

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, APRIL 1, 2013 TIME: 6:30PM

## AGENDA

- **6:00PM – ANTICIPATED “NON-MEETING” WITH COUNSEL REGARDING LITIGATION – RSA 91-A:2 I (c)**
- **6:30PM – WORK SESSION – ZONING ORDINANCE AMENDMENT RE: NEIGHBORHOOD COMMERCIAL USES**

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

### PRESENTATIONS

1. Ben Anderson, Executive Director of Prescott Park Arts Festival Re: Update on New Pavilion Building in Prescott Park
2. Memorial Bridge Site Improvements in and around Scott Avenue and Daniel Street including Memorial Park

### **V. ACCEPTANCE OF MINUTES – MARCH 18, 2013**

### **VI. PUBLIC COMMENT SESSION**

### **VII. PUBLIC HEARINGS**

- A. PROPOSED AMENDMENTS TO CHAPTER 10 – ZONING ORDINANCE – ARTICLE 12 – SIGNS, SECTION 10.1230 – SIGN DISTRICTS, SECTION 10.1240 – PERMITTED SIGN TYPES, SECTION 10.1250 – SIGN DIMENSIONAL STANDARDS, SECTION 10.1290 – SIGN DEFINITIONS, AND SECTION 10.1270 – ADDITIONAL SIGN REGULATION
- B. PROPOSED AMENDMENTS TO CHAPTER 10 – ZONING ORDINANCE – ARTICLE 5 – DIMENSIONAL AND INTENSITY STANDARDS, SECTION 10.515 – MEASUREMENT RULES, SECTION 10.516 – EXCEPTIONS TO YARD REQUIREMENTS AND ARTICLE 15 – DEFINITIONS, AND SECTION 10.1530 – TERM OF GENERAL APPLICABILITY
- C. PROPOSED AMENDMENTS TO CHAPTER 10 – ZONING ORDINANCE – ARTICLE 6 – OVERLAY DISTRICTS, SECTION 10.630 – HISTORIC DISTRICT AND SECTION 10.635.20 – WORK SESSIONS.

### **VIII. APPROVAL OF GRANTS/DONATIONS**

*There are no items on under this section of the agenda*

## IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First Reading of Resolution Authorizing the Borrowing of up to Three Million Three Hundred Thousand Dollars (\$3,300,000.00) Through the Issue of Bonds and Notes for Additional Costs for the Construction, Expansion and Renovation of the Portsmouth Middle School (***Sample Motion – move to approve first reading on a \$3.3 Million Dollar Bond Authorization and schedule a public hearing and adoption at the April 15, 2013 City Council meeting***)
- B. Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance – Article 12 – Signs, Section 10.1230 – Sign Districts, Section 10.1240 – Permitted Sign Types; Section 10.1250 – Sign Dimensional Standards, Section 10.1290 – Sign Definitions, and Section 10.1270 – Additional Sign Regulation (***Sample Motion – move to pass second reading and schedule a third and final reading on the proposed Ordinance, at the April 15, 2013 City Council meeting.***)
- C. Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance – Article 5 – Dimensional and Intensity Standards, Section 10.515 – Measurement Rules, Section 10.516 – Exceptions to Yard Requirements and Article 15 – Definitions, Section 10.1530 – Term of General Applicability (***Sample Motion – move to pass second reading and schedule a third and final reading on the proposed Ordinance, at the April 15, 2013 City Council meeting.***)
- D. Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance – Article 6 – Overlay Districts, Section 10.630 - Historic District and Section 10.635.20 – Work Sessions (***Sample Motion – move to pass second reading and schedule a third and final reading on the proposed Ordinance, at the April 15, 2013 City Council meeting.***)

## X. CONSENT AGENDA

### ***A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA***

- A. Request for Approval of Pole License to install 2 poles, 1 located on Sagamore Avenue and 1 located on Austin Street that are in need of replacement (***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***)
- B. Request for Approval of Pole License to install 1 pole and 110 feet of Underground Conduit and 1 pad mounted transformer located on Daniel Street. The transformer and conduit system are associated with the Memorial Bridge construction (***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***)

