordinance
 - Total Fund Balance
- **Established Stabilization Reserves**
A formalized financial reserve policy to provide financial flexibility and stability.
 - Health Insurance Stabilization Fund
 - Leave at Termination Fund
 - Reserve for Debt

- **Debt Management Policy**
A formalized debt plan that includes target and maximum debt levels, target for pay-as-you-go funding of capital work, and incorporation of these debt policies into a multi-year capital plan.
 - Pay-as-you-go financing Capital Outlay
 - City Policy is to use no more than 10% of annual appropriations toward net debt service payments
 - Remain below the allowable debt limit

- **Strong Liquidity Management**
 - Ability to manage Cash Flow
 - Strong reserves

- **Succession and Contingency Planning**
Ability to identify mid-year changes in revenues and expenditures and respond quickly.
 - Fund balance policies for contingency planning
 - Government's Management organizational structure

- **Other Factors**
 - Economic Development plans that suit the particular strengths and needs of the community
 - Demographics- Median Household Income
 - Tax Base
 - Economic Growth

The City has implemented most of the aforementioned criteria and is working on those areas that we feel can be strengthened.

I would recommend the City Council move to pass first reading and schedule a public hearing and second reading on the proposed Fund Balance Ordinance, at the February 4, 2013 City Council meeting. Action on this matter should take place under Section VIII of the Agenda.

2. **Third and Final Reading of Proposed Resolution and Ordinance Amendments:**

- 2.1 **Third and Final Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards, Section 10.535 – Dimensional Standards in the Central Business Districts, Relating to the Height Requirements in the CBA and CBB Districts.** As a result of the January 7th City Council meeting, under Section VIII of the Agenda, I am bringing back for third and final reading the **attached proposed Zoning Ordinance amendment** addressing building height in the Central Business Districts. **Also, attached is a memorandum from Rick Taintor, Planning Director, regarding this matter.**

At the December 3rd meeting, representatives of several downtown developers raised concerns about potential impacts of the amendment. In response to these concerns, the Planning Department staff revised the initial proposal and met with a group of architects and designers to discuss the revised draft. The revised amendment is simpler than the previous version and would make the following changes to the building height provisions in the Central Business Districts:

- a) Require that within 25 feet of a street line, no portion of a building be higher than 50 feet above the street in the CBA district or 60 feet above the street in the CBB district. (The “street line” is the edge of the municipal right of way, which in the downtown area is approximately at the back of the sidewalk.)
- b) Exempt from this requirement are parapet walls, railings, fences, and roof appurtenances (such as HVAC equipment or antennas) that are no more than 2 feet above the roof surface.

In order to accommodate two identified development projects that have initiated a formal process with the City’s land use boards (and thereby demonstrated significant investment in project design), the proposed ordinance also exempts applications which have been the subject of legal notice for a hearing before the Zoning Board of Adjustment.

Finally, as the City Council is aware, during 2013 the Planning Department will be preparing a form-based zoning ordinance for the downtown area. This project will include opportunities for public input, and will provide an opportunity to thoroughly consider and address a range of urban design issues including appropriate building height.

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

3. **582 Greenside Avenue.** Under Written Communications, [attached is a letter from Attorney John Bosen dated January 10, 2013 regarding 582 Greenside Avenue.](#)

In about 1940, a home was built on Greenside Avenue in Pannaway Manor. Greenside Avenue is the street most closely parallel to the main runway at Pease International Tradeport.

In 1983 it was discovered that the home had been built two feet into the municipal right-of-way. [See attached plan of Richard Cuoco dated October 13, 1983.](#) In 1988 the then owners of the property Keith Goodwin and Alice Law requested that the City Council grant them an easement to allow the property to stay in the location in which it was constructed. The matter was studied by the Planning Board and the City Council with the result being that an easement was granted.

However, within the last few months it was determined that the 1988 easement had been recorded by the property owner outside the chain of title to the property. Therefore, it does not serve its intended purpose. Accordingly, the current property owners Alan S. Van Wert and Cheryl L. Jameson are requesting that the present City Council authorize the current City Manager to re-execute an easement deed similar to that executed by former City Manager Calvin Canney in 1988.

Since 1988 neither the building nor the property lines have changed location. Therefore, the analysis conducted by the Planning Board and the City Council at that time would remain unchanged. The purpose of requesting that the City Council to authorize the City Manager to execute a new easement deed is simply to correct a recording error from 1988.

I would recommend the City Council move to authorize the City Manager to negotiate and execute an easement deed from the City to Alan S. Van Wert and Cheryl L. Jameson for the purpose of allowing the single family residence located at 582 Greenside Avenue to remain in its current location, notwithstanding its minor encroachment into the municipal right-of-way at that location. Action on this item should take place under Section X of the Agenda.

Consent Agenda:

1. **Acceptance of Donation to the Coalition Legal Fund.** The Town of Carroll has donated funds in the amount of \$1,000.00 to the Coalition Legal Fund, which will be utilized to continue our fight to eliminate the statewide property tax.

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

2. **Acceptance of Donations to Recreation Department.** The City of Portsmouth Recreation Department has received the following donations in the amount of \$610.00 in memory of Thomas Leary:

➤ Robert D. and Mary F. Stella	\$ 20.00
➤ Catherine E. and Dennis P. Fitzgerald	\$ 25.00
➤ Franzoso Revocable Living Trust Eugene R. Franzoso Trustee Colleen R. Franzoso Trustee	\$ 25.00
➤ Charity Lower and Matthew Maniates	\$ 25.00
➤ James G. Sullivan	\$ 25.00
➤ Jerold R. Tostenson	\$ 40.00
➤ Alexander N. Bouzakine and Elena V. Bouzakina	\$ 50.00
➤ Liberty Mutual Commercial Insurance Leadership Team	\$100.00
➤ The Electric Barn, Inc.	\$100.00
➤ Creek Athletic Club	\$100.00
➤ Ernestine L. Morrow	\$100.00

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

City Manager's Items Which Require Action:

1. **Report Back Re: Zoning for Assisted Living Facilities (Postponed from the January 7, 2013 City Council meeting to the January 22, 2013 City Council meeting).** As you are aware, this matter was postponed from the January 7th City Council meeting to Tuesday's City Council meeting.

As you will recall, at the May 21, 2012 City Council meeting, the Council voted to request that the Planning Board review the Table of Uses to expand where assisted living facilities can be located. The Planning Board held a work session on September 13, 2012 and considered the matter further at its meetings on October 18, November 15 and December 20, 2012.

At its meeting on December 20, 2012, the Planning Board voted unanimously to recommend that the Zoning Ordinance be amended as presented in the **attached memorandum from Rick Taintor, Planning Director**. Further, the memorandum presents an overview of existing zoning for assisted living facilities and describes the considerations underlying the recommended Zoning Ordinance amendments.

I would recommend the City Council move to authorize the City Manager to bring back for first reading the proposed Zoning Ordinance amendment, as presented, at the February 4, 2013 City Council meeting.

2. **Elderly and Disabled Exemptions.** Annually, the City of Portsmouth reviews income and asset levels for both the Elderly and Disabled Exemptions pursuant to RSA 72:39-b and RSA 72.37-b and makes recommendations as to these levels.

Last year, the City Council adopted resolutions #1-2012 and #2-2012 which increased the income and asset levels for both the elderly and disabled exemptions by 2.9% from the previous year. The current elderly and disabled exemption income levels are \$34,486 for a single taxpayer, \$42,542 for married taxpayers, and an asset limit of \$114,958.

If qualified, for elderly taxpayers, the exemption off the assessed value of the property is as follows:

- Age 65 to 74 \$125,000
- Age 75-79 \$175,000
- Age 80 + \$225,000

If qualified, for disabled taxpayers, the exemption off the assessed value of the property is \$100,000.

This year the November to November CPI of the Boston-Brockton-Nashua November consumer price index (CPI) is 2.0%. Social Security benefits payable in January 2013, will see a 1.7% increase in SSI payments.

Option A:

If the City Council wishes to adjust the income and asset levels for both the elderly and disabled taxpayers by the November to November CPI of 2.0 %, this would increase the limits (rounded up) as follows:

- Single \$ 35,176 increase of \$690
- Married \$ 43,393 increase of \$851
- Asset Limit of \$117,257 increase of \$2,299

Option B:

If the City Council wishes to adjust the income and asset levels for both the elderly and disabled taxpayers by the Social Security increase of 1.7 %, this would increase the limits (rounded up) as follows:

- Single \$ 35,072 increase of \$586
- Married \$ 43,265 increase of \$723
- Asset Limit of \$116,912 increase of \$1,954

Option C:

If no increase, the income and asset limits would remain at their levels current as follows:

- Single \$ 34,486
- Married \$ 42,542
- Asset Limit of \$114,958

Any adjustment if approved would be for assessments as of April 1, 2013 for the 2013 tax year or FY14.

The Assessor's office mails a notification annually to all elderly and disabled persons who currently receive this exemption to update their applications. All new applicants must submit an application and required documentation by April 15th of each year.

If the City Council wishes to make any adjustments in these exemptions, it would require an amendment to these resolutions as well as first reading, a public hearing and a majority vote of the City Council. If no adjustment, income and asset limits would remain at their current levels. I have [attached for your information the tax impact of the elderly and disabled exemptions for FY13.](#)

The City Council may choose from Option A, B or C and authorize the City Manager to bring it back for first reading.

I would recommend the City Council move to authorize the City Manager to proceed with Options A, B or C. If Option A or B is chosen, then I would recommend the City Council move to authorize the City Manager to bring it back for first reading at the February 4th City Council meeting, as presented. (This requires a public hearing and two readings with a majority vote.)

3. **Request to Renew Seacoast Growers' Association (Farmers' Market) Proposed 2013 License Agreement.** The Seacoast Growers' Association has requested renewal of their License Agreement. [Attached is a draft of the proposed 2013 License Agreement](#) with the Seacoast Growers' Association to allow a Farmers' Market at the municipal complex. The Seacoast Growers' Association has been conducting their Farmers' Market at the municipal complex over the past ten years. If this draft agreement meets with the approval of City Council, I would ask that you authorize me to enter into the proposed Agreement between the Seacoast Growers' Association and the City of Portsmouth for a License Agreement to conduct their Farmers' Market for 2013. I've requested that a representative of the Seacoast Growers' Association be in attendance on Tuesday evening to answer any questions you may have regarding this matter.

