

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, OCTOBER 5, 2015 TIME: 6:00PM

## **AGENDA**

- 6:00PM - "NON-MEETING" WITH COUNSEL IN ACCORDANCE WITH RSA 91-A:2 I (b)

I. CALL TO ORDER (6:00PM)

II. ROLL CALL

III. INVOCATION

IV. PLEDGE OF ALLEGIANCE

V. ACCEPTANCE OF MINUTES – AUGUST 17, 2015; SEPTEMBER 8, 2015 AND SEPTEMBER 21, 2015

VI. PUBLIC COMMENT SESSION

VII. APPROVAL OF GRANTS/DONATIONS

*(There is no items under this section of the agenda)*

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

A. Third and final reading of Annual Omnibus Ordinance Change, Parking and Traffic

B. Third and final reading of Ordinance amending Chapter 11, Article II, Section 11.216:B - Sewer User Charges/Records/Hook-Up by the Elimination of Irrigation Meters

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 Rye - \$5,000.00

***(Anticipated action – move to approve and accept the donation as listed, to be placed in the Coalition Legal Fund)***

B. Letter from Jenelle Dolan, March of Dimes, requesting permission to hold the 2016 Seacoast March for Babies on Saturday, May 7, 2016 ***(Anticipated action – move to refer to the City Manager with power)***

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

- A. Letter from Tabitha McElroy, Thompson School UNH, requesting permission for Portsmouth to host the New England GIFT box in Market Square in front of the North Church for a three day event in mid November
- B. Letter from Bert Cohen, Mayor's Blue Ribbon Committee on Sustainable Practices Re: City's Irrigation Meter Ordinance

**XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

**A. CITY MANAGER**

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

- 1. Third and Final Reading of Proposed Ordinance:
  - 1.1 Third and Final Reading of Annual Omnibus Ordinance Change, Parking and Traffic (**Action on this item should take place under VIII of the Agenda**)
  - 1.2 Third and Final Reading of Ordinance amending Chapter 11, Article II, Section 11.216:B - Sewer User Charges/Records/Hook-Up by the Elimination of Irrigation Meters (**Action on this item should take place under VIII of the Agenda**)

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

- 1. Request for Approval of Proposed Tentative Agreements for the School Custodial Supervisors Union and the Association of Portsmouth School Administrators
- 2. Request for Approval of Proposed Tentative Agreement between the City of Portsmouth and the Portsmouth City Employees Local #1386-B
- 3. Report Back Re: Proposed Easements for North Mill Pond Multi-Use Path

**Informational items**

- 1. Events Listing
- 2. Household Hazardous Waste Day
- 3. Update Re: Ride-Sharing/Taxi Transportation Services Ordinance

**B. MAYOR LISTER**

- 1. Separation Agreement with Chief Stephen Dubois
- 2. Appointments to be Considered:
  - Appointment of Jonathan Sandberg to the Citizens Advisory Committee of the CDBG Program
  - Appointment of Lawrence J. Lariviere to the Sustainable Practices

3. Appointments to be Voted:
  - Reappointment of Shari Donnermeyer to the Parking & Traffic Safety Committee
  - Appointment of Jennifer Pyke to the Portsmouth Housing Authority

**C. ASSISTANT MAYOR SPLAINE**

1. Concepts for an Ethics Ombudsman / Ethics Officer

**D. COUNCILOR THORSEN**

1. Arts Festival in Prescott Park

**XII. MISCELLANEOUS/UNFINISHED BUSINESS**

**XIII. ADJOURNMENT**

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

*\*Indicates Verbal Report*

**INFORMATIONAL ITEMS**

1. \*Notification that the minutes of the August 20, 2015 and August 27, 2015 meetings of the Planning Board are now available on the City's website
2. \*Notification that the minutes of the September 1, 2015 meeting of the Site Plan Review Technical Advisory Committee are now available on the City's website

*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 COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: MONDAY, AUGUST 17, 2015

PORTSMOUTH, NH  
TIME: 6:00PM

At 5:45 p.m., an Anticipated "Non-Meeting" with Counsel was held regarding Property Negotiations – RSA 91-A:2, I (b).

At 6:30 p.m. a Work Session was held regarding Prescott Park Arts Festival Proposed Stage.

### **I. CALL TO ORDER**

At 7:25 p.m., Mayor Lister called the regular City Council meeting to order.

### **II. ROLL CALL**

Present: Mayor Lister, Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Lown, Dwyer, Morgan, Spear, and Thorsen

### **III. INVOCATION**

Mayor Lister asked everyone to join in a moment of silent prayer.

### **IV. PLEDGE OF ALLEGIANCE**

Isabel and Fay led in the Pledge of Allegiance to the Flag.

### **PRESENTATION – REVALUATION UPDATE – ROSANN MAURICE LENTZ, CITY ASSESSOR**

Assessor Maurice Lentz provided an update on the Revaluation process and reported on the statutory requirements. She advised the City Council that 3 companies were used in the Revaluation process. She announced the residential vs. commercial percentage of total value came in with residential at 54% and commercial at 46% and these could change because the values are not final. She reported that notices will be sent this week to set up informal hearings. Assessor Maurice Lentz explained the 3 appeal processes.

Councilor Kennedy said she was hoping that this was going to be more of a Work Session because she has more questions. She expressed concern with dealing with the contractors first and then you speak with the Assessor.

### **V. ACCEPTANCE OF MINUTES – JULY 20, 2015 AND AUGUST 3, 2015**

**Councilor Shaheen moved to approve and accept the minutes of the July 20, 2015 and August 3, 2015 City Council meetings. Seconded by Councilor Lown and voted.**

Mayor Lister said speakers will be limited to 2 minutes due to the number of speakers.

**Assistant Mayor Splaine moved to keep the public comment session to 3 minutes. Seconded by Councilor Morgan. On a roll call vote 5-4, motion passed. Assistant Mayor Splaine, Councilors Kennedy, Dwyer, Morgan and Thorsen voted in favor. Councilors Shaheen, Lown, Spear and Mayor Lister.**

## **VI. PUBLIC COMMENT SESSION**

Beth Margeson said that the Portsmouth Prescott Arts Festival needs a new stage and the current stage is unsafe. In addition, they needed a space for the storage of items. She also indicated her disapproval with placing the stage towards Kittery.

Tom Carroll thanked various individuals for their work on Saving Our Working Port. He said that because of individual's efforts the port is now a better place.

Steve Little spoke in support of short term rentals and would like the City Council to go back to the first draft of the ordinance. He said that this is being done globally and it is a middle class benefit. He said there are over 300 people in the City operating a short term rental.

Rick Horowitz spoke in support of short term rentals and agrees with Mr. Little's comments. He said that people are struggling to make ends meet and this allows them to earn a few extra dollars.

Cathy Baker spoke regarding relocating the Prescott Park stage and that during the recent monitoring of the noise levels the volume has been turned down which is a low cost solution. She said there is a safety issue and the stage should be replaced.

Larry Cataldo urged the City Council to pass the Central Business Zone for the north end. He said that this would be listening to the people and their needs. He suggested that the City Council have the Economic Development Commission strengthen the work force housing requirements.

James Lamond spoke opposed to short term vacation rentals. He said that these should not be permitted in a neighborhood and the City needs to regulate this matter.

Alice Giordano said that short term rentals should not be measured as a simple matter. She said there is a gross need to enforce occupancy levels. She said she has a neighbor letting people live in their garage and rental properties need to be enforced by the City. She said short term rentals are safer than renters.

Rick Becksted spoke on Central Business Zone and said the public wanted to see this but it is not perfect. He said he does not support any amendments to the ordinance and that land acquisitions should have public input for the larger projects. He addressed the revaluation in the City and stated his tax card has no comps listed and there should be comps for him to refer to.

Arthur Clough spoke regarding the Aaron Goodwin/Geraldine Webber case. He expressed his disapproval with the Deputy Police Chief's severance packet. He stated there was no vote by the Police Commission it was just signed off by Commissioner Golumb. He said there needs to be an investigation on this matter.

Jeffrey Cooper spoke regarding short term rentals and that he received a cease and desist order. He would like the City Council to not support the short term rental ordinance. He said proper amendments should be made at the next meeting during second reading. He said the residents should be included in the discussion.

Mark Brighton said who was looking out for the taxpayer with the severance agreement with Deputy Chief MacDonald.

Mary Lou McElwain spoke to the need for the lifeguards at the outdoor pool receiving a raise for what they do. She said they should be making \$12.00 per hour.

George Dempsey spoke opposed to short term rentals and that these businesses should not be run in the City.

Peter Weeks urged the City Council to approve the City Manager's request for land transfers and easements. He spoke in support of the Harborcorp project and that it should move forward.

Senator Martha Fuller Clark – spoke in support of Central Business Zone in the north end. She said the City Council needs to make sure that the height recommendations are part of the zoning recommendations.

Chris Thompson thanked the City Council for support of the project to date. He said the land will be squared off with the land transfers. He reported that the Planning Board decision has been brought to court and the Historic District Commission decision has been appealed as well. He said it is important to know they have the City Council support on the project.

Zoe Stewart asked the City Council to conduct a public hearing before voting on easements for Harborcorp.