- C. Letter from Doug Bates, Greater Portsmouth Chamber of Commerce, requesting permission to hang Harbour Trail Flags at 24 key sites for the 2013 season **(Anticipated action – move to refer to the City Manager with power)**
- D. Letter from Alyssa Salmon, Big Brothers Big Sisters of the Greater Seacoast, requesting permission to hold the 4<sup>th</sup> Annual Stiletto Race on Saturday, June 15, 2013 from 3:30 p.m. – 5:30 p.m. and to close Pleasant Street (rain date Sunday, June 16, 2013) **(Combined with Summer in the Streets Program through Pro Portsmouth) (Anticipated action – move to refer to the City Manager with power)**
- E. \*Acceptance of Donation to Recreation Department in memory of Thomas Leary
  - Kenneth C. and Priscilla A. Bowlen - \$25.00**(Anticipated action – move to approve and accept the donation to the Portsmouth Recreation Department, as listed)**
- F. Letter from Wendy McCoole, Executive Director, BreastCancerStories.org, requesting change of date of CelebratePink 5K Road Race and Walk to Saturday, September 14, 2013 **(Anticipated action – move to refer to the City Manager with power)**

## XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Attorney Paul McEachern on behalf of Beth Gross-Santos regarding the merger of lots at 79 Lois Street. Also attached is a memorandum from Rick Taintor, Planning Director regarding the request **(Sample motion – move to approve the merger of lots as requested by Attorney Paul McEachern in letter dated March 15, 2013 in accordance with RSA 674:39-aa)**
- B. Letter from Doug Bates, President, Greater Portsmouth Chamber of Commerce requesting permission to conduct a Veterans Council 5K Road Race on Saturday, May 18, 2013 at 9:00 a.m. **(Sample motion – move to refer to the City Manager with power)**

## XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

### A. CITY MANAGER

#### **Items Which Require Action Under Other Sections of the Agenda**

- 1. First Reading of Proposed Bonding Resolution:
  - 1.1 First Reading of Resolution Authorizing the Borrowing of up to Three Million Three Hundred Thousand Dollars (\$3,300,000.00) Through the Issue of Bonds and Notes for Additional Costs for the Construction, Expansion and Renovation of the Portsmouth Middle School **(Action on this matter should take place under Section IX of the Agenda)**

2. Public Hearings/Second Readings of Proposed Resolution and Ordinance Amendments:
  - 2.1 Public Hearing/Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance – Article 12 – Signs (**Action on this matter should take place under Section IX of the Agenda**)
  - 2.2. Public Hearing/Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance – Article 5 – Dimensional and Intensity Standards and Article 15 – Definitions (**Action on this matter should take place under Section IX of the Agenda**)
  - 2.3 Public Hearing/Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance – Article 6 – Overlay Districts, Section 10.630 - Historic District and Section 10.635.20 – Work Sessions (**Action on this matter should take place under Section IX of the Agenda**)

**City Manager’s Items Which Require Action**

1. Request for a Parking Lot Agreement Re: Middle Street Baptist Church
2. Request from Memorial Bridge Illumination Committee Re: Ratification of Loan Request
3. Applications for Sidewalk Cafes Providing Alcohol Service
  - a) Popovers on the Square
  - b) Ri Ra
  - c) State Street Saloon
  - d) Surf
4. Report Back Re: Request by Christopher McInnis to Rezone Parcels at 678 and 680 Maplewood Avenue from Single Residence B (SRB) to Business (B)
5. License Request for 103 Congress Street, The District Restaurant

**Informational Items**

1. Events Listing
2. Schedule for Budget Presentations – April 6, 2013

**B. MAYOR SPEAR**

1. Appointment to be Considered:
  - Michael Barker – Appointment to the Taxi Commission
2. Appointments to be Voted:
  - Ruth Griffin – Reappointment to the Portsmouth Housing Authority
  - Shelley Saunders – Reappointment as an Alternate to the Conservation Commission
3. \*Establish Public Input Session Re: Restart Process for Building Parking Garage at Worth Lot – Proposed Date, Monday, May 13, 2013 at 6:30 p.m.