I would recommend the City Council move to authorize the City Manager to enter into a License Agreement with the Seacoast Growers' Association for 2013, as presented.

4. **Proposed Lease of 299 Vaughan Street for a Public Parking Lot.** Attached is a **correspondence from Jeff Johnston from Cathartes Development**, proposing that the City lease 299 Vaughan Street for a public parking lot. For your information, 299 Vaughan Street has existing buildings (see **attached aerial map**), that Mr. Johnston indicated would be removed after all approvals have been received. This would give the ability to create approximately 89 parking spaces on this site. The Lease Agreement would be similar to the agreement that we entered into with Parade Office LLC for the use of those spaces. As you are aware, the spaces that we leased from Parade Office LLC are no longer available (Portwalk site).

I have also **attached a Proposed Parking Lot Lease Agreement for 299 Vaughan Street**. The lease of 299 Vaughan Street would be at no cost to the City of Portsmouth. The City would operate the parking lot as it would any other leased lot. The public parking would be available as it was with the Portwalk lease 24 hours a day, seven days a week at .75 an hour.

The salient points of the agreement are as follows (based on the Lease Agreement dated February 1, 2010):

- Number of spaces: 89.
- Term: 10 years.
- Rate: .75/hour, 24 hours a day, seven days a week.
- Termination: By owner, anytime after the second full year of operation.
- Improvements: Paid by owner, design and construction cost is estimated at \$500,000.
- Operations: Gated, credit card only payment system with similar equipment. City would be reimbursed for staff time and costs.
- Management Fee: To the City of approximately \$1,250 per month (pro rated based on last agreement).
- Real Estate Taxes: Paid by owner.

If the City Council authorizes me to proceed with this proposed Agreement, we anticipate the parking lot could be available as early as May 2013 in time for the summer season.

Therefore, I am requesting that the City Council authorize the City Manager to enter into an agreement between the City of Portsmouth and Cathartes Development to lease a public parking lot for 89 spaces at 299 Vaughan Street.

5. **Proposed Payment in Lieu of Taxes (PILOT) Re: Betty's Dream.** Attached is a letter from Charles Griffin, Esquire, regarding a proposed payment in lieu of taxes (PILOT) for the Betty's Dream property. As the Council is aware, Betty's Dream is a facility in the west end of the City which exists entirely for the purpose of providing affordable housing to people with disabilities which cause them to be wheelchair bound. As a result of changes in state law as well in changes in the ownership structure of Betty's Dream, the City is involved in litigation with the facility with respect to its tax status years 2011 and 2012. After protracted negotiations between the City Assessor and Betty's Dream a proposed settlement of that case has been reached. The settlement terms are that if the City Council agrees to accept a payment in lieu of taxes in the amount of \$3,000 per year from Betty's Dream commencing with tax year 2011 and continuing to December 31, 2020, then the case will be settled for that period of time. No further tax payment will be due from Betty's Dream for that period.

I would recommend the City Council authorize the City Manager to proceed with the pilot and settlement of this issue.

6. **Acquisition of Easements Re: McDonough/Brewster Streets.** Attached is a memorandum from Suzanne Woodland, Assistant City Attorney, regarding acquisition of easements for a public works project to install new drain lines in this area. During significant rain events, flooding occurs at the end of Brewster Street and in the adjacent low areas north of McDonough Street. The Public Works Department proposes to install new drain lines and infrastructure to reduce this flooding. In order to do so, the City must acquire permanent easements to install these new drain lines at the end of Brewster Street and the surrounding area. In order to construct the drainage improvements, the permanent easements identified in Exhibit A must be acquired. These land acquisitions were referred to the Planning Board which recommended on October 18, 2012 that the City Council acquire the easements necessary for the project.

The following two easements are necessary:

- 1) Ahlgren Easement: negotiations are underway to finalize an easement with Mr. John Ahlgren who owns property at the end of Langdon and Brewster Streets (see Exhibit A and aerial map).

With regards to this matter, I am requesting the City Council accept an easement from Mr. Ahlgren as may be negotiated.

- 2) Railroad Easement: easements are also required from the Boston & Maine Railroad Corporation now known as Pan Am Railways and it is anticipated that these will need to be taken by eminent domain as has occurred with two other recent projects. One easement would allow for the placement of two 24-inch drain lines from the end of Brewster Street underneath the existing railroad lines to a new outfall on the North Mill Pond to be constructed. The second easement would allow for the installation of approximately 500 feet of new drain line along the south side of the existing tracks.

According to the Assistant City Attorney, it is likely the City will have to proceed with an eminent domain action to secure the easements necessary to lay the new drain lines. Staff recommends that a public necessity hearing be scheduled for the Council's next meeting on February 4, 2013 to determine that there is a need for this project and to undertake condemnation proceedings as may be necessary.

With regards to this matter, I am requesting the City Council schedule a public necessity hearing to be held at its next meeting on February 4, 2013 to acquire easements from Pan Am Railways through the eminent domain process.

Therefore, I would recommend the City Council move the following motions:

- 1) Accept an easement from Mr. Ahlgren as may be negotiated; and,*
- 2) Schedule a public necessity hearing to be held at the next City Council meeting on February 4, 2013 to acquire easements from Pan Am Railways through the eminent domain process.*

7. **Request to Establish a Work Session Re: Report Back on Letter and Petition of Islington Creek Neighborhood Association Re: Boarding House at 21 Brewster Street.** The Mayor recommends that a work session be established on February 4, 2013 at 6:00 p.m. prior to the regular City Council meeting, regarding the aforementioned issue.

Move to establish a work session on Monday, February 4, 2013 at 6:00 p.m., prior to the regular City Council meeting, regarding the report back on 21 Brewster Street Boarding House.

8. **Request to Establish a Work Session Re: Wastewater.** I am requesting that the City Council move to establish a work session on Tuesday, February 19, 2013 at 6:00 p.m., regarding wastewater.

I would recommend the City Council move to establish a work session on Tuesday, February 19, 2013 at 6:00 p.m., regarding wastewater.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on January 7, 2013. In addition, this now can be found on the City's website.
2. **City Council Work Session Re: Capital Improvement Plan.** This is a reminder that the City Council Work Session regarding the Capital Improvement Plan is scheduled for Monday, January 28, 2013 at 6:30 p.m., in the Eileen Dondero Foley Council Chambers.

MEMORANDUM

DEC 21 2012

TO: John P. Bohenko, City Manager
FROM: Rick Taintor, Planning Director *RT*
DATE: December 21, 2012
RE: City Council Referral –Zoning for Assisted Living Facilities

In connection with a discussion of senior services in the City, the City Council voted on May 21, 2012, to request that the Planning Board review the Table of Uses to expand where assisted living facilities can be located. The Planning Board held a work session on this issue September 13, 2012, and considered the matter further at its meetings on October 18, November 15 and December 20, 2012.

At its meeting on December 20, 2012, the Planning Board voted unanimously to recommend that the Zoning Ordinance be amended as presented in the attachment to this memorandum. This memorandum presents an overview of existing zoning for assisted living facilities and describes the considerations underlying the recommended Zoning Ordinance amendments.

Background

The Zoning Ordinance defines “assisted living facility” as follows:

A building or group of buildings providing housing and supportive services and care for persons who require assistance with daily living activities but do not require the skilled nursing and medical care provided in a nursing home or other residential care facility. Such supportive services include the provision of meals, housekeeping, laundry, transportation, daily personal care, dispensing of medications and 24 hours per day staffing. An assisted living facility includes one or more community dining rooms in which meals are provided to all residents, and each individual assisted living unit may also have a kitchenette. Other than any accommodations provided for use by the facility’s staff, only assisted living units are permitted as part of an assisted living facility.

The Ordinance further defines two categories of assisted living facility: “assisted living home” for five or fewer residents, and “assisted living center” for six or more residents. Assisted living *homes*, which are comparable in scale to single-family homes, are allowed by special exception in all residential and mixed residence districts but in no nonresidential districts. The larger assisted living *centers* are only allowed in three zoning districts: they are permitted (P) in the General Business (GB) and Business (B) districts, and allowed by conditional use permit in the Gateway district.

It is noteworthy that assisted living centers are not currently allowed in three zoning districts where multifamily residential uses are permitted: the Central Business districts (CBA and CBB) and the Garden Apartment/Mobile Home district (GA/MH). Assisted living centers can be similar

in scale, character and impacts to condominium and apartment developments, and so it is reasonable to allow them in the same areas where multifamily uses are allowed.

With respect to residential districts, assisted living and residential care facilities can be designed and sited to be compatible with single-family and multifamily residential neighborhoods. Examples in Portsmouth include the Edgewood Center on South Street (skilled nursing, rehabilitation and long term care), Clipper Harbor/Langdon Place on Jones Avenue (assisted living, skilled nursing and rehabilitation), and the Mark Wentworth Home on Pleasant Street (assisted living and skilled nursing). The Edgewood Center and Clipper Harbor are in the Single Residence B (SRB) district, and the Mark Wentworth Home is in the General Residence B (GRB) district. None of these facilities would be allowed under the City's current Zoning Ordinance, but each fits into its surrounding neighborhood fairly well. The key to making this work depends on the right combination of lot size, setbacks, building scale and design, and off-street parking facilities.

Recommended Approach

With the above considerations in mind, the Planning Department developed a three-part concept for expanding the areas of the City in which assisted living facilities might be allowed:

1. Allow assisted living *centers* (6 or more residents) in the CBA and CBB districts where comparable multifamily dwellings are allowed. Also allow assisted living *homes* (up to 5 residents) in these districts, although they may be less likely to be developed because of their small scale relative to most new development in the downtown. Consider allowing *residential care facilities* (e.g., skilled nursing or rehabilitation) in these districts as well.
2. Allow assisted living centers (6 or more residents) in the Single Residence (SRA and SRB) and Garden Apartment/ Mobile Home (GA/MH) districts by conditional use permit from the Planning Board.
3. Establish special dimensional, intensity and design standards for assisted living facilities and residential care facilities in Residential districts.