Joe Caldarola spoke on the Central Business Zone for the north end and said he has a letter signed by 57 residents to keep the lower heights for this area. Mr. Caldarola presented the letter to City Clerk Barnaby for the file.

Susan Duprey said there is a process to come to the City Council and land use boards and Harborcorp has followed that process. She said the plan has been on file with the City since April, 2014 and in no public hearing has ever anyone raised objections to the plan. She said Harborcorp is asking for the City Council to follow through on what the Planning Board has approved as well as the Parking Traffic & Safety Committee with respect to the intersections.

Dexter Legg asked the City Council to regulate short term vacation rentals. He spoke to issues he has experienced living next to one of these in his neighborhood.

Paul Mannle asked the City Council to postpone action on Harborcorp until all appeals are heard. He spoke to the land availability at the Frank Jones Center, which would better serve the City.

Tanya Clews spoke on short term rentals and asked where do you draw the line. She said people are using home exchange.com where they exchange their home to another party. She spoke to the need for better communication and that she has used Airbnb in other places. She said you need to have respect for all neighbors.

## VII. PUBLIC HEARINGS

- A. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO SIX MILLION ONE HUNDRED THOUSAND DOLLARS \$6,100,000 FOR FY16 CITYWIDE BIKE/PEDESTRIAN, STREET, AND SIDEWALK IMPROVEMENTS
- B. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO SIX HUNDRED THOUSAND DOLLARS (\$600,000) FOR FY16 PURCHASE OF FIRE APPARATUS (PAGE 39 OF CIP FY16-21)
- C. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO FIVE HUNDRED THOUSAND DOLLARS (\$500,000) FOR FY16 SCHOOL FACILITIES IMPROVEMENTS (PAGES 50-51 OF CIP FY16-21)
- D. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO FOUR MILLION ONE HUNDRED THOUSAND DOLLARS (\$4,100,000) RELATED TO WATER SYSTEM UPGRADES AND IMPROVEMENTS
- E. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO FOUR MILLION DOLLARS (\$4,000,000) FOR FY16 SEWER SYSTEM UPGRADES

Public Works Director Rice, Superintendent Zadvarec and Fire Chief Achilles provided a brief Presentation on all Resolutions to explain each of the projects.

- A. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO SIX MILLION ONE HUNDRED THOUSAND DOLLARS \$6,100,000 FOR FY16 CITYWIDE BIKE/PEDESTRIAN, STREET, AND SIDEWALK IMPROVEMENTS

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

Rick Becksted thanked the City Council and spoke in support of the Resolution. He said this will install a sidewalk on Islington Street which is much needed. He would like to see a crosswalk installed at the ball field at the intersection at Essex Avenue.

Diane Share said she was walking along Islington Street and was almost hit because the sidewalk is turned up and cars are driving on it. She said it has been torn up since May and is a serious safety concern.

With no further speakers, Mayor Lister closed the public hearing.

**B. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO SIX HUNDRED THOUSAND DOLLARS (\$600,000) FOR FY16 PURCHASE OF FIRE APPARATUS (PAGE 39 OF CIP FY16-21)**

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

Rick Becksted said this is about public safety and now we are down to 2 vehicles. He said we should look at putting a percentage of the fees collected from ambulance fees towards the replacements of vehicles needed in the Fire Department. He said this is public safety and we need to look at funding safety vehicles.

With no further speakers, Mayor Lister closed the public hearing.

**C. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO FIVE HUNDRED THOUSAND DOLLARS (\$500,000) FOR FY16 SCHOOL FACILITIES IMPROVEMENTS (PAGES 50-51 OF CIP FY16-21)**

Mayor Lister read the legal notice, declared the public hearing open and called for speakers. With no speakers, Mayor Lister closed the public hearing.

**D. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO FOUR MILLION ONE HUNDRED THOUSAND DOLLARS (\$4,100,000) RELATED TO WATER SYSTEM UPGRADES AND IMPROVEMENTS**

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

Rick Becksted said we need upgrades but he would like to see us find out from the utility companies if they need to do any work to the street to make sure that we are not digging up pavement we just put in place.

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

**E. RESOLUTION FOR BORROWING AUTHORIZATION OF UP TO FOUR MILLION DOLLARS (\$4,000,000) FOR FY16 SEWER SYSTEM UPGRADES**

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

Rick Becksted spoke in support of the Resolution. He said he would like to find out what EPA requirements are for the sewer system upgrades.

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

**VIII. APPROVAL OF GRANTS/DONATIONS**

*(There are no Items under this Section of the Agenda)*



## IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Ordinance amending Chapter 10 as follows:
- (1) Amend Section 10.440, Table of Uses, by adding a new use #10.30 – Short-term vacation rental”, modifying the standards for use #10.50 – “Hotel or motel”, and combining “conference hotel” and “conference center” into a single use;
  - (2) Insert a new Section 10.837.20 – Short-Term Vacation Rentals;
  - (3) Amend Article II – Site Development Standards to establish an off-street parking requirement for short-term vacation rental; and
  - (4) Amend Article 15 – Definitions, by revising the definitions of “Bed and Breakfast” and adding new definitions for “Short-term vacation rental” and “Transient”

**Councilor Spear moved to pass first reading and schedule a public hearing and a second reading of the proposed Ordinance, as presented, at the Tuesday, September 8, 2015 City Council meeting. Seconded by Councilor Lown.**

Councilor Kennedy expressed concern with the ordinance and she would like to know what happens when there is a problem. She said there is a difference from people living in the home versus someone that leaves the home.

Councilor Thorsen said he agrees with the point made by Councilor Kennedy. He said someone that maintains control of the home at all times should be exempt from the regulations.

Councilor Morgan said she agrees with Councilors Kennedy and Thorsen. She said regulations should be less for people staying within their homes.

Councilor Spear said first reading provided definitions with a framework for discussion. He spoke to the table of uses of the Ordinance.

Councilor Dwyer said the ordinance should be passed along to second reading and amendments would be made at that time.

Councilor Shaheen said she does not want to delay passage of first reading. She said more guidance is needed from the City Attorney and Planning Board on home owners remaining in the home, enforcement on violations and the geographical areas these would be allowed in.

Assistant Mayor Splaine said that this is a complicated system and discussion must be thorough before a public hearing and second reading is held.

**On a roll call vote 5-4, motion passed. Councilors Lown, Dwyer, Spear, Thorsen and Mayor Lister voted in favor. Assistant Mayor Splaine, Councilors Shaheen, Kennedy and Morgan voted opposed.**

- B. Adoption of Resolution for Borrowing Authorization of up to Six Million One Hundred Thousand Dollars \$6,100,000.00 for FY16 Citywide Bike/Pedestrian, Street and Sidewalk Improvements

**Councilor Spear moved to adopt a Bond Resolution for FY16 Citywide Bike/Pedestrian, Street, and Sidewalk Improvements in the amount of up to \$6,100,000.00. Seconded by Councilor Shaheen.**

City Manager Bohenko said he would speak with Public Works Director Rice and if some changes need to be made they would be made.

Councilor Morgan said there needs to be more enforcement on Islington Street and suggested that the Police Department have a police officer on a bike in that area to experience the danger.

Councilor Kennedy said there are a number of scooters on the street and that also needs to be considered.

Councilor Spear would like to consider holding a work session on the design of Islington Street to Market Square. City Manager Bohenkosaid it would be more appropriate for a presentation to take place.

Councilor Spear would like consideration given to burying the utility lines.

**Motion passed.**

- C. Adoption of Resolution for Borrowing Authorization of up to Six Hundred Thousand Dollars (\$600,000) for FY16 purchase of Fire Apparatus (Page 39 of CIP FY16-21)

**Councilor Morgan moved to adopt a Bond Resolution for FY16 purchase of Fire Apparatus in the amount of up to \$600,000.00. Seconded by Councilor Lown.**

Councilor Kennedy asked if any more discussion has been heard on the fire boat. Chief Achilles said this Resolution is not part of the fire boat and more discussion will be held at the end of the summer. Councilor Kennedy said she would like a presentation prior to the meeting on the fire boat.

Mayor Lister passed the gavel to Assistant Mayor Splaine.

Fire Chief Achilles said that this is for a fire pumper at Station 3.

Mayor Lister said the fire rescue truck was taken off the table. Chief Achilles said that is correct for Fy15.

Assistant Mayor Splaine returned the gavel to Mayor Lister.

**Motion passed.**

- D. Adoption of Resolution for Borrowing Authorization of up to Five Hundred Thousand Dollars (\$500,000) for FY16 School Facilities Improvements (Pages 50-51 of CIP FY16-21)

**Councilor Shaheen moved to adopt a Bond Resolution for FY16 School Facilities Improvements in the amount of up to \$500,000.00. Seconded by Councilor Morgan and voted.**

- E. Adoption of Resolution for Borrowing Authorization of up to Four Million One Hundred Thousand Dollars (\$4,100,000) related to Water System Upgrades and Improvements

**Councilor Dwyer moved to adopt a Bond Resolution for Water System Upgrades and Improvements in the amount of up to \$4,100,000.00. Seconded by Councilor Lown.**

City Manager Bohenko said we work with Unitil on the digging of the streets for utility work. Public Works Director Rice said he meets with them and works with them to make sure that our roads are not dug up after new pavement is put in place. Director Rice said they have to go into pavement if there is an emergency. He said he works with them closely on these matters.