**C. COUNCILOR SMITH**

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the March 14, 2013 meeting (***Sample motion – move to approve and accept the action sheet and minutes of the March 14, 2013 Parking & Traffic Safety Committee meeting***)

**XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

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

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

*\*Indicates Verbal Report*


**INFORMATIONAL ITEMS**

1. Notification that the Conservation Commission Minutes of the February 13, 2013 meeting are available on the City's website for your review
2. Notification that the Site Review Technical Advisory Committee Minutes of the March 5, 2013 meeting are available on the City's website for your review
3. Notification that the Planning Board Minutes of the November 15, 2012 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.**

**CITY OF PORTSMOUTH  
PORTSMOUTH, NH 03801**

**Office of the City Manager**

**Date:** March 28, 2013  
**To:** Honorable Mayor Eric Spear and City Council Members  
**From:** John P. Bohenko, City Manager   
**Re:** City Manager's Comments on April 1, 2013 City Council Agenda

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***6:00 p.m. – Non-meeting with counsel.***

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

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***Work Session:***

6:30 p.m.

1. **Zoning Ordinance Amendment Re: Neighborhood Commercial Uses.** As you will recall, at the March 18<sup>th</sup> City Council meeting, the Council scheduled a work session for Monday evening at 6:30 p.m., regarding the zoning ordinance amendment for neighborhood commercial uses. **Attached is a memorandum from Rick Taintor, Planning Director, as well as a copy of the Ordinance to be discussed.** The Planning Director will be making a presentation on Monday evening as well as answer any questions regarding this proposed zoning ordinance amendment.

***Presentation:***

1. **Presentation from Ben Anderson, Executive Director of Prescott Park Arts Festival Re: Update on New Pavilion Building in Prescott Park.** On Monday evening, Ben Anderson, Executive Director of the Prescott Park Arts Festival (PPAF), will make a presentation to the City Council regarding the status of the new Pavilion Building in Prescott Park and other elements of their capital campaign. As you are aware, this project is a public-private partnership between the City of Portsmouth and PPAF, which the City Council approved last year. The project will replace existing bathrooms and concession stand with new facilities.

2. **Memorial Bridge Site Improvements in and around Scott Avenue and Daniel Street including Memorial Park.** As requested by the City Council, on Monday evening, there will be a presentation by City staff and Jim and Laurie Teetzel, owners of Wilcox Industries, regarding the updated site plans for the Scott Avenue/Daniel Street improvements and for the proposed memorial to veterans in Memorial Park.

As you are aware, the replacement of the Memorial Bridge includes improvements to the Scott Avenue/Daniel Street area and to Memorial Park. Over the past several months, City staff has worked with NH DOT and the bridge contractor to refine the site plans for this area. You may also recall that, in conjunction with improvements to the bridge approach, Mr. and Mrs. Teetzel provided a \$25,000 donation for creation of a memorial to American Veterans at Memorial Park.

### ***Items Which Require Action Under Other Sections of the Agenda:***

1. **First Reading of Proposed Bonding Resolution:**

- 1.1 **First Reading of Proposed Bonding Resolution Authorizing the Borrowing of up to Three Million Three Hundred Thousand Dollars (\$3,300,000) through the Issue of Bonds and Notes for Additional Costs for the Construction, Expansion and Renovation of the Portsmouth Middle School.** As you will recall on Monday, March 18<sup>th</sup>, the City Council requested that the City Manager bring back a bonding resolution authorizing an additional \$3.3 million dollars for the construction, expansion and renovation of the Portsmouth Middle School. **Attached is a copy of that Resolution.** Upon passage of first reading the City Council would have to establish a public hearing and adoption for the April 15<sup>th</sup> City Council meeting. I have also **attached a copy of the amortization schedule** that I provided to you at the last meeting. Further, I have attached a **correspondence from Steve Bartlett, School Business Administrator**, indicating that the State has confirmed the City's reimbursement if additional funds are bonded up to a maximum of \$40,855,000. Therefore, this means the City will receive the same reimbursement for principle as it has with the previous appropriation of \$37.5 million dollars.