No changes are proposed for the General Residence or Mixed Residence districts, because these neighborhoods often have narrow streets and parking congestion, and existing lots in those districts are typically too small to accommodate larger structures.

1. Nonresidential Zoning Districts

The proposed approach for nonresidential zoning districts is to align the requirements for assisted living facilities more closely with those for multifamily dwellings and/or residential care facilities, which can be similar in scale and character to assisted living facilities. Specifically, it is recommended that the Table of Uses be amended as follows:

- In the Central Business (CBA and CBB) districts, allow all assisted living and residential care facilities by special exception. This reflects the similarity of such uses with multifamily dwellings, which are allowed in these districts.

- In the Gateway and Business (B) districts, allow assisted living *homes* (5 or fewer residents) by special exception, which is the existing standard for residential care facilities with 5 or fewer residents.

2. Residential Zoning Districts

Currently, assisted living *homes* and residential care facilities for up to 5 residents are allowed by special exception in all residential zoning districts, but assisted living *centers* and residential care facilities for more than 5 residents are prohibited. It is recommended that the larger facilities be allowed in the Single Residence and GA/MH districts by conditional use permit from the Planning Board. The conditional use permit process provides the Planning Board with discretion in the review and approval of development proposals. In order to assure compatibility with a surrounding neighborhood, the recommended Zoning Ordinance amendments include provisions to guide applicants the design of assisted living facilities and to assist the Planning Board in reviewing applications.

As noted earlier, no changes are proposed for the General Residence and Mixed Residential districts because the typical lots are too small to accommodate all but the smallest assisted living centers and residential care facilities.

3. Special Dimensional Standards in Residential Districts (SRA, SRB, GA/MH).

The existing dimensional and intensity standards in residential zoning districts are inappropriate for assisted living centers and similar residential care facilities. For example, an assisted living facility would not be feasible at the maximum allowed residential densities of one unit per 10,000 sq. ft. (GA/MH), one unit per 15,000 sq. ft. (SRB) or one unit per acre (SRA). Therefore, in order to accommodate assisted living centers in residential districts, it is necessary to specify dimensional and intensity standards for these uses.

In 2009-2010 the Planning Board developed dimensional and intensity standards for a proposed ordinance to allow continuing care retirement community (CCRC) development, including an assisted living component. The recommended dimensional and intensity standards are based on the draft CCRC standards, with modifications reflecting the concept of allowing assisted living facilities and residential care facilities in residential zoning districts.

The dimensional and intensity standards include a minimum required lot area of 2 acres, minimum required building setbacks of 50 feet on all sides, maximum building height of 35 feet (which is the maximum allowed height for residential buildings in the Residential districts), and minimum required open space of 40% of lot area.

NOTE: Although the recommended dimensional and intensity standards are based on those developed for the CCRC ordinance, the current proposal is not intended to open the door for CCRC development. The recommended changes do not allow independent living units, which represent the largest portion of units in CCRCs and are the driving force for development of such facilities. In addition, the recommended limit on the size of assisted living facilities in Single Residence districts (discussed below) will prevent the type of large-scale development that was envisioned in 2009-2010.

4. Assisted Living Facility Size and Unit Mix

It is recommended that a ceiling of 40 units be placed on the size of assisted living facilities in the Single Residence districts. Based on information from a number of national studies and reports on assisted living facilities, this 40-resident cap is a reasonable limit on the scale of such facilities, especially in residential districts. In particular, a 2010 study found that more than two-thirds of all assisted living facilities in the country would fall within this limit.

In public comments on the 2009-2010 CCRC proposal as well as the proposal earlier this year to allow assisted living centers in the Office Research district, concerns were raised about expanding the supply of independent or assisted living for seniors without a corresponding increase in skilled nursing care facilities. Therefore, the recommended zoning amendment also requires that an assisted living center provide a minimum of one nursing care bed for every 8 assisted living units.

**Proposed Zoning Ordinance Amendment – Assisted Living Facilities
Recommended by Planning Board – December 20, 2012**

ORDINANCE #
THE CITY OF PORTSMOUTH ORDAINS

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

1. Amend Section 10.440 (Table of Uses – Residential, Mixed Residential, Business and Industrial Districts), as follows:

Use	CBA	CBB	GB	GW	B	WB	OR
2.10 Assisted living facility							
2.4211 Assisted living home	N S	N S	N	N S	N S	N	N
2.4412 Assisted living center	N S	N S	P	CU	P	N	N
2.20 Residential care facility							
2.21 5 or fewer residents	N S	N S	N	S	S	N	N
2.22 More than 5 residents	N S	N S	S	S	S	N	S

2. Amend Section 10.440 (Table of Uses – Residential, Mixed Residential, Business and Industrial Districts), as follows:

Use	R	SRA SRB	GRA GRB	GRC	GAMH
2.10 Assisted living facility					
2.4211 Assisted living home	S	S	S	S	S
2.4412 Assisted living center	N	N CU	N	N	N CU
2.20 Residential care facility					
2.21 5 or fewer residents	S	S	S	S	S
2.22 More than 5 residents	N	N CU	N	N	N CU

3. Amend Article 8 – Supplemental Use Standards, by inserting the following new Section 10.814:

10.814 Assisted Living Center and Residential Care Facility Uses in Residential Districts

The standards in this section shall apply to an assisted living center or residential care facility in a Single Residence A (SRA), Single Residence B (SRB) or Garden Apartment/Mobile Home Park (GAMH) District.

10.814.11 Dimensional and Intensity Standards

The following dimensional and intensity standards shall replace any corresponding standards in Section 10.521. All other development standards set forth in this Ordinance shall remain in effect.

Minimum lot area	2 acres
Minimum developable area	1,500 sq. ft. per assisted living unit, or per bed in a residential care facility
Minimum continuous street frontage	100'
Minimum front, side and rear yards	50'
Maximum building height	35'
Minimum open space	40%

10.814.12 Maximum Facility Size

An assisted living center or residential care facility shall provide accommodation for no more than 40 residents, whether in assisted living units or nursing care beds.

10.814.13 Required Mix of Units

An assisted living center shall contain at least 1 skilled nursing care bed for every 8 assisted living units.

10.814.14 Site and Building Design

10.814.141 The site and buildings shall be designed and developed to respect the integrity of adjacent

single-family neighborhoods and to minimize conflicts with the character of the existing neighborhood.

10.814.142 The development shall preserve the natural character of the land to the extent feasible, and shall be landscaped so as to enhance its compatibility with the surrounding neighborhood. Landscaped or naturally vegetated buffers may be required to protect adjacent residential uses.

10.814.143 The Planning Board’s consideration of an application for a Conditional Use Permit for an assisted living center or residential care facility shall include design review to ensure the compatibility of the development’s architectural and site design with the surrounding neighborhood.

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

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

This ordinance shall take effect upon its passage.

APPROVED:

Eric Spear, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

Elderly & Disabled Exemption Impact

Exemption Type	Exemption Amount	Number Currently Receiving Exemption	Value Loss	Revenue Loss
65 through 74	\$ 125,000.00	40	\$ 5,000,000.00	\$ 87,750.00
75 through 79	\$ 175,000.00	34	\$ 5,950,000.00	\$ 104,422.50
80 and over	\$ 225,000.00	60	\$ 13,500,000.00	\$ 236,925.00
Disabled	\$ 100,000.00	7	\$ 700,000.00	\$ 12,285.00
Totals		141	\$ 25,150,000.00	\$441,382.50

Note: The current tax rate of \$17.55 would be decreased to \$17.44 a difference of 11 cents on the current tax rate if the elderly and disabled exemptions were not granted.



Seacoast Growers' Association
PO Box 4401
Portsmouth, NH 03802-4401

January 9, 2013

John Bohenko
Portsmouth City Manager
1 Junkins Avenue
Portsmouth, NH 03801

Dear Mr. Bohenko,

The Seacoast Growers' Association wishes to thank you, the City Council, and the people of Portsmouth for again providing our Portsmouth Farmer's Market with a home for the 2012 season. Your support has been instrumental in sustaining over 50 seacoast farms and helping us provide local food to thousands of residents and visitors.

We are requesting a contract renewal for the 2013 season, May 4th through November 2nd. With the permission of the City Council, we will use the same space at 1 Junkins Avenue and abide by the same rules. We ask that the City Council put this to a vote at their next meeting.

We will be available, at your convenience, to facilitate this agreement. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to be "Edie Barker".

Edie Barker
President
Seacoast Growers Association.

LICENSE AGREEMENT

The City of Portsmouth, a municipal corporation with a principal place of business at 1 Junkins Avenue, Portsmouth, New Hampshire 03801 (hereinafter "City") and the Seacoast Growers' Association, a non-profit association of individual vendors (hereinafter "Vendors" or "Association") with a principal place of business at Portsmouth, New Hampshire and a mailing address at PO Box 4401, Portsmouth New Hampshire 03802-4401 agree as follows:

1) The Seacoast Growers' Association is licensed by the Portsmouth City Council to operate a Farmers' Market on Saturday mornings between May 4, 2013 through November 2, 2013 pursuant to the conditions enumerated below.

2) Each individual member Vendor of the Seacoast Growers' Association, as well as the Association itself, jointly and severally agree to the following conditions relative to permission to use the Upper Municipal Lot by the Seacoast Growers' Association granted by the City.

A. SITE CONDITIONS:

- The City Hall Municipal Lot will be reserved for use by the Association as defined in the attached Appendix I. The Association is authorized to cover the existing handicap parking signs in the municipal parking lot and to utilize the spaces as otherwise designated as handicap spaces during the hours in which the Farmer's Market is authorized. The Association shall immediately remove the coverings from the handicap parking space signs at the end of the authorized period. There shall be no use by the Association of Lot B as shown on the attached Appendix I.
- Parking on grassy areas prohibited.
- Market area to be left in broom-clean condition one hour after closing.
- All trash generated by the market shall be removed by the Association upon closing of the Farmers' Market and shall be maintained in a clean, neat condition during the market operation.
- The Vendors shall implement any temporary marking of Vendor spaces which may be directed by the City.
- The Seacoast Growers' Association shall provide police coverage from 8:00 a.m. to 12:00 p.m. unless otherwise determinate by the Police Chief, at its own expense, to control traffic and monitor parking during the hours when the Farmers' Market is in operation.
- A centrally located hand washing booth shall be available at all times.
- The Seacoast Growers' Association agrees to operate the Farmer's Market during the 2013 season on a "CARRY IN – CARRY OUT" basis.