**Motion passed.**

- F. Adoption of Resolution for Borrowing Authorization of up to Four Million Dollars (\$4,000,000.00) for FY16 Sewer System Upgrades

**Councilor Shaheen moved to adopt a Bond Resolution for FY16 Sewer System Upgrades in the amount of up to \$4,000,000.00. Seconded by Councilor Lown and voted.**

- G. Third and Final reading of Ordinance amending Chapter 7, Article I, Section 7.1 – Parking Meters, Section 7.102 Parking Meter Zones (A) Downtown High Occupancy Zone – Parking Rate shall be one dollars and seventy-five cents (\$1.75) per hour and (B) Parking in all other parking meter zones shall be at the rate of one dollars twenty-five cents (\$1.25) per hour and EasyPark Resident Discount

**Councilor Spear moved to pass third and final reading of the proposed Ordinance. Seconded by Councilor Lown.**

Assistant Mayor Splaine said he would vote opposed and feels that a resident discount should be given at a rate of 50%.

Councilor Morgan said she would not support the ordinance for the same reason.

**On a roll call vote 7-2, motion passed. Councilors Shaheen, Kennedy, Lown, Dwyer, Spear, Thorsen and Mayor Lister voted in favor. Assistant Mayor Splaine and Councilor Morgan voted opposed.**

- H. Third and Final reading of Ordinance amending Chapter 10 – Zoning Ordinance by the addition of Character-Based Zoning North End as follows:
- (1) Delete the existing Article 5A – Character Districts in its entirety and insert in its place the new Article 5A – Character Districts as amended at second reading”;
  - (2) Amend Articles 4, 5, 11, 12 & 15 of the Zoning Ordinance as set forth in the document titled “Conforming Amendments to Zoning Ordinance” as amended at second reading; and
  - (3) Amend the Zoning Map as set forth in the following maps as amended at second reading:
    - a. Map 10.5A21A – Character Districts and Civic Districts;
    - b. Map 10.5A21B – Building Height Standards;
    - c. Map 10.5A21C – Special Requirements for Façade Types, Front Lot Line Buildout & Uses

**Assistant Mayor Splaine moved to pass third and final reading of the Proposed Ordinance, as presented. Seconded by Councilor Morgan.**

Councilor Kennedy asked what was amended at second reading.

Planning Director Taintor spoke to the amendments made at second reading. He said a new document was submitted for Article 5A from some typos and there was a matrix that listed all the changes from the original version to current version in front of the Council this evening. There were some changes to conforming uses and maps.

Councilor Shaheen said she supports the ordinance and she is concern with taking actions on theses items during this time of year with so many people away on vacations.

**Motion passed.**

## **X. CONSENT AGENDA**

- A. Letter from Melissa Walden, American Lung Association, requesting permission to hold the 7<sup>th</sup> annual American Lung Association Cycle the Seacoast ride on Sunday, May 1, 2016 **(Anticipated action – move to refer to the City Manager with power)**
- B. Letter from Carolyn Ostrom, Susan G. Komen, requesting permission to hold the Susan G. Komen New Hampshire Race for the Cure on Saturday, May 7, 2016 at 9:00 a.m. **(Anticipated action – move to refer to the City Manager with power)**

**Councilor Dwyer moved to adopt the Consent Agenda. Seconded by Councilor Spear and voted.**

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

- A. Letter from Rabbi David Ross Senter, Temple Israel, requesting permission to hold a public 9/11 ceremony at the African Burying Ground with a walk to the Veteran's Park

**Councilor Dwyer moved to refer to the City Manager with power. Seconded by Councilor Spear and voted.**

- B. Letter from Attorney Bernard Pelech regarding Restoration of Involuntarily Merged Lots – RSA 674:39aa property located at 65 Mendum Avenue

**Councilor Spear moved to refer to the Planning Department for report back. Seconded by Councilor Lown and voted.**

- C. Letter from Gerald Zelin regarding Character-Based Zoning for the North End

**Councilor Spear moved to accept and place the letter on file. Seconded by Councilor Shaheen and voted.**

## **XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

### **A. CITY MANAGER**

- 1. "North End Portsmouth" Development – Proposed Land Transfers, Easements and License

Planning Director Taintor spoke regarding the land transfers, easements and licenses that are necessary to implement the development project that has been approved by the land use boards. He said the City accepts four parcels of land to implement roadway improvements on Market, Russell, Green and Deer Streets, and two easements for utility and access purposes. He further stated the City will grant a number of easements around the periphery of the site to accommodate foundations, roof overhangs, stairs, ramps, grease traps and related items. Planning Director Taintor said the City will allow for three important roadway improvements in the vicinity of the project, including realigning the Russell/Deer intersection to a "T" configuration, widening and realigning Green Street between Russell Street and a railroad crossing and, most significantly, converting the Market/Russell intersection to a modern roundabout as an extension of the Market Street Gateway project.

**Councilor Spear moved to accept the land transfers substantially as shown on the Land Transfer Plan, subject to any minor adjustments that may be needed to accommodate the construction of a roundabout at the intersection of Market Street and Russell Street; to accept the Utility Easement and the Access Easement as shown on the Easement Plan; to approve the Foundation Easements, Roof Canopy Easements, Roof Overhang Easements, Door Opening Easements, Easements for Stairs, Wall, and Ramps, and Utility Easements for Grease Traps, substantially as shown on the Easement Plan, and to authorize the City Manager to execute the necessary instruments for such easements; to approve the requested licenses substantially as shown on the License Plan, and to authorize the City Manager to execute the necessary instrument. Seconded by Councilor Dwyer.**

Councilor Morgan said a public hearing would open the process to allow for the public to speak on the project.

Councilor Lown said we should honor the work that has been done over the months.

Assistant Mayor Splaine said the Council should hold a public hearing on this matter.

Councilor Shaheen asked if we ever hold a public hearing on transfers and easements. City Attorney Sullivan said the City Council has never held a public hearing on this type of request before.

**Councilor Morgan moved to amend and postpone action on the main motion to allow for a public hearing on accepting the land transfers. Seconded by Councilor Kennedy.**

Councilor Kennedy said she likes to listen to the public and that this portion of the project only went to the Planning Board and not the Historic District Commission. City Attorney Sullivan said the time frame does not change with a public hearing.

**On a roll call vote 3-6, motion to amend failed to pass. Assistant Mayor Splaine, Councilors Kennedy and Morgan voted in favor. Councilors Shaheen, Lown, Dwyer, Spear, Thorsen and Mayor Lister voted opposed.**

**On a roll call 6-3, voted to pass main motion. Councilors Shaheen, Lown, Dwyer, Spear, Thorsen and Mayor Lister voted in favor. Assistant Mayor Splaine, Councilors Kennedy and Morgan voted opposed.**

At 10:25 p.m., Mayor Lister declared a brief recess. At 10:40 p.m., Mayor Lister called the meeting back to order.

## 2. Annual Omnibus Ordinance Change, Parking and Traffic

City Manager Bohenko stated that this is the annual omnibus from the Parking Traffic and Safety Committee for the Council to review and will be brought back for first reading at the next City Council meeting.

**Councilor Spear moved to authorize the City Manager to bring back for first reading the outlined Ordinance, as presented, at the Tuesday, September 8, 2015 City Council meeting. Seconded by Councilor Lown.**

Councilor Kennedy requested a report back on the number of new parking spaces created and lost by the new Omnibus Ordinance for the September 8, 2015 City Council meeting.

**Motion passed.**

*City Manager's Informational Items*

*6. Report Back Re: Land Acquisition (Frank Jones Center Property)*

City Manager Bohenko said he is looking for some feedback on this matter from the City Council.

***Councilor Morgan moved to authorize the City Manager to continue with negotiation and the staff to look at uses for the parcel with a report back at the September 21, 2015 City Council meeting. Seconded by Councilor Kennedy.***

Councilor Thorsen said he is not sure the Council should act on the proposed motion and that discussion on this matter should be held in a Non-Meeting with Counsel regarding negotiations.

*Councilor Morgan withdrew her motion and Councilor Kennedy the second to the motion.*

**Councilor Thorsen moved to hold a "Non-Meeting" with Counsel on the matter of negotiations regarding land acquisition for the Frank Jones Center property. Seconded by Councilor Kennedy.**

Councilor Spear said we have not decided we want to build a Police Department and the purchase price is high. He said the property could be purchased privately.

Councilor Morgan said the west end of the City would expand with the City purchasing this land.

Councilor Kennedy said she supported the motion to discuss negotiations in a "Non-Meeting". She feels we need to be proactive on this matter.

Assistant Mayor Splaine said we do not know when and if a connector road will be built and we need to continue the dialogue.

Mayor Lister passed the gavel to Assistant Mayor Splaine.

Mayor Lister said he would not support the motion and we have enough on our plate.

Assistant Mayor Splaine returned the gavel to Mayor Lister.