*Move to approve first reading on a \$3.3 Million Dollar Bond Authorization and schedule a public hearing and adoption at the April 15, 2013 City Council meeting at 7:00 p.m. Action on this matter should take place under Section IX of the Agenda.*

2. **Public Hearings/Second Readings of Proposed Resolution and Ordinance Amendments:**

2.1 **Public Hearing/Second Reading of Proposed Amendments to Chapter 10 - Zoning Ordinance - Signs.** As a result of the March 18th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the **attached proposed amendments to Chapter 10 - Zoning Ordinance relating to sign regulations.**

The existing Zoning Ordinance divides the City into six sign districts. Each of the City's zoning districts fall into one of these six sign districts. Presently, Sign District 3 includes the Business, Central Business A and Central Business B Zoning Districts. The scale of development in the Business District is significantly different from the Central Business Districts. For this reason, the recommended amendment would move the Business Zoning District to Sign District 4, grouping it with the Office Research Zoning District.

The next proposed amendment modifies the standards for wall signs and parapet signs to allow expansion of their use in more situations than at present. The existing Ordinance restricts wall or parapet signs to ground-floor uses and single-use buildings. The amendment would allow one such sign above the first floor as long as it is related to the use.

The existing Ordinance sets standards for maximum aggregate sign area based on both lot frontage and building frontage. The proposed amendment deletes the standard for maximum aggregate sign area based on lot frontage and also excludes permitted freestanding signs from the computation of aggregate sign area.

The existing Ordinance controls the size of projecting signs through a combination of a maximum allowed sign area and allowed projection from the building over the sidewalk. The proposed 12 sq. ft. maximum sign area for projecting signs is larger than all but a few signs in the Central Business Districts, while the maximum allowed projection can be overly restrictive on certain streets with narrow sidewalks. By reducing the maximum sign area to a level consistent with the character of the downtown and relaxing the maximum allowed projection, the Ordinance can provide more flexibility for businesses to design signs that meet the City's objective of maintaining appropriately scaled signs while being appropriate to their specific location.

Finally, the proposed amendment adds language to clarify how to determine the maximum area allowed for wall signs located on buildings with more than one facade.



At its meeting on January 24, 2013, the Planning Board voted unanimously to recommend that the Zoning Ordinance be amended as presented.

Prior to the public hearing, David Allen, Deputy City Manager and Rick Taintor, Planning Director, will be making a presentation regarding this matter.

*I would recommend the City Council move to pass second reading and schedule a third and final reading on the proposed Ordinance, at the April 15, 2013 City Council meeting. Action on this matter should take place under Section IX of the Agenda.*

2.2 **Public Hearing/Second Reading of Proposed Amendments to Chapter 10 - Zoning Ordinance, Article 5 – Dimensional and Intensity Standards and Article 15 – Definitions.** As a result of the March 18th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the [attached proposed amendments Chapter 10 - Zoning Ordinance, Article 5 – Dimensional and Intensity Standards and Article 15 - Definitions.](#)

The first change is related to building coverage and yards. The amendment would exempt small ground-mounted mechanical equipment from calculations of building coverage and yards. Many dwellings throughout the City are already out of compliance with current building coverage limits. The proposed amendment would exempt owners of such properties from having to obtain variances for the installation of a ground-mounted HVAC unit or generator in a side or rear yard and would relieve all property owners of the burden of computing existing building coverage whenever such equipment is proposed.

The second change is related to projections into required yards. The amendment would add a new section allowing specified building elements (balconies, bay windows, decks, steps, roof eaves, fire escapes, etc.) to project into required yards. This change is proposed to promote architectural variety by accommodating limited projections of some building elements into yards where the main walls of a building comply with the yard requirements of the zoning district.

At its meeting on January 24, 2013, the Planning Board voted unanimously to recommend that the Zoning Ordinance be amended as presented.

Prior to the public hearing, David Allen, Deputy City Manager and Rick Taintor, Planning Director, will be making a presentation regarding this matter.

*I would recommend the City Council move to pass second reading and schedule a third and final reading on the proposed Ordinance, at the April 15, 2013 City Council meeting. Action on this matter should take place under Section IX of the Agenda.*

- 2.3 **Public Hearing/Second Reading of Proposed Amendments to Chapter 10 - Zoning Ordinance – Article 6 – Overlay Districts, Section 10.630 Historic District 10.635.20 - Work Sessions.** As a result of the March 18th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the attached proposed amendments to Chapter 10 – Zoning Ordinance – Article 6 – Overlay Districts, Section 10.630 Historic District 10.635.20 – Work Sessions.