B. HOURS AND TIME OF MARKET:

- Hours of operation will be 8:00 a.m. until 1:00 p.m.
- Set up and breakdown time will be two hours before and one hour after operation hours.

C. SALE OF ITEMS:

- Products which may be sold at the Seacoast Growers' Association market shall follow the guidelines and definitions outlined within the Association's Bylaws and Rules and Regulations (a copy of which is attached hereto as Appendix II).
- Craft Vendors shall be limited to a maximum of twenty percent (20%) of the total Vendors.
- New food vendor permit applications will be processed within thirty (30) days.

D. HEALTH REQUIREMENTS:

The Health Officer will have the authority to shut down the entire market if any single Vendor fails to comply with any Health Officer's directive to cure any situation creating a public health concern. The Health Officer shall make reasonable efforts to notify the President of the Seacoast Growers' Association or his/her assignee(s) at the time a warning is issued. Specific health requirements include, but are not limited to the following:

- Vendors shall be excepted from the general City requirement of obtaining a Hawkers & Peddlers License (\$250.00). The following license fee schedule shall apply to Farmer's Market Vendors:
 1. Fruit and vegetable vendors at the Farmer's Market pay no fee.
 2. Non-produce/Non-food vendors at the Farmer's Market pay no fee.
 3. Prepared food vendors (anything other than non-prepared fruits and vegetables) pay a seasonal fee of \$140.00 per season.
- Non-recycled farm fresh eggs may be sold provided that they are stored at proper temperature (at or below forty-one (41) degrees Fahrenheit) during transport to and while displayed at the Farmers' Market.
- Baked goods sold at the Farmers' Market must be individually or collectively wrapped while displayed and sold and baked in a licensed facility.
- Any Vendor who sells potentially hazardous foods (which includes any perishable food or food product which consists in whole or in part of milk or any other

ingredient capable of supporting rapid and progressive growth of infectious and toxigenic micro-organisms including, but not limited to, cream fillings and pies, cakes and pastries, custard products, meringue-topped baked goods or butter-cream type fillings in bakery products), shall take appropriate measures to ensure that such products are transported, stored, and displayed in refrigerated or ice-cooled containers to maintain temperature of such products at 41 degrees Fahrenheit or below at all times so to prevent spoilage or contamination.

- All animals are prohibited within the Farmers' Market with the exception of hearing ear dogs, guide dogs and service dogs as they are defined in RSA 167-D:1.
- The above items do not eliminate or supersede other areas of compliance set by ordinance or regulations or within the grant of authority by the Portsmouth City Council.
- In addition to the foregoing, each Vendor member of the Seacoast Growers' Association shall comply with all applicable Federal, State and Municipal laws, regulations and ordinances.
- No vendor shall provide fruit or vegetables to be sampled onsite unless a three bay sink is provided in which all such fruits, vegetables and the utensils provided to cut or serve them shall be washed on site (fruits and vegetables in a collander). No spillage onto the ground shall be permitted from the three bay sink.

E. OTHER CONDITIONS:

- The Seacoast Growers' Association shall provide the City with a current list of board members with appropriate contact information.
- The Seacoast Growers' Association agrees to indemnify and hold the City of Portsmouth harmless for any and all claims of liability, (including bodily injury or property damage) of any type or kind arising out of the Association's operation or use of this license agreement. This provision shall survive termination of this agreement.
- Additionally, the Seacoast Growers' Association shall maintain general liability insurance in the amount of Two Million Dollars (\$2,000,000.00) naming the City of Portsmouth as an additional insured. A certificate demonstrating this insurance shall be kept on file with the City Clerk of the City at all times relevant to the operation of the Association under this agreement.
- The City hereby specifically approves the sale of wine and hard cider products at the Farmer's Market by Association members Jeweltown Vineyards, Sweet Baby Vineyard and Nottingham Orchards. There shall be no open containers or consumption of wine on municipal premises. All wine sales must be conducted in strict accordance with RSA 178:8 III and any rules adopted pursuant thereto by the State of New Hampshire Liquor Commission. This provision of the license

agreement with the Association may be revoked immediately and without cause if that action is determined to be appropriate by the City.

- Should Seacoast Growers' Association provide patrons access to the restroom facilities located in City Hall, an individual will be designated for each date of operation to escort patrons to the restroom and out of the building. A list of responsible persons and the dates they are assigned this responsibility shall be submitted to the Health Department with the application packet. The Health Department must approve in advance of any modification.
- For the purpose of operating the Farmer's Market on the property of the City of Portsmouth it is understood that neither a Homestead License issued by the State of New Hampshire nor a Home Food Processors License issued by the State of Maine is recognized or confers any benefit to the vendor.
- This agreement may be terminated at the sole discretion of the City of Portsmouth in the event that:
 1. The Seacoast Growers' Association fails to abide by the terms of this agreement.
 2. It is determined that the City of Portsmouth has a paramount need for the area which would otherwise be utilized by the Seacoast Growers' Association.
- The City reserves the right to modify any provision in this agreement in the event that such modification is made necessary by any change in state or federal law.

CITY OF PORTSMOUTH

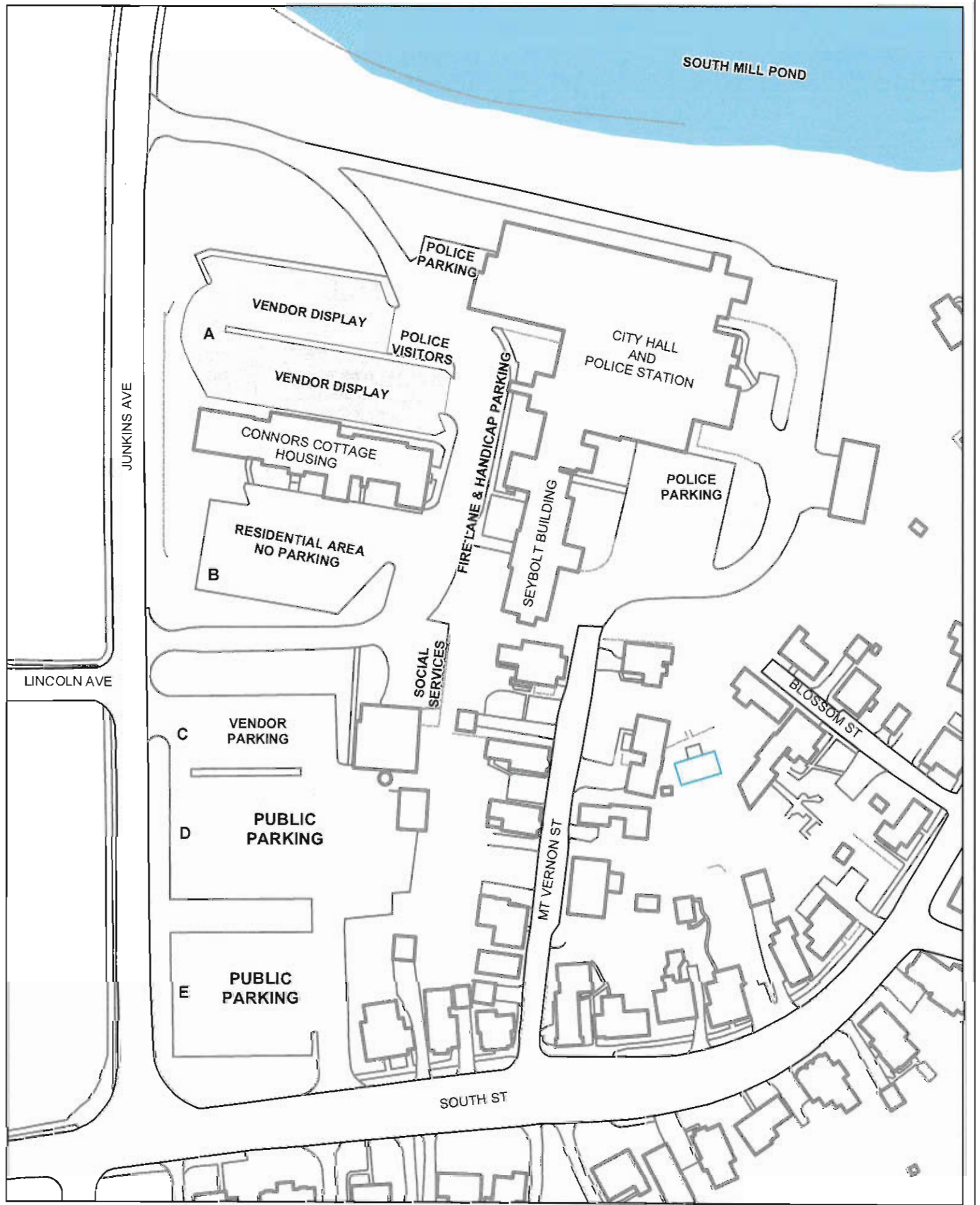
Dated: _____

By: _____
John P. Bohenko, City Manager
Pursuant to vote by the City Council on
_____.

SEACOAST GROWERS' ASSOCIATION

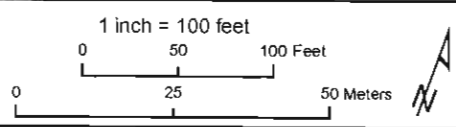
Dated: _____

By: _____
Edie Barker, Acting President
Pursuant to vote by the Seacoast Growers'
Association on _____.