**On a roll call vote 6-3, motion passed. Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Dwyer, Morgan and Thorsen voted in favor. Councilors Lown, Spear and Mayor Lister voted opposed.**

4. *Report Back Re: Payment of Severance to former Deputy Police Chief Corey MacDonald*

City Attorney Sullivan explained the process he used in looking into this matter. He provided a list of facts to the City Council as outlined in his memorandum. He said the most significant fact is clear that there is no record in any file of a severance agreement being on an agenda or a vote taken in a meeting. He said based on the facts if the City Council wants further legal work it maybe best to initiate separate legal counsel.

Assistant Mayor Splaine thanked City Attorney Sullivan for the report. He said this is about process and policies and the need for an independent review.

Councilor Spear asked if City Attorney Sullivan is recommending an investigation. He does not feel we can leave the item hanging. He feels much was said about the wrongness of Deputy Chief Corey MacDonald getting a severance and is in the purview of the Commission. Councilor Spear said he is concerned with process and proper voting.

Councilor Dwyer said what type of action at this point is right. The procedure for putting things on an agenda, it may have been a mistake. She said that the Commission must have made a judgment call to create such an agreement. She said the question is whether the severance is reversible and that answer may lie with our negotiator Tom Clossun.

Councilor Lown said he agrees with Councilors Spear and Dwyer. If the facts in the newspaper are accurate all 3 Commissioners approved of the contract and had the authority to do so. The City Council has no power to reverse that agreement. He said no one has raised the issue of how much money this would cost and he is reluctant to spend any money on this matter.

Councilor Thorsen said he does not see the City getting the money back from Deputy MacDonald. He said the liability might lie with the Commission that granted the agreement.

City Attorney Sullivan said questions as such should be referred to Attorney Clossun. Councilor Thorsen requested that his questions be answered by Attorney Clossun.

**Councilor Shaheen moved to request that Attorney Thomas Clossun review this matter much like Attorney Robert Sullivan did in terms of the severance package. Seconded by Assistant Mayor Splaine and voted.**

**Assistant Mayor Splaine moved to have City Manager Bohenko make a recommendation at the September 8, 2015 City Council meeting for a process of reviewing the severance given on February 9, 2015. Seconded by Councilor Morgan.**



**On a roll call vote 7-2, motion passed. Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Dwyer, Morgan, Thorsen and Mayor Lister voted in favor. Councilors Lown and Spear voted opposed.**

**Councilor Dwyer moved to add City Manager or his designee and Mayor or his designee site in on all Police Commission meetings as non-voting members. Seconded by Assistant Mayor Splaine. On a unanimous roll call vote 9-0, motion passed.**

5. *Report Back RE: Analysis Polling Hours*

Councilor Spear requested to look at adding professional staff to assist in the polling process.

**B. MAYOR SPLAINE**

1. Appointments to be Considered: ***(Postponed from August 3, 2015 City Council meeting)***
  - Kathleen Bergeron to the Citywide Neighborhood Steering Committee

The City Council considered the appointed listed above and will take action on that appointment at the September 8, 2015 City Council meeting.

2. Appointments to be Voted: ***(Postponed from August 3, 2015 City Council meeting)***
  - Marie Kelleher to the Citywide Neighborhood Steering Committee
  - Sylvia Olson to the Peirce Island Committee
  - William Townsend to the Peirce Island Committee

**Councilor Shaheen voted to appoint Marie Kelleher to the Citywide Neighborhood Steering Committee until April 1, 2018; appointment of Sylvia Olson and William Townsend to the Peirce Island Committee until December 31, 2015. Seconded by Councilor Morgan and voted.**

- Richard Shea to the Historic District Commission

**Councilor Shaheen moved to reappoint Richard Shea to the Historic District Commission. Seconded by Councilor Spear and voted. Councilor Kennedy abstained from voting on this appointment.**

3. City Manager's Evaluation ***(Postponed from August 3, 2015 City Council meeting)***

Mayor Lister announced that he appointed Councilor Spear, Chair, Councilors Lown, Thorsen and Dwyer to the City Manager's Evaluation Committee.

4. Appointment of Police Commissioner Citizen Review Panel

Mayor Lister said he would be creating a Citizen Review Panel on the appointment of a Police Commissioner. He said that the session would be televised on Channel 22 and the Review Panel will consist of Tom Ferrini, Chair; Mike Magnant, Ruth Griffin, Reverend Rob Stevens and John Akar.

**Councilor Lown moved to appoint a Police Commissioners Citizen Review Panel. Mayor Lister announced he appointed Tom Ferrini, Chair; Mike Magnant, Ruth Griffin, Reverend Rob Stevens and John Akar to the Police Commissioners Citizen Review Panel. Seconded by Councilor Spear.**

Councilor Morgan asked for a time line on the process. She would like to have a special meeting on August 31, 2015 for the City Council to decide on the person to fill the vacancy.

Mayor Lister said the Committee is ready to pull everyone together in a meeting next week and the Council will wait for the Committee to bring forward two names for the City Council to vote on. He said he would be meeting with Tom Ferrini to discuss the process further.

Assistant Mayor Splaine said that every week counts that there is not a full Police Commission. He said he wants to verify that the appointment will be until the November 3<sup>rd</sup> election.

City Attorney Sullivan said we have a Charter in place that creates a Police Commission and then a Portsmouth Herald reporter called the Secretary of State without receiving any information from the City. The Secretary of State offered his opinion. He spoke with the Secretary of State the next day and asked for time from Attorney General's Office and received the opinion before you. He said this has created a Charter Crisis in the City. City Attorney Sullivan said now we have to follow the statute that governs town's with Police Commissions.

**Motion passed.**

**C. ASSISTANT MAYOR SPLAINE**

1. Proposal for An Elected Charter Commission (***Postponed from August 3, 2015 City Council meeting***)

Assistant Mayor Splaine will bring this matter forward at the September 8, 2015 City Council meeting.

3. Mayors for Peace – Presentation

Assistant Mayor Splaine will bring this matter forward at the September 8, 2015 City Council meeting.

**D. COUNCILOR KENNEDY**

1. Charter Commission (*Postponed from August 3, 2015 City Council meeting*)

Councilor Kennedy requested to hold a meeting with the City Attorney on how to establish a Charter Commission.

2. Supporting Small Business in Portsmouth (*Postponed from August 3, 2015 City Council meeting*)

Councilor Kennedy requested to hold a Work Session on this matter.

**E. COUNCILOR LOWN**

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the July 9, 2015 meeting (*Postponed from August 3, 2015 City Council meeting*)

Councilor Lown said he would postpone action on this matter until September 8, 2015 City Council meeting.

**F. COUNCILOR SPEAR**

1. Peirce Island Non-Resident Fee Reconsideration (*Postponed from August 3, 2015 City Council meeting*)

**Councilor Spear moved to refer his letter to the Peirce Island Committee for review. Seconded by Councilor Lown and voted.**

**G. COUNCILOR THORSEN**

1. Irrigation Meters

Councilor Thorsen said this is for informational purposes and would be discussed at the October 5, 2015 City Council meeting.

**XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

**XIV. ADJOURNMENT**

**At 12:15 a.m., Councilor Shaheen moved to adjourn. Seconded by Councilor Spear and voted.**



Kelli L. Barnaby, MMC, CMC, CNHMC  
City Clerk

## CITY COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: TUESDAY, SEPTEMBER 8, 2015

PORTSMOUTH, NH  
TIME: 6:30PM

### **I. CALL TO ORDER (6:30PM)**

Mayor Lister called the meeting to order at 6:30 p.m. with the following Councilors Present: Mayor Lister, Assistant Mayor Splaine, Councilors Shaheen, Lown, Morgan, Spear and Thorsen.

Councilor Lown proposed to **not** go into a Non-Meeting stating that this issue has been discussed openly before and feels that it can be discussed in public until something prohibitive comes up and it becomes necessary.

**Councilor Thorsen moved to go into Non-Meeting, seconded by Councilor Morgan.**

Assistant Mayor Splaine stated that it was discussed at the last Council meeting that the Council would meet in non-meeting, specifically the Frank Jones Property, and feels that it should be listed on the Agenda as such so that the subject is traceable. He stated he is willing to go into a non-meeting but would also rather discuss the issue publicly.

Councilor Thorsen stated that the discussion includes possible negotiations and in that circumstance, we should not show our hand in public and should be done in confidential negotiations. He continued that the non-meeting may be very quick and may come to a consensus that no action should be taken, but the discussion needs to start in non-meeting.

**Motion to enter into a non-meeting passed on a 5-2 roll call vote. Councilors Lown and Spear voted opposed.**

### **II. ROLL CALL**

At 7:00 p.m. Mayor Lister called the Regular Meeting to order.

Present: Mayor Lister, Assistant Mayor Splaine, Councilors Shaheen, Kennedy (*arrived at 8:50 p.m.*), Lown, Morgan, Spear and Thorsen.

Absent: Councilor Dwyer.

### **III. INVOCATION**

### **IV. PLEDGE OF ALLEGIANCE**

Mayor Lister requested audience member John O'Leary lead the Pledge of Allegiance.