Currently, there is no requirement for an applicant to provide the Planning Department and Historic District Commission with any conceptual planning or design prior to a requested work session. The proposed zoning amendment would specify that a conceptual site plan and design information must be submitted with a request for a work session with the HDC. This proposed change is intended to give Commissioners and staff an opportunity to review concept plans in preparation for work sessions.

At its meeting on January 24, 2013, the Planning Board voted unanimously to recommend that the Zoning Ordinance be amended as set forth.

Prior to the public hearing, David Allen, Deputy City Manager, will be making a presentation regarding this matter.

*I would recommend the City Council move to pass second reading and schedule a third and final reading on the proposed Ordinance, at the April 15, 2013 City Council meeting. Action on this matter should take place under Section IX of the Agenda.*

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

1. **Acceptance of Donation to Recreation Department.** The City of Portsmouth Recreation Department has received the following donation in memory of Thomas Leary:

➤ Kenneth C. and Priscilla A. Bowlen                      \$25.00

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

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

1. **Request for a Parking Lot Agreement Re: Middle Street Baptist Church.** In an effort to ease parking constraints from the Middle School project, the Middle Street Baptist Church has agreed to allow the City to utilize 17 parking spaces in their parking lot for use by employees of the Portsmouth Library for another year. Use of the lot will be limited to Monday through Friday, 8:30 a.m. to 9:30 p.m. each day. **The attached agreement** will be for one year.

In exchange for use of the spaces, the City will pay the Church \$1,000 per year and manage snow plowing and removal for the lot. As you know, the City has designated the subject parking spaces for permit parking and installed a key-locked security gate in the existing chain link fence to allow access to the Library. Enforcement of the 17 spaces is conducted by Parking Enforcement in conjunction with Library staff, on an as-needed basis.

In the event that Church services (funeral, weddings, etc.) preclude the use of the spaces, 24-hour advance notice will be given by the Church to the Library Director.

*I would recommend the City Council move to approve a one-year License Agreement between the Middle Street Baptist Church and the City of Portsmouth, as presented, and further, authorize the City Manager to execute this Agreement.*

2. **Request from Memorial Bridge Illumination Committee Re: Ratification of Loan Request.** As you are aware, on March 19, 2013, I met with the members of the Memorial Bridge Illumination Committee which is the volunteer group tasked with raising funds to light the new Memorial Bridge. You will recall that the City Council voted to act as the trustee for the funds raised for illumination in partnership with the Town of Kittery.

At the meeting, the Illumination Committee provided a progress report on their efforts to secure donations for illumination of the Memorial Bridge. The minimum cost to illuminate the bridge towers and the memorial plaque is \$150,000. To date, the group has raised pledges and cash in the amount of \$114,000. **The attached letter from Peter Somssich** outlines the status of the lighting project and the fundraising to date.

At the meeting, the NH DOT gave the Illumination Committee a deadline of March 29th to raise the \$150,000 for the basic illumination of the bridge. This is the latest possible date which allows NH DOT to request the necessary change order for the purchase of materials and labor to install the lighting and keep the project on schedule.

In order to meet the NH DOT deadline and to allow the Committee adequate time to raise the needed funds, the Illumination Committee has asked if the City of Portsmouth would consider an interim loan of \$36,000 to reach the \$150,000 budget needed for the DOT to issue the necessary change order.

I believe the illumination project is an opportunity to elevate the significance and appearance of the new bridge. With your concurrence, I recommend providing a short-term loan to the group using UDAG funds in an amount not to exceed \$36,000. **Attached is a copy of a draft Agreement.**

*I would recommend the City Council move to authorize the City Manager to enter into a Loan Agreement with the Memorial Bridge Illumination Committee, as presented.*

3. **Applications for Sidewalk Cafes Providing Alcohol Service.** As you are aware, in 2012, the City Council adopted City Council Policy 2012-02 titled “Policy Regarding Use of City Property for Sidewalk Café’s providing Alcohol Service”, a **copy of which is attached.** That policy allows Restaurants to apply for an Annual Service Agreement to occupy a defined portion of City sidewalk space for the purpose of creating a sidewalk café with the ability to serve alcohol. The policy outlines the criteria for both the application and the operations of the sidewalk café’s and calls for a 6 month term, typically running from mid April through mid October. The policy limits the number of sidewalk café’s in the City to six (6).