Appendix 1: Farmer's Market
 Seacoast Growers Association 2013 Season

Map prepared by Portsmouth Department of Public Works, 19 December 2012
 Map document: U:\Projects\0042 Farmers Market\Farmers Market Parking2013.mxd



CPI MANAGEMENT TO CITY PARKING LOT LEASE

CPI Management, LLC a limited liability company, with a principal place of business at c/o Cathartes Private Investments 31 Milk Street, Boston, MA 02108 (hereinafter "CPI") and the City of Portsmouth a municipal corporation with a principal place of business at 1 Junkins Avenue, Portsmouth, NH 03801 (hereinafter the "City") enter this lease agreement under the following terms and conditions:

THE PREMISES

1. This lease addresses property owned by CPI located at 299 Vaughan Street, in the City of Portsmouth, more particularly identified as Lot 10 on Tax Map 124, a copy of which plan is appended hereto (hereinafter sometimes called "Premises" or "Lot").

TERM

2. The term of this lease shall commence upon its completed execution and continue for a term of ten (10) consecutive years. However, after the completion of the second full year of actual operation of the Lot as a public parking facility, CPI may terminate this lease at any time by providing the City with three (3) months advance written notice delivered to the Office of the City Manager.

CPI agrees that upon the termination of this lease at any time for any cause, CPI shall utilize the Lot only as permitted by the land use regulations of the City of Portsmouth and not otherwise. CPI specifically acknowledges that upon termination of this Lease it may not utilize the Lot as a surface parking lot unless that use has been permitted pursuant to the City's land use regulations.

USE OF PREMISES

3. The purpose of this lease is to allow the City to use the Premises in all manner consistent with the Lot being a public facility for the parking of automobiles on a twenty-four (24) hour a day, seven (7) day a week basis.

IMPROVEMENTS

4. Prior to the use of the Lot as a parking facility, CPI shall construct at its own expense all improvements to it, including all improvements as may be required by the City's Planning Board at site plan review as well as all electronic and other systems as may be required by the City for the collection of parking fees

from the Lot. Upon the expiration of this Lease, title to all systems purchased by CPI in connection with this Lease shall remain the property of CPI unless otherwise agreed to in writing by the parties.

PARKING FEES

5. At all times during the term of this lease the City shall charge parking fees for use of the Lot may be determined from time to time by the City Council. However, the City agrees that the initial fee for parking in the Lot shall be set at \$0.75 per hour on a twenty-four (24) hour a day, seven (7) day a week basis. After its collection of such fees, the City shall deduct its operating costs, operating overhead, management fee and other deductions allowed by this agreement (all as described below) and remit the remainder of the parking fees so collected to CPI monthly in arrears.

OPERATION

6. The City shall operate the Lot in all respects as though the Lot were owned by the City and used as a public parking facility. Except as expressly modified herein, the City shall operate this lot in a manner consistent with its operation of the High Hanover Parking Facility. Operation shall include routine maintenance of the Lot, plowing snow from the Lot (unless the City's Public Works Department grants authority to CPI to take that action) and collecting parking fees in the manner in which the City would ordinarily operate a public parking facility. The City shall account for its operating expenses in connection with the operation of the Lot. Prior to remittance of any parking fees collected with respect to the Lot to CPI, the City shall deduct therefrom the total of all of its operation expenses plus an additional ten percent (10%) of the total of all of its operating expenses as an overhead expense.

TAXES

7. During the term of this lease CPI shall pay to the City all duly assessed taxes with respect to the Lot as required by state law. Taxes shall be assessed as though the Lot were owned and occupied by a private non-tax exempt entity.

CPI agrees not to challenge any assessment of valuation made by the City with respect to the Lot for tax purposes.

MANAGEMENT FEE

8. In addition to reimbursing the City for its operating expenses as described above, CPI shall pay to the City a Management fee in the amount of \$1,250.00 per month. The City shall deduct this Management Fee from the parking revenues which it has collected, or will collect, from the Lot.

FUTURE USE OF THE LOT

9. CPI agrees that upon the termination of this lease at any time for any cause, CPI shall utilize the Lot only as permitted by the land use regulations of the City of Portsmouth and not otherwise. CPI specifically acknowledges that upon termination of this Lease it may not utilize the Lot as a surface parking lot unless that use has been permitted pursuant to the City's land use regulations.

REVENUE SHORTFALL

10. It is the intent of this agreement that all sums of money owed to the City shall be deducted by the City after its collection of revenues from the Lot. However, in the event that during any calendar month revenue from the lot is not sufficient in amount to pay the sums due to the City, then the unpaid balance shall be paid to the City by CPI within thirty (30) days of billing by the City.

THE CITY OF PORTSMOUTH

By: _____
John P. Bohenko, City Manager

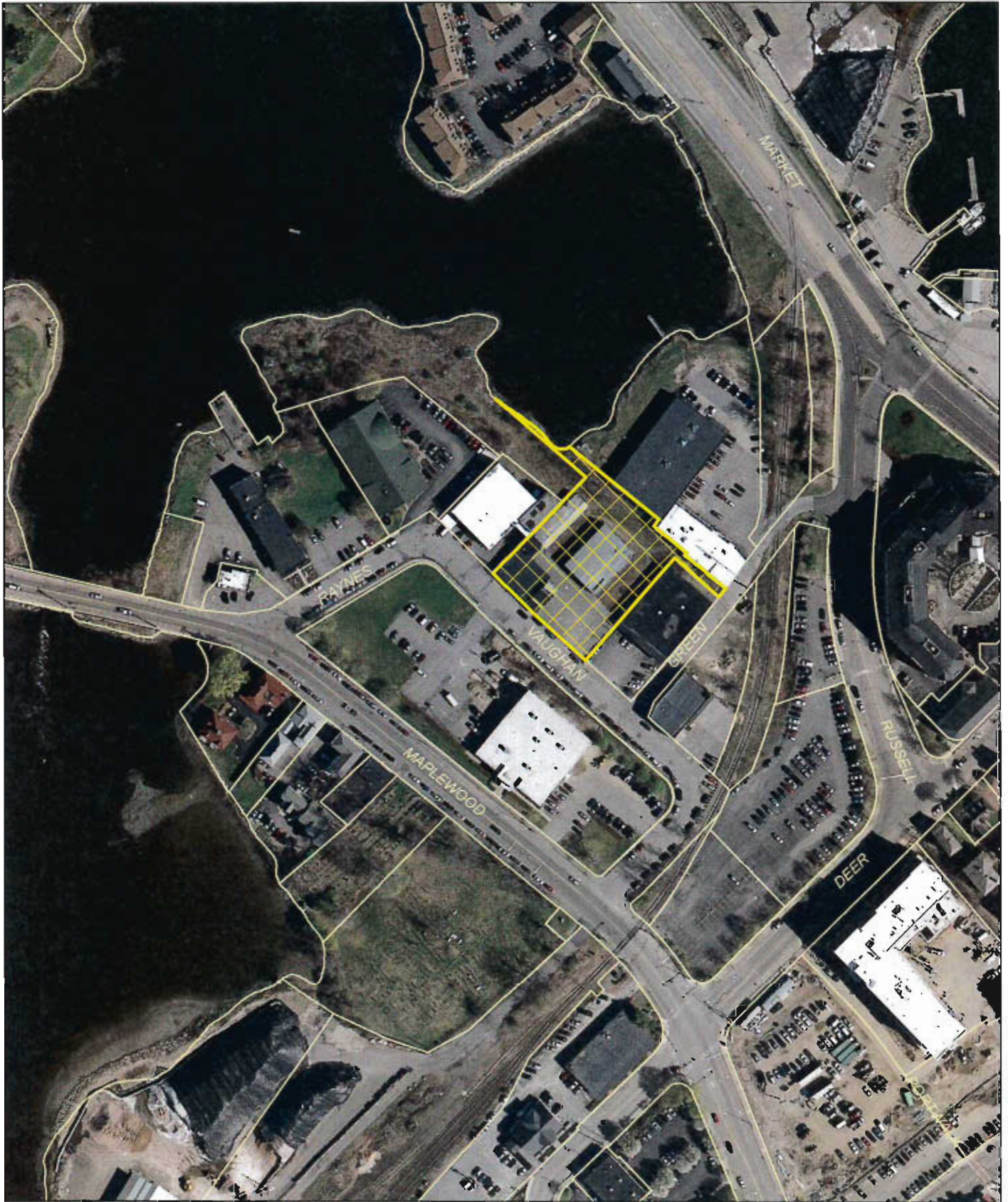
Pursuant to vote of the City Council on _____, 2013.