### **PRESENTATION**

1. Update of Gateway and Islington Street Project – Nancy Carmer, Economic Development Manager and Peter Rice, Director of Public Works

Economic Development Manager Nancy Carmer gave a brief presentation on the Market Street Gateway Project reviewing the project background, completed construction of Deer

Street to Russell Street and the status of the current project plan elements. She concluded stating the next steps will include final plan approval in the early fall, bidding the project in late fall/winter and 3 phases of construction. The 3 phases are as follows:

1. Phase 1 – Kearsarge to Albacore Way
2. Phase 2 – Traffic Signal at Albacore (partial state funding as part of Sarah Mildred Long Bridge).
3. Phase 3 – Albacore Way to railroad crossing including waterfront parks

Councilor Spear asked about storm water mitigation as this was not addressed in the presentation. City Manager Bohenko stated that he wanted the presentation to be short so didn't request that information.

Public Works Director Rice stated that it is part of the Best Management Practices for all projects and explained the process.

Councilor Spear asked if we will be taking the same approach as on Market Street with the same requirements for nutrient removal etc. as he wants all of our projects to be innovative.

Public Works Director Rice stated that they are doing their best to accomplish these goals with the space available having learned from the State Street project and concluded that storm water treatment is not as definitive as people want you to believe.

Councilor Lown stated that many people's first impression of Portsmouth is when they come off of Interstate 95 and see the concrete median strip and feels that this project will vastly improve that first impression.

Councilor Morgan asked how this has been aligned with the flood plain map. Ms. Carmer stated that the engineering firm took all of that into consideration and had to provide how much impervious surface would be removed but it was negative as more vegetation will be planted.

Public Works Director Peter Rice gave a brief presentation of the Islington Street Improvement Action Plan explaining the phases of the West End, Rte 1 By-pass to Albany Street, Central, Albany Street to Brewster Street and East End, Brewster Street to Congress Street. He concluded by stating that the goal is to minimize inconvenience to businesses and residents and that there will be various opportunities for public input and education throughout the process.

Councilor Spear asked when the Council can weigh in on burying utilities. Public Works Director Rice stated during the preliminary design phase there will be a couple of options presented. He further explained the costs associated and even though it is more aesthetically pleasing, they are working with Eversource and other utilities to mitigate the costs.

## **V. ACCEPTANCE OF MINUTES** *(There were no minutes on for acceptance)*

## **VI. PUBLIC COMMENT SESSION**

Harold Whitehouse – spoke regarding the recent revaluation stating he built his house 52 years ago when no one wanted to live in the area and now it is desirable and his assessment went up \$60,000.00. He stated that he spoke with a representative from KRT and heard the same old, same old. He continued that if the tax rate stays the same, he will need to come up

with \$1,000 more in taxes and cannot afford that. Finally, he requested that the elderly exemption level be raised as he does not qualify at this time and feels that there are other people in his situation that will have to give up their homes.

John O'Leary – spoke regarding the ordinance change to eliminate irrigation meters stating he would have spoke at the public hearing but wasn't aware of the proposal. He feels that the people who have the meters should have been notified stating that it could have been included with the water bills as other messages have been relayed in the past. He stated that the water increase that would result from the elimination of the meters is unacceptable and unfair as water does not go through the sewer collection system. He stated that he would like another public hearing held on this matter after the work session is held.

Arthur Clough – spoke regarding transparency stating that it is more than just a word as is the word ethics. He continued that if it weren't for a group of residents who were looking out for their friend and neighbor, then the lack of credibility in the Police Department would still be unknown. He concluded by inviting to come together as a group and gave his contact information.

George Dempsey – distributed and read a statement regarding Geraldine Webber, John and Diane Connors apologies and request to rescind the gag order on Mr. Connors.

## **VII. PUBLIC HEARING**

### **A. ORDINANCE AMENDING CHAPTER 10 AS FOLLOWS:**

- (1) AMEND SECTION 10.440, TABLE OF USES, BY ADDING A NEW USE #10.30 – SHORT-TERM VACATION RENTAL”, MODIFYING THE STANDARDS FOR USE #10.50 – “HOTEL OR MOTEL”, AND COMBINING “CONFERENCE HOTEL” AND “CONFERENCE CENTER” INTO A SINGLE USE;
- (2) INSERT A NEW SECTION 10.837.20 – SHORT-TERM VACATION RENTALS;
- (3) AMEND ARTICLE II – SITE DEVELOPMENT STANDARDS TO ESTABLISH AN OFF-STREET PARKING REQUIREMENT FOR SHORT-TERM VACATION RENTAL; AND
- (4) AMEND ARTICLE 15 – DEFINITIONS, BY REVISING THE DEFINITIONS OF “BED AND BREAKFAST” AND ADDING NEW DEFINITIONS FOR “SHORT-TERM VACATION RENTAL” AND “TRANSIENT”

***Mayor Lister read the public hearing notice and declared the public hearing open:***

Planning Director Rick Taintor reviewed the history of the ordinance to date and the several amendments made.

Steve Little – began by stating that City Attorney Sullivan should be commended with his handling of the recent Brewster Street Boarding House issue. Secondly, he stated that the areas that are going to allow Short-term rentals are not areas that people are going to want to stay.

Betsey Blaisdell – owns residence on Newcastle Avenue and has invested hundreds of thousands of dollars in her home and short-term rentals allows her family to afford the rising taxes, new baby etc. She continued that her experiences have been all positive and that she has a contract signed by the guests.

Ellen Legg – stated she supports the revised version of the ordinance and urged passage of the second reading. She continued that she lives next door to a short-term rental property and the people who stay there have no vested interest in the neighborhood and bring in more noise and more traffic. She listed other communities that have prohibited short-term commercial rentals stating this isn't a right.

Bert Russell – stated he has been a guest at short-term rental locations but in resort areas. He stated when he comes home to his residence he wants to be in his home in his residential neighborhood and not next to a hotel.

James Leonard – spoke to the letter he had submitted regarding short-term rentals stating he supports the ordinance in its current version and that these should not be allowed in residential areas. He continued that people shouldn't have to react to conduct thrust upon them in their own neighborhoods by calling an already strapped police force. He concluded that there is a social contract through our zoning laws that protect the values and characteristics of residential neighborhoods.

Sarah Cullen – stated she supports the ordinance as revised and agrees that short-term rentals should not be allowed in residential neighborhoods.

James Beal – stated he owns a 3 unit residence and uses it for short-term rentals. He stated that the focus has been on downtown development and mega structures and that this ordinance change was abrupt. He stated that with the rising taxes people have to be able to make money to stay in their homes. He continued that the renters of short-term units are screened and the money goes back into the property and the community. He stated it is unfair that people living in downtown, million-dollar condos can rent out their units, but the people in the shadows can't do the same. He concluded that with the technology available and the fact that people don't want to always stay in corporate hotels, times are changing.

Catherine Keenan – stated she has seen a lot of change in the last 8 years and lots of growth and feels that this decision should be made slowly and is willing to help.

Judy Matthews – stated she is an AirBnB user as she is a nurse who works in Nashua and often times doesn't want to drive home. She stated she feels she adds to the economy of Nashua and is getting to know the city and feels that it works the same for the people who visit and use the short-term rentals here in Portsmouth.

Ralph DiBernardo – stated he is opposed to the concept of Short-term rentals and being in single-family residential neighborhoods. He stated that they won't be single-family neighborhoods any longer and the fact the home-owners aren't on premise, means there is no one except the police to contact if there is a problem. He continued that neighbors have consideration of each other and their property, but doesn't feel that short-term residents have the same.

David Witham – stated as a member of the Zoning Board of Adjustment, the board must ask “what is the public benefit” when considering a variance. He continued that this is a national debate i.e., transient accommodations, and feels it is not meant to be anything against the people using or renting out the homes, but there is a financial gain to the property owner or they wouldn’t be doing it. He continued that it isn’t the job of the ZBA to help people pay their taxes and feels the battle needs to be solved in Concord and not through zoning. He continued that there are 2 buzz words that have been talked about in association with zoning; workforce housing and micro apartments. He stated that short-term vacation rentals hurts that type of housing because it is more profitable to landlords to rent as short-term vacation rentals and then businesses have trouble finding housing for their employees. He concluded that the terms of AirBnB, Bed and Breakfast, Short-term vacation rentals etc. need to be clearly defined and should not be able to go through the special exception process.

George Dempsey – stated that if people can’t afford to live here then they shouldn’t live here. He stated it is illegal to have the short-term vacation rentals in residential areas. He then distributed and read 2 articles regarding the issue and highlighting the various problems occurring in other municipalities.

Tammy Gewehr – stated she lives in her home and rents out a room to travelers and finds it to be a delightful opportunity for her and her children to meet other people. She stated it is helpful to her to have the income and she has spoken to her neighbors about it and they didn’t know she was participating until she told them because there had been no issues. She concluded that the world is changing and feels that this should be left up to the homeowner.

Jeffrey Cooper – stated he is glad that the process is moving forward and feels that it is important to hear the locations where home-sharing is allowed and are local locations. He stated that Portsmouth shouldn’t be the only place that free enterprise by private individuals isn’t allowed. He continued that he agrees with some of Mr. Withams’ comments and that enforcement is an issue as the City would have to become a network of neighborhood spies. He concluded by discussing the various definitions and the ambiguities and confusion. He concluded that it is a fallacy that long-term renters are better than short-term and feels that a compromise needs to be reached.

Elizabeth Moreau – stated she is opposed to short-term vacation rentals and feels that if people need to rent out rooms to make money they can get roommates which is allowed as are exchange students, hospital patients etc. She stated that short-term vacationers are not vested in neighborhoods.