Last year five Area Service Agreements were issued. The establishments that were issued Agreements are as follows:

<b>Establishment</b>	<b>Location</b>	<b>Area</b>	<b>Fee</b>
State Street Saloon	268 State Street	340	\$3,400
Ri Ra Portsmouth	22 Market Square	447	\$4,470
Popovers	8 Congress St	723	\$7,230
District	103 Congress	467	\$4,670
Surf	99 Bow St	324	\$3,240

Four of the five establishments have submitted applications for the 2013 season. Those submitting applications at this time are Popovers, Ri Ra, State Street Saloon, and Surf. The District Restaurant has indicated that they will be submitting an application in the near future.

City staff representatives from Police, Fire, Public Works, Building Inspection, Health, and Code Enforcement have reviewed the applications of Popovers, Ri Ra, State Street Saloon, and Surf and found the applications complete and recommend issuance of the Area Service Agreements in accordance with City Council Policy 2012-02.

The Council will recall that the fee for the use of the public “Area” subject to the Area Service Agreement is \$10.00 per square foot, with a minimum season’s fee of \$2,000 and no pro-ration of the fee. The Agreements may be suspended at the sole discretion of the



City on an administrative basis and revoked in their entirety by vote of the City Council. Hours of operation are until 10:30 p.m. Monday through Saturday and until 10:00 p.m. on Sunday, with no smoking allowed in the “Area” at any time. Use of the “Area” may be precluded, modified or made subject to special conditions to accommodate municipal events. The sidewalk café “Area” will be separated from the public pedestrian space by black decorative metal fence.

- a) **Application for Sidewalk Café providing Alcohol Service from Popovers on the Square.** I am bringing forward for City Council action the **attached Area Service Agreement for Popovers on the Square for the 2013 season.** City staff has reviewed Popovers’ application and are recommending its approval as presented. Please note that the “Area” to be used by Popovers, along with a table-chair layout, is included as an **attachment to the Agreement.** The particulars of this application are as follows:

9 four-top tables  
1 two-top table  
38 chairs  
Area: 723 square feet  
Area Service Fee: \$7,230

*I would recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with Popovers on the Square for outdoor Alcohol Service on City land for the 2013 season subject to City Council Policy No. 2012-02 regarding use of City property for sidewalk cafés providing alcohol service.*

- b) **Application for Sidewalk Café providing Alcohol Service from Ri Ra.** I am bringing forward for City Council action the **attached Area Service Agreement for Ri Ra for the 2013 season.** City staff has reviewed Ri Ra’s application and are recommending its approval as presented. Please note that the “Area” to be used by Ri Ra, along with a table-chair layout, is included as an **attachment to the Agreement.** The particulars of this application are as follows:

5 four-top tables  
5 two-top tables  
30 chairs  
Area: 447 square feet  
Area Service Fee: \$4,470

*I would recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with Ri Ra for outdoor Alcohol Service on City land for the 2013 season subject to City Council Policy No. 2012-02 regarding use of City property for sidewalk cafés providing alcohol service.*

- c) **Application for Sidewalk Café providing Alcohol Service from State Street Saloon.** I am bringing forward for City Council action the **attached Area Service Agreement for State Street Saloon for the 2013 season.** City staff has reviewed State Street Saloon's application and are recommending its approval as presented. Please note that the "Area" to be used by State Street, along with a table-chair layout, is included as an **attachment to the Agreement.** The particulars of this application are as follows:

5 four-top tables  
20 chairs  
Area: 340 square feet  
Area Service Fee: \$3,400

*I would recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with State Street Saloon for outdoor Alcohol Service on City land for the 2013 season subject to City Council Policy No. 2012-02 regarding use of City property for sidewalk cafés providing alcohol service.*

- d) **Application for Sidewalk Café providing Alcohol Service from Surf.** I am bringing forward for City Council action the **attached Area Service Agreement for Surf for the 2013 season.** City staff has reviewed Surf's application and are recommending its approval as presented. Please note that the "Area" to be used by Surf, along with a table-chair layout, is included as an **attachment to the Agreement.** The particulars of this application are as follows:

2 four-top tables  
2 two-top tables  
12 chairs  
Area: 324 square feet  
Area Service Fee: \$3,240

*I would recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with Surf for outdoor Alcohol service on City land for the 2013 season subject to City Council Policy No. 2012-02 regarding use of City property for sidewalk cafés providing alcohol service.*

4. **Report Back Re: Request by Christopher McInnis to Rezone Parcels at 678 and 680 Maplewood Avenue from Single Residence B (SRB) to Business (B).** As you will recall, at the February 4, 2013 City Council meeting, the Council referred the **attached request** from Attorney Bernard Pelech, on behalf of Christopher McInnis, to rezone parcels at 678 and 680 Maplewood Avenue from Single Residence B (SRB) to Business (B), to the Planning Board for report back to the City Council. **Attached** is a **memorandum from Rick Taintor, Planning Director,** regarding this matter.

The two parcels total approximately 72,350 sq. ft. (1.66 acres) in area, and have approximately 134 feet of frontage on Maplewood Avenue. The larger parcel (adjacent to

I-95) is vacant, while the smaller parcel contains a dwelling. The land rises 15 to 20 feet in elevation from Maplewood Avenue to the utility easement, and then drops back down toward Central Avenue on the abutting parcel.

A similar request was considered by the Planning Board at its meeting on November 15, 2012. That request was to rezone the two parcels that are the subject of the current request as well as a portion of the abutting parcel at 261 Central Avenue. The issues that were raised at that time included impacts on the Myrtle Avenue residential neighborhood and traffic impacts on Maplewood Avenue. Following a public hearing, the Board voted to recommend that the City Council not rezone the land.

The Planning Director's memorandum outlines existing and proposed zoning, the concept plans and estimated rezoning impacts, and the surrounding zoning and land uses.

In summary, the parcels proposed for rezoning are at the existing boundary between the Business and Single Residence B zoning districts. Although residences are nearby on the north side of Maplewood Avenue and on the west side of Interstate 95, no parcel currently in residential use would be directly impacted by development on the subject site. Any new building on the site would be around 180 feet from the closest residence on Maplewood Avenue, about 360 feet from the closest house to the west (across I-95 on Edmond Road), and about 360 feet from the nearest existing dwelling on Myrtle Avenue. This development might be visible from up to three houses on the north side of Maplewood Avenue, and other commercial and residential properties along Maplewood Avenue would experience a marginal increase in traffic generated by the site.

The Planning Board held a public hearing on this request at its meeting on March 21, 2013. Thirteen residents (6 owners of property in the surrounding neighborhood and 7 residents in other areas of the City) expressed opposition to the rezoning proposal. In addition, two neighbors and three other City residents submitted correspondence opposing the rezoning.

Following the public hearing, the Planning Board voted unanimously to recommend that the City Council not vote to rezone the land as requested.

*I would recommend the City Council move to accept the Planning Board's recommendation that the City Council not vote to rezone the land as requested.*

5. **License Request for 103 Congress Street, The District Restaurant.** The District Restaurant seeks a license to allow a small portion of an awning to overhang a portion of the City property by approximately 3 square feet (see attached letter from the Back Channel Canvas Shop describing the awning). The HDC granted permission for the awning at its March 6, 2013 meeting. None of the awning supports will be mounted on City property. The Owner of the building from which The District Restaurant operates has given permission for the awning. City staff has reviewed the request and recommends an annual license.

*I would recommend the City Council move to authorize the City Manager to negotiate and enter into a license with The District Restaurant located at 103 Congress Street to allow an approximate 3 square foot overhang of its awning on City property.*

***Informational Items:***

1. **Events Listing.** For your information, **attached is a copy of the Events Listing** updated after the last City Council meeting on March 18, 2013. In addition, this now can be found on the City's website.
2. **Schedule for Budget Presentations – April 6, 2013.** For your information, **attached is the agenda for the FY14 Budget Work Session** on Saturday, April 6, 2013 from 9:00 a.m. to 3:00 p.m., in the Eileen Dondero Foley Council Chambers.