Witness

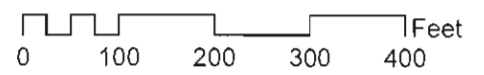
CPI Management, LLC

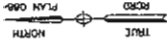
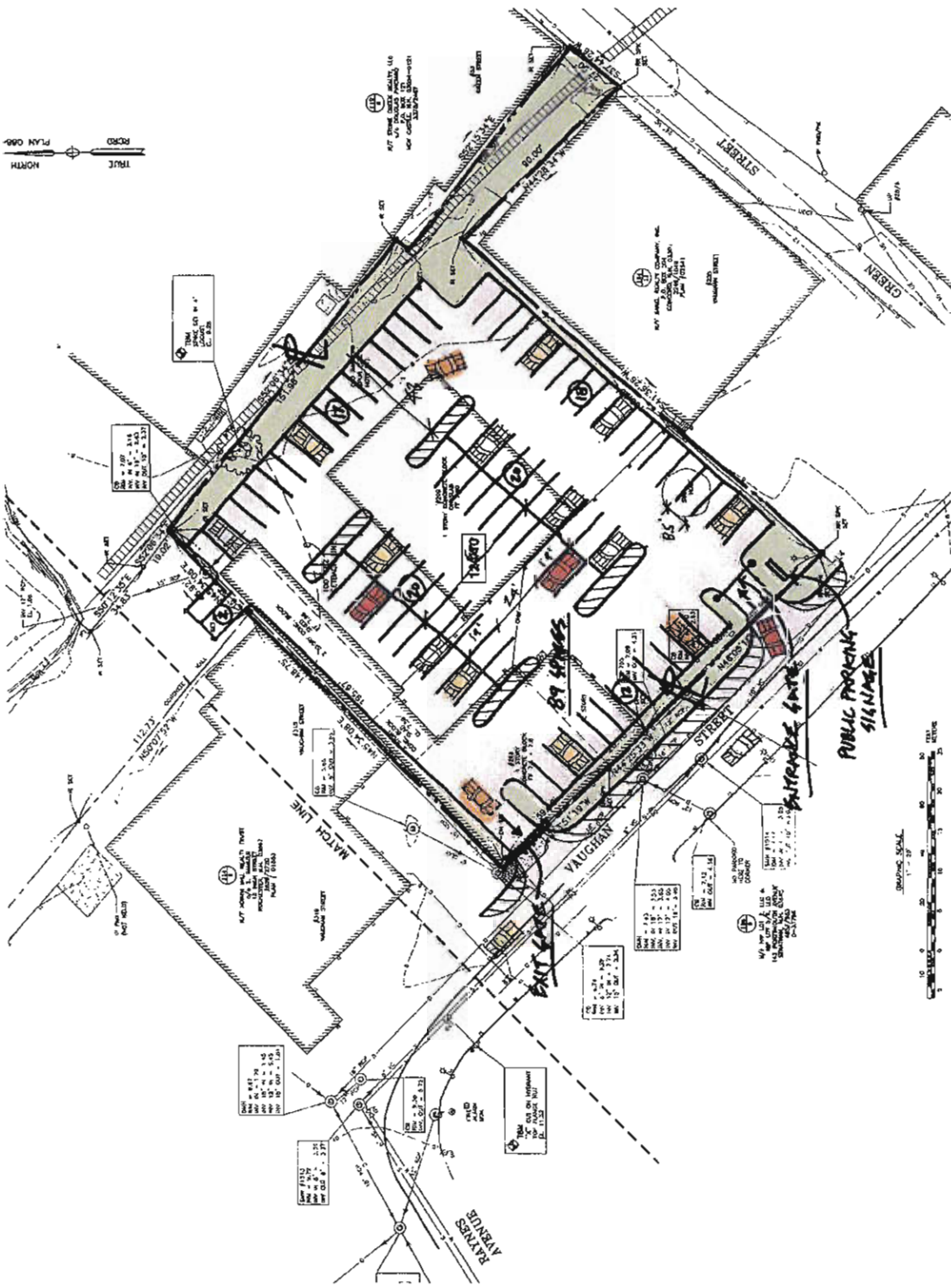
By: _____
Jeff Johnston
Managing Member

Witness



299 Vaughan Street





VAUGHAN STREET PUBLIC PARKING FACILITY

89 SPACE CONCEPT

VAUGHAN STREET / PORTSMOUTH, N.H.

DATE: 1/10/13

SCALE: 1" = 20' ±

NOTES:
 THIS PLAN IS INTENDED TO BE USED FOR CONCEPTUAL PLANNING PURPOSES ONLY. A COMPLETE ENGINEERING DESIGN SHALL BE PROVIDED BY THE CLIENT. THE CLIENT SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS, REGULATIONS, AND UTILITIES INFORMATION. ANY UTILITIES SHOWN ARE NOT TO BE CONSIDERED.

LAW OFFICES

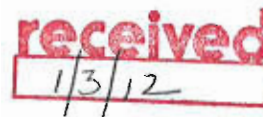
**BOYNTON WALDRON DOLEAC
WOODMAN & SCOTT, P.A.**

CHARLES B. DOLEAC*
RALPH R. WOODMAN, JR.
WILLIAM C. SCOTT
FRANCIS X. QUINN, JR.*
CHRISTOPHER E. GRANT**
CHRISTINE WOODMAN CASA*
PHILIP L. PETTIS
HEATHER DUNION NEVILLE*
SUSAN AILEEN LOWRY

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

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

January 2, 2013



*ALSO MEMBER OF MAINE BAR
**ALSO MEMBER OF MASSACHUSETTS BAR

Hon. Eric Spear
and Members of the Portsmouth City Council
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

Re: Betty's Dream

Dear Mayor Spear and Members of the Council:

This firm represents Betty's Dream Foundation, which has operated a charitable, nonprofit community housing project for disabled persons at 75 Long Meadow Lane since 1979.

RSA 72-23:K permits the sponsor of a charitable non-profit housing project for disabled persons to be exempt from paying property taxes, provided it enters into an agreement with the municipality for payment of an annual sum in lieu of taxes.

Pursuant to that statute, Betty's Dream Foundation proposes to pay the sum of \$3,000 per annum to the City of Portsmouth in lieu of property taxes commencing with tax year 2011. The City Assessor has agreed that this sum is acceptable.

My purpose in writing is to request that place this item on your next agenda and approve the agreement between Betty's Dream Foundation and the City of Portsmouth as set forth herein.

If you have any questions regarding this matter, please feel free to contact me.


Very truly yours,
Boynton, Waldron, Doleac
Woodman & Scott, PA


Charles A. Griffin, Esquire

**CITY OF PORTSMOUTH
LEGAL DEPARTMENT
MEMORANDUM**

DATE: JANUARY 14, 2013

TO: JOHN P. BOHENKO, CITY MANAGER

FROM: SUZANNE M. WOODLAND, ASSISTANT CITY ATTORNEY 

RE: MCDONOUGH/BREWSTER STREET - ACQUISITION OF EASEMENTS

SUMMARY: During significant rain events, flooding occurs at the end of Brewster Street and in the adjacent low areas north of McDonough Street. The City proposes to install new drain lines and infrastructure to reduce flooding. In order to do so, the City must acquire permanent easements to install new drain lines at the end of Brewster Street and in the surrounding area.

PROPERTY INTERESTS IMPACTED: In order to construct the drain improvements, the permanent easements identified in Exhibit A and as shown on the attached plan must be acquired. These land acquisitions were referred to the Planning Board which recommended on October 18, 2012, that the City Council acquire the easements necessary for the project.

Ahlgren Easement: Negotiations are underway to finalize an easement with John Ahlgren who owns property at the end of Langdon and Brewster Street. See Exhibit A and the plan.

PROPOSED ACTION: The City Council accept an easement from Mr. Ahlgren as may be negotiated.

Railroad Easements: Easements are also required from the Boston & Maine Railroad Corporation now known as Pan Am Railways and it is anticipated that these will need to be taken by eminent domain as has occurred with two other recent projects. One easement would allow for the placement of two 24-inch drain lines from the end of Brewster Street underneath the existing railroad lines to a new outfall on the North Mill Pond to be constructed. The second easement would allow for the installation of approximately 500 feet of new drain line along the south side of the existing tracks.

It is likely that the City will have to proceed with an eminent domain action to secure the easements necessary to lay the new drain lines. The City was required to complete an eminent domain action against the railroad for both the Route 33 Bridge Replacement project as well as the Bartlett-Islington Street Sewer Separation Project. In both instances, the railroad did not contest either the public need for the project or the amount offered as compensation. Staff recommends that a public necessity hearing be scheduled for the Council's next meeting on February 4, 2013 to determine that there is a need for this project and to undertake condemnation proceedings as may be necessary.

PROPOSED ACTION: The City Council schedule a public necessity hearing to be held at its next meeting on February 4, 2013 to acquire easements from Pan Am Railways through the eminent domain process.

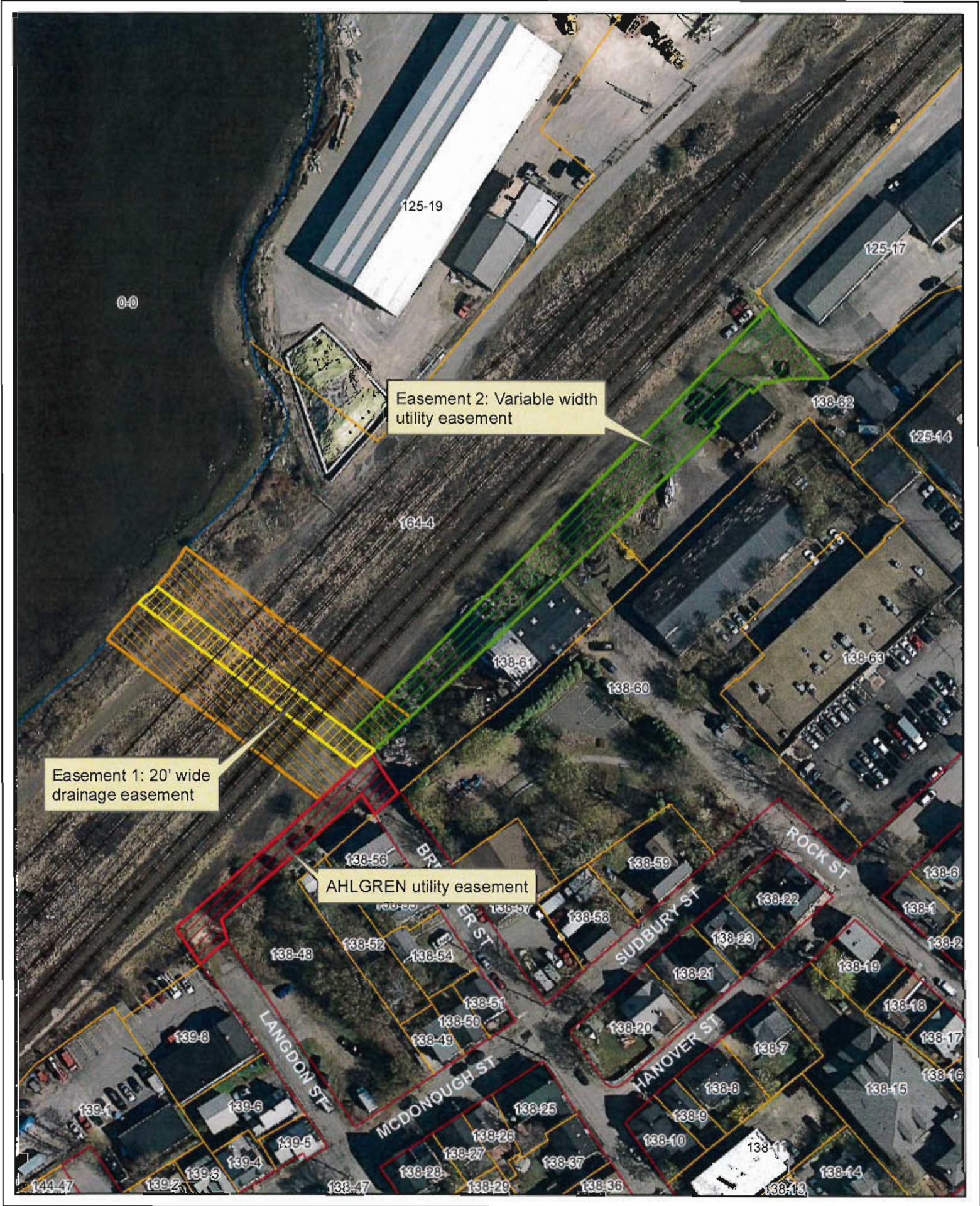
cc: Steve Parkinson, Director of Public Works
Robert P. Sullivan, City Attorney
David Desfosses, Engineering Tech.