Shawn Eckler – spoke against the AirBnB and Short-term vacation rental stating that this means a loss of property value to neighborhoods. He stated its also becomes a safety issue for kids who are walking and riding bicycles in the neighborhoods to parks and schools when there are strangers temporarily living in random houses.

Barabara Destefano – stated that these uses are excluded from homeowners insurances and are not allowed and feels that this should be a part of the ordinance that this non-standard policy must be provided.



Jerry Zelin – referred to his letter on the agenda stating that he would like to see an addition to this ordinance to close a loop-hole in the existing ordinance regarding “recreational facilities” and ensuring that the definition excludes gambling of any kind, including charitable, etc. in hotels and motels as he is afraid that developers will exploit the loophole in the future.

Clyde Logue – stated that we should think carefully when limiting the uses of people’s homes and feels there should be some middle ground on this issue.

***Mayor Lister asked for speakers for a 2<sup>nd</sup> round:***

Judy Matthews – feels that we should be careful with categorizing the types of people who use the services and that data should be collected and compared.

Betsey Blaisdell – stated she does have the correct insurance and it does cost more and feels that more research should be done to make sure the concerns are legitimate and not hypothetical.

George Dempsey – stated the issues being stated are not hypothetical and we are only hearing from the people who let one or two at a time and not 16 or so.

James Beal – urged the Council to consider their own travel experiences and if they have used any short-term rental services and having the experience be more like being in a home instead of a generic hotel room.

***Mayor Lister closed the public hearing.***

***Mayor Lister called for a recess at 9:10 p.m. Meeting reconvened at 9:20 p.m.***

**VIII. APPROVAL OF GRANTS/DONATIONS**

A. Acceptance of Grant for Household Hazardous Waste Collection

**Councilor Kennedy moved to accept and expend a \$5,801.00 DES grant for the purpose of household hazardous waste collection events and authorize the City Manager to execute any documents which may be necessary for this grant contract. Seconded by Councilor Morgan and voted.**

**Councilor Lown moved to suspend the rules to bring forward City Manager Item #2 and Written Communications Item D for Council action. Seconded by Councilor Thorsen and voted.**

2. Report Back Re: Request from Patricia L. Russell and Burton J. Russell for Restoration of Involuntarily Merged Lots at 65 Mendum Avenue under RSA 674:39-aa
- D. Letter from Attorney Bernard Pelech regarding Restoration of involuntarily merged lots – RSA 674:39aa – 65 Mendum Avenue

Rick Taintor reviewed the request and the statutory requirements regarding the unmerger of lots or parcels that were involuntarily merged. He continued that there never existed 2 lots extending from the current front lot line to the current rear lot line, and therefore it is impossible to split the lot into two lots through the unmerger process, and therefore, if the City Council

determines that the existing parcel must be restored to premerger status, the action will have to result in four lots and not two. He concluded by stating that following the restoration to four lots, it is likely the owner would voluntarily merge the small rear pieces to the larger front lots, which would reduce, but not eliminate, the zoning nonconformities which the unmerger will create.

Councilor Kennedy asked if Planning Director Taintor feels this should happen. Mr. Taintor stated it is not for him to determine as it is spelled out in the State law. Councilor Kennedy stated this is going from 1 lot to 4 and asked what notice did the abutters receive. Mr. Taintor stated they did not receive any notice, nor is a public hearing required. Councilor Kennedy asked if the Planning Board can review these requests. Mr. Taintor stated yes, but they have no role in the process. City Attorney Sullivan concurred stating they can serve in an advisory capacity at most. Councilor Kennedy stated she would like the neighbors to have a chance to comment on these requests and feels that the Planning Board would allow for that process.

Councilor Thorsen stated that the State law is mechanical and therefore the action tonight is unmerging the lots from 1 to 4, but what happens after that when they go from 4 to 2 lots, would they have to meet the current requirements for building. Mr. Taintor stated it would create a non-conformity to today's zoning law and would require a variance. He stated there is no grandfathering of zoning law.

**Councilor Lown moved to suspend the rules to allow Attorney Pelech to address the Council. Seconded by Councilor Shaheen and voted.**

Attorney Pelech reiterated the request and the RSA as previously explained by Planning Director Taintor. He stated that neither the Planning Board nor abutters are involved. He concluded that this will be occurring more and more.

**Councilor Lown moved to approve the unmerger of 4 lots, seconded by Assistant Mayor Splaine.**

Councilor Lown stated we are required to do this as the body that makes the decisions and are constrained by the evidence. He stated there is no evidence to the contrary of the request.

Councilor Kennedy stated that because of a prior situation that occurred with the neighbors not being notified, she feels sending the requests to the Planning Board would allow the opportunity for abutters to give input.

Attorney Pelech stated that the merger from 4 to 2 lots will not involve the City Council and no public notice is required.

**Motion passed on a 7-1 vote, Councilor Kennedy voted opposed.**

## IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

### A. First reading of Annual Omnibus Ordinance Change, Parking and Traffic

**Councilor Lown moved to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the September 21<sup>st</sup> City Council meeting as presented, seconded by Assistant Mayor Splaine.**

Councilor Thorsen asked when discussion of resident parking and other issues will take place to be able to be included in the next omnibus. City Manager Bohenko stated that the Parking and Traffic Safety Committee will be hold work sessions as well as the Fee Committee in the future.

### **Motion voted.**

### B. Second reading of Ordinance amending Chapter 10 as follows:

- (1) Amend Section 10.440, Table of Uses, by adding a new use #10.30 – Short-term vacation rental”, modifying the standards for use #10.50 – “Hotel or motel”, and combining “conference hotel” and “conference center” into a single use;
- (2) Insert a new Section 10.837.20 – Short-Term Vacation Rentals;
- (3) Amend Article II – Site Development Standards to establish an off-street parking requirement for short-term vacation rental; and
- (4) Amend Article 15 – Definitions, by revising the definitions of “Bed and Breakfast” and adding new definitions for “Short-term vacation rental” and “Transient”

**Councilor Morgan moved to table the second reading and move to a Work Session, seconded by Councilor Kennedy.**

Councilor Morgan stated that the short-term vacation rentals have not been well-defined and feels that the staff was asked to draft an ordinance without first developing the concept. She stated that there should be a review of the various discrepancies and determination of the impact to neighborhoods and will this open the door to commercial activities. She concluded that there are too many complex issues and feels that we have been going too fast.

Assistant Mayor Splaine stated he agrees with holding a Work Session and feels that all of the speakers at the public hearing made valid points and that it will take awhile to get it right similar to the UBER ride sharing issue. He stated he does not want to see neighbor pitted against neighbor and feels that more conversation and dialogue is needed.

Councilor Shaheen stated she also appreciates all of the comments made during the public hearing. She stated that the Council had the benefit of being able to refer the ride-sharing issue to the Taxi Commission to work out the details and wonders if a Blue Ribbon Committee could be formed to work on this issue.

City Manager Bohenko stated that the legislature has a study committee going forward on this as we need enabling legislation in order to go forward and be able to enforce any ordinance that is passed. He stated that the ordinance should be moved forward and then it can be tweaked further.

Councilor Shaheen asked what the exposure to the City is if the ordinance is tabled as there are some people who have had cease and desist order and others that do not.

City Attorney Sullivan stated there is no financial exposure but it is a matter of respect for city ordinances.

Councilor Shaheen stated that the enforcement issue is a problem for going forward and feels that we have created the urgency ourselves on this issue, but if we can't enforce it then it has no teeth.

City Manager Bohenko stated if it is tabled, it should be tabled until the legislation is in place.

City Attorney Sullivan stated that we can only regulate the land usage through zoning, but not the licensing and enforcement until there is legislation.

Discussion ensued regarding the need for a Work Session and the necessity of legislation to enforce the ordinance.

**Councilor Morgan and Councilor Kennedy agreed to amendment of motion to include Senator Martha Fuller Clark and the Legislative Delegation in the Work Session.**

Councilor Lown stated that this is just kicking the can down the road and there are valid issues on both side of the issue. He stated he came prepared to offer amendments after hearing the input from the public hearing and doesn't feel that a Work Session will answer the questions and is only a delay tactic.

Councilor Thorsen stated he was also prepared to make amendments because this is the time to bring them forward, but he does feel that there are questions that need to be answered and agrees with holding a Work Session.

*Mayor Lister passed the gavel to Assistant Mayor Splaine.*

Mayor Lister stated he also came prepared to vote on the second reading. He appreciates all of the comments and has spoken to many people in many neighborhoods and most people want their neighborhoods to remain single-family residential. He understands that people want to rent out rooms in their own homes, but feels the neighborhoods have to be protected as there have been many years of zoning to bring Portsmouth to the point of having 21 solid residential neighborhoods. He concluded that we have to pay attention to the legislature.