EXHIBIT A

BREWSTER STREET DRAIN PROJECT

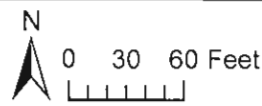
Property Owner	Address	Map/Lot	Property Interests
Pan Am/Boston and Maine Railroad	Bartlett Street	164/004	<p>Permanent Utility Easement 1, approximately 20' in width, to install and maintain two drain lines under existing rail lines and construct an outfall at the North Mill Pond. A temporary construction easement will also be part of the project to install the two drain lines.</p> <p>Permanent Utility Easement 2 to install and maintain a new drain line and to encompass an existing public sewer line. The easement corridor to be approximately 500' in length and approximately 25 feet in variable width, such corridor running south of and parallel to the existing rail lines.</p>
John Ahlgren	101 Langdon Street	138/48	<p>Permanent Utility Easement to install and maintain a new drain line and related infrastructure. Such utility easement will also encompass an existing public sewer line.</p>

Easement areas identified on this Exhibit A and the attached plans are approximate. They may be adjusted as a result of final design and/or as part of negotiations with property owners.



McDonough Street Easements
Figure 1

Map prepared by City of Portsmouth Department of Public Works
 U:\Projects\0516 McDonough Street Easements\Easements.pdf



Run: 1/16/13
9:22AM

Event Listing by Date

Page: 1

Starting Date: 1/ 7/2013

Ending Date: 1/ 1/2014

Start End	Type Description	Location	Requestor	Vote Date
3/10/2013 3/10/2013	ROAD RACE	Pease Tradeport	St. Paddy's 5 Miler	/ /
3/10/2013 3/10/2013	ROAD RACE	Pease Tradeport Tracey Tucker, Executive Director - New Heights, 436-2251 is the contact for this event. This event is being held at Pease Tradeport, with 10:30 a.m. start.	St. Paddy's 5-Miler	12/ 3/2012
3/30/2013 3/30/2013	ROAD RACE	Portsmouth High School Donald Allison is the contact for this event. His number is 617-835-2378. This event begins at Portsmouth High School at 11:00 a.m.	Eastern States 20 Mile	12/17/2012
4/13/2013 4/13/2013	WALK	Start and Finish at Little Harbour School Contact: Kim Blanchard, Development Coordinator (603) 623-3502 Walk 10:00 a.m. to 2:00 p.m. - Start and Finish at Little Harbour School	Naitonal Multiple Sclerosis So	1/ 7/2013
4/28/2013 4/28/2013	ROAD RACE	Portsmouth Police Department to Greenland Police D Dawn Sawyer is the contact for this event. Tel. 502-4611. This event begins at the Portsmouth Police Department, Junkins Avenue at 10:00 a.m. and finishes at Greenland Police Department, Portsmouth Avenue. There will be shuttle to starting line and then from finish line to parking at Portsmouth High School.	Chief Michael Maloney Memorial	12/ 3/2012
5/ 5/2013 5/ 5/2013	FESTIVAL	Downtown - Various locations Barbara Massar is the contact for this event. This event takes place in various locations downtown.	Children's Day	9/ 4/2012
5/11/2013 5/11/2013	ROAD RACE	Strawbery Banke Jacqui Bryan (498-2988) and Marci Francis ((802)683-9187) are the contacts for this event. This event begins and ends at Strawbery Banke.	Susan G. Komen for the Cure	10/22/2012
6/ 8/2013 6/ 8/2013	ROAD RACE	Downtown Barbara Massar is the contact for this event. This event begins and ends at Market Square.	Market Square Road Race	9/ 4/2012
6/ 9/2013 6/ 9/2013	ROAD RACE	Little Harbour School - start and finish John Martin is the contact for this event. This event begins and ends at Little Harbour School, with a starting time of 8:30 a.m. Registration is 7:30 to 8:00 a.m. From the school following route 1B to 1A and turning back on the same route at North Beach, N. Hampton. Event should finish by 12:30 p.m.	John Martin, Founder	12/ 3/2012
6/22/2013 6/22/2013	MUSIC	Pleasant Street Barbara Massar is the contact for this event. This is part of the Summer in the Streets series which begins at 5:00 p.m. and ends at 9:30 p.m.	Pro Portsmouth - Summer in the	9/ 4/2012
6/22/2013 6/23/2013	ROAD RACE	Along Seacoast Route 1A, South Street, Municipal P Contact: Garfield Jones of Fattman Productions at (617) 916-2002 or Garfield@fattmanproductions.com. This is the Cambridge, MA based Community Running Association in conjunction with the New England Chapter of the American Liver Foundation 24 hour relay.	Fattman Productions	1/ 7/2013
6/29/2013 6/29/2013	MUSIC	Pleasant Street Barbara Massar is the contact for this event. This is part of the Summer in the Streets series that starts at 5:00 p.m. to 9:30 p.m.	Pro Portsmouth - Summer in the	9/ 4/2012

Event Listing by Date

Starting Date: 1/ 7/2013

Ending Date: 1/ 1/2014

Start End	Type Description	Location	Requestor	Vote Date
7/ 4/2013 7/ 4/2013	ROAD RACE Contact: Dave Abbett. This 5K event is at the Pease Tradeport.	Pease Tradeport	Sub 5 Race Management	1/ 7/2013
7/ 6/2013 7/ 6/2013	MUSIC Barbara Massar is the contact for this event. This is part of the Summer in the Streets series begins at 5:00 p.m. and ends at 9:30 p.m.	Pleasant Street	Pro Portsmouth - Summer in the	9/ 4/2012
7/13/2013 7/13/2013	MUSIC Barbara Massar is the contact for this event. This is part of the Summer in the Streets series which begins at 5:00 p.m. and ends at 9:30 p.m.	Pleasant Street	Pro Portsmouth - Summer in the	9/ 4/2012
7/20/2013 7/20/2013	MUSIC Barbara Massar is the contact for this event. This is part of the Summer in the Streets series which begins at 5:00 p.m. and ends at 9:30 p.m.	Pleasant Street	Pro Portsmouth - Summer in the	9/ 4/2012
7/27/2013 7/27/2013	MUSIC Barbara Massar is the contact for this event. This event is part of the Summer in the Streets series which begins at 5:00 p.m. and ends at 9:30 p.m.	Pleasant Street	Pro Portsmouth - Summer in the	9/ 4/2012
8/ 1/2013 8/ 1/2013	ROAD RACE Chamber Community Road Race Series. Doug Bates is the contact.	Peirce Island	Portsmouth Rotary Club - Thund	12/17/2012
8/ 3/2013 8/ 3/2013	MUSIC Barbara Massar is the contact for this event. This event is part of the Summer in the Streets series which begins at 5:00 p.m. and ends at 9:30 p.m.	Pleasant Street	Pro Portsmouth - Summer in the	9/ 4/2012
9/21/2013 9/21/2013	ROAD RACE Community Road Race Series Doug Bates is the contact.	Little Harbour School	BreastCancerStories.org	12/17/2012
9/21/2013 9/22/2013	TOUR Caroline Amport Piper (603-686-4338) and Dave Anderson are the contacts for this event. This is a two-day event from 11:00 a.m. to 3:00 p.m. both days.	South End	Friends of the South End	10/22/2012
9/28/2013 9/28/2013	ROAD RACE Karen Butz Webb, Executive Director is the contact for this event. This event begins and ends at Portsmouth High School. E-mail address for information is: projectsafetyassociation@gmail.com	Portsmouth High School	Project Safety Association	10/22/2012
9/29/2013 9/29/2013	WALK Contact: Caitlyn Mosher Ellis (617) 393-2092. Strawbery Banke - Walk site opens at 8:30 a.m. for registration, the Walk kicks off at 10:00 a.m. and clean up by 1:00 p.m. The 1.3 and 2.7 mile routes will both go through the downtown area (using Congress Street).	Walk begins and ends at Strawbery Banke	Alzheimer's Association	1/ 7/2013
10/12/2013 10/12/2013	ROAD RACE Community Road Race Series. Doug Bates is the contact.	West Road	Community Child Care Center	12/17/2012

Run: 1/16/13
9:22AM

Event Listing by Date

Page: 3

Starting Date: 1/ 7/2013

Ending Date: 1/ 1/2014

Start End	Type Description	Location	Requestor	Vote Date
11/28/2013 11/28/2013	ROAD RACE Community Road Race Series Doug Bates is the contact.	Peirce Island	Seacoast Rotary Club Turkey Tr	12/17/2012
1/ 1/2014 1/ 1/2014	ROAD RACE Community Road Race Series Doug Bates is the contact.	Little Harbour School	Great Bay Services	12/17/2012



6 12 11 W 11:13
MAY 19 2012

CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

APPOINTMENT APPLICATION

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

Committee: Citizens Advisory Committee
Community Development Block Initial applicant grant

Name: Alison Hamilton Telephone: 436-6029

Could you be contacted at work? YES/NO If so, telephone# Retired

Street address: 61 Lawrence St., Portsmouth

Mailing address (if different): _____

Email address (for clerk's office communication): iverlei2@comcast.net

How long have you been a resident of Portsmouth? 38 years

Occupational background:

Taught 6th grade at Portsmouth
Middle School from 1995-2007.
1978-1995 - Housewife and mother
of two children.

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

None

OVER

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

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

Reasons for wishing to serve: This will enable me to give back to the community I have lived in for almost 40 years.