*Assistant Mayor Splaine returned the gavel to Mayor Lister.*

**Motion passed on 5-3 roll call vote. Councilors Lown, Spear and Mayor Lister voted opposed.**

## X. CONSENT AGENDA

**Councilor Kennedy moved to adopt the Consent Agenda. Seconded by Councilor Morgan and voted.**

- A. Letter from Zhana Morris, The Music Hall, regarding Parking Meter Permit Requests for the Music Hall's 2015-2016 Season (***Anticipated action – move to refer to the City Manager with power***)

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

- A. Letter from Attorney Francis Bruton, III of Bruton, LLC, regarding Nathan Aviezri Revocable Trust's request to unmerge lots at 75 Monroe Street

**Councilor Lown moved to refer to the Planning Board for report back. Seconded by Councilor Shaheen and voted.**

- B. Letter from Gerald Zelin regarding Proposed Zoning Amendments Regulating Short- Term Rentals, hotels, and motels by adding a prohibition on gambling at hotels and motels

**Councilor Spear moved to refer to the Planning Board for a report back, seconded by Assistant Mayor Splaine.**

Councilor Spear stated that this issue is not applicable to the Short-term rental ordinance issue and should be acted on its own merit.

Councilor Morgan asked if there can be a date specific to bring the report back.

Councilor Kennedy stated she would like it brought back with the Short-term rental ordinance information anyway.

**Motion voted.**

- C. Letter from James and Catherine Lamond regarding Short-term Vacation Rentals and Bed and Breakfasts Proposed Amendments to the Zoning Ordinance

**Councilor Spear moved to accept the letter and place it on file. Seconded by Councilor Shaheen and voted.**

- D. Letter from Attorney Bernard Pelech regarding Restoration of involuntarily merged lots – RSA 674:39aa – 65 Mendum Avenue (***Action previously taken***)

**Councilor Kennedy moved to suspend the rules to allow the meeting to go past 10:00 p.m. Seconded by Councilor Shaheen and voted.**

## **XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

### **A. CITY MANAGER**

1. Request to refer to the Planning Board Proposed Easements for a Bicycle/Pedestrian Path Along North Mill Pond

**Councilor Spear moved to authorize the City Manager to refer to the Planning Board the proposed request for easements for report back to the City Council, seconded by Councilor Shaheen.**

Councilor Lown stated this is a great idea and asked if the Planning Board approves this then will the Council purchase easements from landowners. City Manager Bohenko stated yes and there will also be opportunities to donate land.

**Motion voted.**

2. Report Back Re: Request from Patricia L. Russell and Burton J. Russell for Restoration of Involuntarily Merged Lots at 65 Mendum Avenue under RSA 674:39-aa (***Action previously taken***)

#### **Informational items**

1. Events Listing
2. Update on Haven School Playground
3. Master Plan Update
4. Report Back Re: Police Department Recommendations
5. Report Back Re: Whistleblower

Regarding Informational Item #4, Assistant Mayor Splaine stated he is pleased with the summary and that the Police Commission will begin to err on the side of disclosure and transparency. He asked if the City Manager and City Attorney had been invited to attend the meetings. City Manager Bohenko stated yes they will be attending the meetings and stated he has listed 10 recommendations.

Regarding Informational Item #5, Assistant Mayor Splaine asked, if the city passed a policy in 1995 against retaliation of employees who reported unlawful conduct, why was the Police Department able to place a gag order on John Connors and how can he be “ungagged”? City Manager Bohenko stated that the policy is exclusive to public employees and does not include the Police and Fire Departments as they fall under the Police and Fire Commission per City Charter.

**Assistant Mayor Splaine moved that the document be referred to the Police Commission, Fire Commission and School Board requesting that it be adopted, seconded by Councilor Shaheen.**

Councilor Lown stated that all employees are covered under the State RSA 275-E:2.

**Motion voted.**

Councilor Kennedy asked how the public will be informed what the dates for the Master Plan meetings will be as she sees the first one is scheduled for 09/22/15. Planning Board Director Taintor stated the dates were just finalized and presented to the Council first and will be published to the website, newsletter, Facebook, Twitter, etc. Councilor Kennedy asked that the neighborhood associations be contacted directly.

Councilor Shaheen asked about the Haven School Playground construction and if the neighborhood meeting date had been set yet and also will there be discussion about tree removal. City Manager Bohenko stated that the date hasn't been set yet, but the Trees and Public Greenery Committee will be reviewing the tree removal portion of the project.

Councilor Kennedy asked for an update on the Assessments and if the public can still make appointments to review with the Assessor. City Manager Bohenko stated he will get the information to the Council.

## **B. MAYOR LISTER**

The follow appointments were considered and will be voted at the September 21, 2015 City Council meeting:

1. Appointments to be Considered:
  - Appointment of Richard Winstanley to the Cable Television and Communications Committee
  - Appointment of Jolanda Fannin to the Library Board of Trustees filling the expired term of Jody Record until October 1, 2015
  - Reappointment of Ernie Greenslade to the Library Board of Trustees
  - Reappointment of Ronald Cypher to the Parking & Traffic Safety Committee
  - Reappointment of Frederick (Ted) Gray, Jr. to the Parking & Traffic Safety Committee
  - Reappointment of Harold Whitehouse to the Parking & Traffic Safety Committee
2. Appointments to be Voted:
  - Kathleen Bergeron to the Citywide Neighborhood Steering Committee

**Councilor Kennedy moved to approve the reappointment of Kathleen Bergeron to the Citywide Neighborhood Committee to April 1, 2018. Seconded by Councilor Shaheen and voted.**

3. Topics for Work Sessions:
  - September 14<sup>th</sup> – Options Re: Irrigation Meters
  - November 23<sup>rd</sup> – Solid Waste & Recycling

Councilor Morgan requested that background materials for work sessions be made available prior to the day of the meetings.

4. Request to Change Retreat Date from October 3, 2015 to January, 2016

Councilor Morgan stated that she feels that adding a retreat for the new Council is a good idea, but she would still like to have the October retreat.

Councilor Kennedy stated she agrees and feels that many topics can be covered over that one Saturday as opposed to one topic per work session at night.

Councilor Shaheen and Councilor Spear both concur with Mayor Lister that the October retreat be deferred.

**Mayor Lister stated the Retreat for October 3, 2015 will not be held.**

5. Discuss Letter from Attorney General – Charter Questions

Councilor Thorsen clarified that this letter referred to both proposed charter questions. City Attorney Sullivan stated that is correct.

Councilor Shaheen asked what is the timeline to addressing changes to the Charter, as well as what is the process and procedure for voting for a Charter Commission or forming a Charter Committee and is there anything that the Council should do before November. City Attorney Sullivan stated that there is nothing that can be done at this point there is not enough time before November.

Assistant Mayor Splaine stated he wants a Committee formed to take care of these issues that we didn't do thoroughly enough as well as other issues such as Ward Councilors, etc. He stated he would like a report back or summary of the process and timeline.

Councilor Kennedy stated she had invited the public to join her when she met with City Attorney Sullivan and no one attended, but she felt that City Attorney Sullivan indicated he is willing to do a historical evaluation of previous Charter Commission and Committees and how to involve the public.

6. Prescott Parks Arts Festival Performance Schedule (*Not on Agenda*)

**Mayor Lister read the motion to instruct the Prescott Park Arts Festival that for the 2016 season, no performance should be scheduled during the week before the end of school and that no performance during the week shall be performed after school begins. Assistant Mayor Splaine moved to approve, seconded by Councilor Kennedy.**

Councilor Kennedy stated she appreciates this being brought forward because of the incident last week and feels it was unfortunate because everyone has started feeling good about how the season had gone and then on that one night, it was extremely loud and feels that questions need to be answered.

Councilor Shaheen stated that the challenge of the PPAF working group are when people are surprised by situations and trying to take away that conflict. She stated that it was thought that the parameters were understood, but then this performance went beyond 10:00 p.m. on a school night.

Mayor Lister stated they are working closely with the Trustees and the staff and this is the latest issue that has arisen and we need to send a clear message.



Councilor Thorsen stated he understands how this came about but wonders if this performance was a part of the original contract and did they actually go outside of that contract.

Councilor Shaheen stated there is no long term contract and only an interim plan in place. She stated that the Monday Movie Nights were discontinued once school started and it was assumed that there were no concerts during the week either.

Councilor Thorsen stated he would like to see this be specific to school nights and not during the day as that shouldn't be limited. He stated that he is happy that the working group, Prescott Parks Arts Festival and Trustees are working together but wants to make sure that things aren't being addressed in a piecemeal fashion.

City Manager Bohenko stated that he feels it is important to put this in place before they start working on the 2016 season calendar and have this on the record.

**Councilor Thorsen moved to amend by adding: ....no "evening" performances....etc, seconded by Councilor Morgan.**

Mayor Lister stated that this is the most recent issue and one of many and feels it would be helpful to have everyone agree on this and understand that the working group is continuing working on the rest of the issues.

Councilor Shaheen stated she understands that this request is unorthodox and will not become the normal procedure, but agrees that this needed to be addressed prior to the 2016 season scheduling.

Councilor Morgan asked who is reviewing and approving the schedule. City Attorney Sullivan explained that this has been a summer of transition and that the Trustees of the Trust Fund are supposed to be approving all programming but that has not been happening and the Mayor's working group has been working with them and the Prescott Parks Arts Festival through the transition.

Councilor Morgan stated that Councilor Shaheen mentioned a long-term agreement and asked when that will be made available. Councilor Shaheen clarified that there is no long-term agreement yet. Councilor Morgan asked Councilor Shaheen for the list of issues that she had referred to at a previous meeting.