I look forward to being a part of helping organizations realize their full potential.

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

I'm a member of several long standing social groups, book clubs, etc.

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

1) Peter Loughlin 336 Thaxter Rd. Portsmouth 436-7962
Name, address, telephone number

2) Terie Norelli 35 Middle Rd. Portsmouth 436-2108
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

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

Signature: Alison Hamilton Date: _____

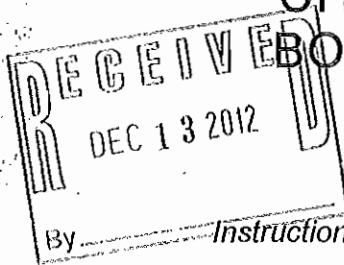
If you do not receive the appointment you are requesting, would you be interested in serving on another board or commission? Yes No

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

6/27/2012

To Be Voted

CITY OF PORTSMOUTH, N.H.
BOARDS AND COMMISSIONS



APPOINTMENT APPLICATION

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

Committee: Planning Board Renewing applicant

Name: Anthony Blenkinsop Telephone: (603) 305-1620

Could you be contacted at work? YES NO - If so, telephone # (603) 271-1288

Street address: 484 Union St., Portsmouth NH

Mailing address (if different): _____

Email address (for clerk's office communication): aiblenk@hotmail.com

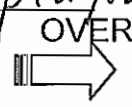
How long have you been a resident of Portsmouth? 10 1/2 years

Occupational background:

Senior Assistant Attorney General at the
New Hampshire Attorney General's Office.
Director, Charitable Trusts Unit

Would you be able to commit to attending all meetings? YES NO There is a chance that work or family obligation may cause me to miss a meetg

Reasons for wishing to continue serving: I enjoy serving on the
Planning Board and in turn the City of Portsmouth.
Proper planning is vital to ensuring Portsmouth
continues to develop and grow in a reasonable
and thoughtful manner, and I enjoy playing
a role in that process.



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

NH Bar Assoc.
Nat'l Assoc. of State Charity Officials

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

- 1) Anne Edwards, 33 Capitol St., Concord NH 271-1119
Name, address, telephone number
- 2) Terry Knowles, 33 Capitol St., Concord NH 271-3591
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

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

Signature: [Handwritten Signature] Date: 11/28/12

CITY CLERK INFORMATION ONLY:

New Term Expiration Date: 12/31/2015

Annual Number of Meetings: 15 Number of Meetings Absent: 3

Date of Original Appointment: 9/15/2008

Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801

Anthony I. Blenkinsop
484 Union St, Portsmouth NH 03801

Professional Experience

Director, Charitable Trusts Unit

NH Attorney General's Office, Concord, NH

2011 - Present

- Oversee all charitable trusts and charitable non-profits operating in New Hampshire through effective registration, education, and enforcement
- Conduct education and outreach to non-profit community on non-profit governance and fiduciary duties
- Conduct investigations and reviews of non-profits and commence enforcement action when necessary
- Represent the State in proceedings involving charitable trusts and charitable non-profits
- Report directly to the NH Attorney General on matters involving charitable trusts and charitable non-profits
- Annually register over 9,000 charitable non-profits
- Supervise a staff of seven employees

Senior Assistant Attorney General

2006 - 2011

NH Attorney General's Office, Civil Bureau, Concord, NH

- Serve as legal counsel for approximately 35 state agencies and boards, including Dept. of Education, State Board of Education, Community College System of NH, Postsecondary Education Commission, Dept. of Resources & Economic Development, Pease Development Authority, Dept. of Agriculture, NH Veterans' Home, Dept. of Employment Security, Secretary of State, Environmental Councils, and numerous professional licensing boards
- Negotiate, draft, and approve State agency requests for proposals, contracts, memoranda of agreements, leases, and purchase and sale agreements
- Negotiate, draft, and approve property easements, leases, and deeds on behalf of the State
- Draft orders for administrative councils and professional licensing boards
- Represent State of NH in State and Federal court litigation
- Draft briefs for NH Supreme Court, First Circuit Court of Appeals, and US Supreme Court cases
- Present oral arguments before NH Supreme Court and US District Court, District of NH
- Appear before Legislative committees on behalf of NH Attorney General's Office and client agencies
- Assist client agencies in drafting legislation and administrative rules
- Conduct training on NH Right-to-Know law (RSA chapter 91-A) for agency clients
- Participate in election law training and enforcement

Assistant Attorney General

2004 - 2006

NH Attorney General's Office, Environmental Protection Bureau, Concord, NH

- Legal Counsel for NH Dept. of Environmental Services and NH Fish & Game Dept
- Represented the NH Dept. of Environmental Services in State court and administrative proceedings
- Lead counsel in investigations and enforcement actions for violations of NH environmental laws
- Supervised and ensured compliance with environmental remediation projects
- Represented the State of NH at national and regional environmental conferences
- Assisted in the development of Continuing Legal Education sessions focused on environmental issues

Attorney

2002 - 2004

Getman, Stacey, Schulthess & Stcere, P.A., Bedford, NH

- Associate at a twenty attorney general practice law firm, with focus on civil litigation
- Served as lead counsel at District and Superior Court trials

Bar Memberships

- New Hampshire (1999), Bar # 14173
- Massachusetts (1998), Bar # 639603 (currently on inactive status)

Education

Suffolk University Law School, Boston, MA

JD, 1998

- *Cum Laude*, Class Rank: Top 15%
- Honors: Distinguished Oral Advocate, Dean's List second and third years

The Pennsylvania State University, University Park, PA

BA, 1995

- Honors: Phi Alpha Theta International Honor Society in History, Golden Key National Honor Society, Order of Omega Greek Honor Society

Community Leadership

Member, City of Portsmouth Planning Board, Portsmouth, NH

2008 – Present

- Member of nine person city board which, sitting in either quasi-judicial and quasi-legislative roles, reviews and considers requests for site-plan approvals, conditional use permits, and referrals from City Council
- Participated in extensive re-write of city zoning ordinance
- Appointed as designee to city Capital Improvement Plan Subcommittee in 2008 and 2009

City of Portsmouth Designee, Rockingham County Planning Commission

2009 - Present

- City designee to regional planning commission
- Represent city interests at monthly commission meetings concerning regional planning and transportation issues

Board Member, National Association of State Charity Officials

2012 – Present

- Board member of national organization of state charity regulators

REPORT OF COMMITTEE
RE: ROBIN ROUSSEAU
JANUARY 9, 2013

A Committee, consisting of Mayor Eric Spear, Assistant Mayor Robert Lister and the undersigned, was formed to address the conduct of Zoning Board of Adjustment alternate Robin Rousseau. She has been an alternate member of the Board since December 17, 2007 and was reappointed March 2, 2009 and her term expires on December 1, 2013.

The Committee met on January 7, 2013 after having reviewed a number of documents, including newspaper articles, letters from citizens, attendance records, minutes of Zoning Board of Adjustment meetings, and videotape of several meetings, and a letter from Robin Rousseau in her defense. All these materials are available to the public and may be viewed at the Office of the City Attorney.

The Committee found that the function of a member of the Zoning Board of Appeals is to understand the zoning ordinances and applicable case law, to obtain all necessary facts and evidence, and then in each case to apply the evidence to the ordinance. The Committee found Robin Rousseau's conduct was on numerous occasions offensive and disrespectful. In particular, Ms. Rousseau demonstrated disrespect for members of the public (she has indicated that if some abutters do not like certain business activity, that they should "leave"), Planning Department staff, and for the rules of order – the process by which the Board conducts its inquiry, considers evidence and renders its decisions. In addition, the Committee found that Ms. Rousseau on more than one occasion, disparaged City zoning ordinances that she is charged with a duty to uphold and apply.

The Committee is not making any determination as to whether Ms. Rousseau should be removed from the ZBA pursuant to State statute (RSA 673:13). That statute specifies that removal may be effectuated "upon written findings of inefficiency, neglect of duty or malfeasance in office." The Committee makes no recommendation either for or against removal, and does not suggest that the City Council, at least at this time, should reach any conclusion on whether her conduct falls within the parameters of the State statute.

The Committee also recognizes the importance of free speech and the desirability of a healthy debate on all City boards among board members whose visions and hopes for the City may differ. The Committee's recommendation in this case is in no way designed to chill the expression of different opinions on any City board. The Committee's focus was on Ms. Rousseau's style, tone and demeanor as a representative of the City.

The Committee recommends to the City Council that Ms. Rousseau be publicly censured for her conduct. It is the hope of the Committee that a public admonishment will demonstrate the Council's commitment to civility on all public boards and that it may cause Ms. Rousseau to alter her demeanor and to show greater respect to members of the public who appear before the ZBA, for the process, and for Planning Department staff in carrying out her duties for the remainder of her term.

Bradley M. Lown, Councilor

BML

MEMORANDUM

TO: John P. Bohenko, *City Manager*
FROM: Liz Good, *Planning Department*
SUBJECT: *Historic District Commission Minutes*
DATE: January 7, 2013

Please be advised that the approved minutes from the September 5, 2012 Historic District Commission meeting are now available on the City's website for your review.

MEMORANDUM

TO: John P. Bohenko, City Manager
FROM: Jane Shouse, Planning Department *JMS*
SUBJECT: Site Review Technical Advisory Committee Minutes
DATE: January 4, 2013

Please be advised that the approved minutes from the September 11, 2012 Site Review Technical Advisory Committee meeting are now available on the City's website for your review.

MEMORANDUM

TO: John P. Bohenko, City Manager
FROM: Jane Shouse, Planning Department (JMS)
SUBJECT: Site Review Technical Advisory Committee Minutes
DATE: January 4, 2013

Please be advised that the approved minutes from the October 2, 2012 Site Review Technical Advisory Committee meeting are now available on the City's website for your review.

MEMORANDUM

TO: City Council Members
FROM: Jane Shouse, Planning Department *JMS*
SUBJECT: Site Review Technical Advisory Committee Minutes
DATE: January 8, 2013

Please be advised that the approved minutes from the January 8, 2013 Site Review Technical Advisory Committee meeting are now available on the City's website for your review.