**Motion to amend passed.**

**Main motion as amended passed.**

**C. ASSISTANT MAYOR SPLAINE**

1. Proposal for An Elected Charter Commission (See CM #5 discussion)
2. Mayors For Peace – Presentation

Assistant Mayor Splaine stated that at Mayor Lister's request he attended the Mayors for Peace Presentation which over 200 cities world-wide participated which has a vision to

encourage nuclear non-proliferation by the year 2020. He presented Mayor Lister with the button he received on his behalf.

**D. COUNCILOR LOWN**

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the July 9, 2015 meeting

Councilor Lown stated that 2 “no right-turn on red” intersections were eliminated at Middle/Miller and Fleet/Congress. He stated that 2 other requests failed to be eliminated at Congress/Maplewood and Fleet/State.

**Councilor Lown moved to approve and accept the minutes of the July 9, 2015 Parking & Traffic Safety Committee meeting. Seconded by Councilor Spear and voted 7-1, Councilor Kennedy voted opposed.**

**E. COUNCILOR SPEAR**

1. Prescott Park Stage Relocation

Councilor Spear stated he would like to divide his motion into 2 portions and would like to take up the second portion first.

**Councilor Spear moved to authorize the City Manager to conduct a strategic plan for the long-term use of Prescott Park to include all appropriate stakeholders, seconded by Councilor Shaheen.**

Councilor Spear stated that he feels that with all of the different issues that have been discussed it is a good time to have the broader discussion for long-term planning.

Councilor Morgan asked who the stakeholders are as it is a gift to the City and should be looked at as part of the whole Master Planning process. Councilor Spear stated he does not have a list but feels there has always been a spirit of inclusivity and no one is turned away. He stated perhaps the Council could let the City Manager know who they feel should be included in the discussions and come to a consensus of what the expectations are and potential uses. Councilor Morgan asked if the Portsmouth Listens group would be included because they are inclusive of many different residents.

Councilor Shaheen stated for clarification that this is for Prescott Park and not the Prescott Parks Arts Festival. She continued that she supports this because the working group has been consistently working in relation to the evolution of the Park as other groups and companies become involved.

Councilor Kennedy stated she is perplexed because she feels that the players should be specified in the motion and also wonders what role the Trustees of the Trust Fund have/will play and thinks that the recommendation should be coming from them.

Councilor Shaheen stated this recommendation did come to the Council from the Trustees of the Trust Fund as they feel that a clear plan needs to be in place.

Councilor Morgan stated she would like the City Attorney to bring back the deed restrictions of the area and also is confused as to who will be giving the input.

**Councilor Spear moved to amend the motion to state “to authorize the Prescott Park Working Group to conduct a strategic plan for the long-term use of Prescott Park to include all appropriate stakeholders, seconded by Councilor Shaheen. Motion passed. Main motion as amended passed.**

**Councilor Spear moved to authorize the City Manager to proceed with the land use reviews regarding the Prescott Park Arts Festival’s proposed stage relocation, with final approval by City Council before stage is built, seconded by Councilor Shaheen.**

Councilor Spear stated that it is a valid concern that the tail may be wagging the dog, but feels this needs to be done before the strategic planning. He clarified that this is only for the land use board approval process, not to build the stage.

Councilor Morgan stated that this should not be done before the strategic plan and therefore the Council should be authorizing the repairs to the current stage.

Councilor Shaheen reiterated that this is not approval the building of the stage only the land use reviews so that the process can move forward. She continued that the need for a new stage is directly related to the PPAF musical productions needs and no one is looking to eliminate this annual performance. She concluded that all parties agree that there are safety issues concerned and that the current stage should not be repaired to be torn down in 2 years.

Councilor Kennedy stated without a plan we shouldn’t be doing the work and if the footings are put in, it is permanent and feels that the strategic plan needs to be in place first.

***Councilor Spear and Councilor Shaheen agreed to a friendly amendment to add “with final approval by City Council before stage is built”.***

**Motion passed on a 6-2 vote, Councilors Kennedy and Morgan voted opposed.**

2. Request to Extend Report Back from Blue Ribbon Committee on Sagamore Creek Land until December 21, 2015

**Councilor Spear moved to approve the request to extend the report back from the Sagamore Creek Land Blue Ribbon Committee until December 21, 2015. Seconded by Assistant Mayor Splaine and voted.**

#### **F. COUNCILOR THORSEN**

1. Short-Term Rental (No action needed)

#### **XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

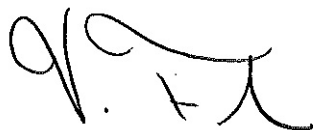
Councilor Shaheen asked when there will be an update on the Wastewater Treatment Facility. City Manager Bohenko stated the Legal Department is still working with the EPA.

Mayor Lister reminded everyone of the 9/11 Memorial Service outside of City Hall at 8:30 a.m. on September 11, 2015.

Councilor Morgan asked when the work session on the short-term vacation rentals will be held. City Manager Bohenko stated he will need to coordinate schedules with the invited legislators.

#### **XIV. ADJOURNMENT**

**Councilor Spear moved to adjourn at 11:05 p.m. Seconded by Councilor Shaheen and passed unanimously.**

A handwritten signature in black ink, appearing to read 'V. French', written in a cursive style.

Valerie A. French  
Deputy City Clerk

## CITY COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: MONDAY, SEPTEMBER 21, 2015

PORTSMOUTH, NH  
TIME: 6:00PM

At 6:00 p.m., an Anticipated “Non-Meeting” with Counsel was held regarding Collective Bargaining and Litigation – RSA 91-A:2, I (b).

### **I. CALL TO ORDER**

At 7:45 p.m., Mayor Lister called the regular City Council meeting to order.

### **II. ROLL CALL**

Present: Mayor Lister, Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Lown, Dwyer, Morgan, Spear, and Thorsen

### **III. INVOCATION**

Mayor Lister asked everyone to join in a moment of silent prayer.

### **IV. PLEDGE OF ALLEGIANCE**

George Remick, former Fire Commissioner led in the Pledge of Allegiance to the Flag.

### **V. ACCEPTANCE OF MINUTES** *(There are no minutes on for acceptance this evening)*

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

Charlie Griffin spoke to the expansion of the WSCA License Agreement to place an 80 foot antenna. He expressed his support for the license and said it is a win, win for City.

Gloria Guyette addressed the City Council regarding Prescott Park Arts Festival and feels that the recent vote of the Council to restrict the functions of PPAF could have been more restrictive to not allow any function at the park on Sunday – Thursday evenings. She said the issues surrounding PPAF need to be resolved.

Beth LaMontagne Hall spoke on the Frank Jones parcel and the funding for the property is a concern. She expressed concern regarding the connector road and the vision for the neighborhood to expand the west end of the City.

Timothy Montiminy sent a letter to the City Council on an issue and only received one reply regarding the Prescott Park Arts Festival vote by the City Council. He said the motion was not introduced on the agenda or with the rules and orders of the Council. He said that the vote will affect the future of PPAF and the downtown businesses.

John Palreiro said the new taxi regulations are not being enforced currently and UBER still has not produced the insurance documents to the City to operate. He asked that UBER not be treated any differently than current taxi businesses in the City.

Joanne Pipkin said the Council painted a narrow corner for ride share companies to operate. She said UBER needs to show insurance. She stated that the insurance was written with the cloak of safety. She spoke to taxi businesses following UBER drivers to get their license plate numbers and report them to the Police Department which is creating an unsafe environment for drivers and passengers.

Paul Mannle said the parking omnibus will be a net decrease of 40 spaces. He addressed the parking with HarborCorp project and said the City is losing public parking. He also stated that the land transfers for Deer Street should be postponed until all funding is in place and that the Frank Jones parcel is a good purchase at \$9,000,000.00.

## **VII. PUBLIC HEARING**

### **A. ORDINANCE AMENDING CHAPTER 7, VEHICLES, TRAFFIC AND PARKING OMNIBUS ORDINANCE**

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

Parking and Transportation Engineer Eby provided an overview of the parking omnibus. He explained the actions of the Parking Traffic & Safety Committee process to bring items forward for the omnibus ordinance. He stated the omnibus ordinance changes include all PTS actions for the prior year that require an ordinance change. He addressed parking spaces with various actions affecting parking for a total net change of +30 to 130 spaces which include HarborCorp project.

With no speakers Mayor Lister closed the public hearing.

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

*(There are no items under this section of the agenda)*

## **IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES**

### **A. Second reading of Annual Omnibus Ordinance Change, Parking and Traffic**

**Councilor Lown moved to pass second reading and schedule third and final reading of the proposed Ordinance, at the October 5<sup>th</sup> City Council meeting, as presented. Seconded by Councilor Spear.**

Councilor Kennedy asked about the HarborCorp Parking Garage spaces of +70 to 170 spaces and if that number included the employees that would be working in the building. Engineer Eby said he does not know the number of employees but the number takes into account the employees that would be using the parking.

**Motion passed. Councilor Kennedy voted opposed.**

**X. CONSENT AGENDA**

- A. \*Acceptance of Donation to the Coalition Legal Fund:
- Town of Moultonborough - \$6,500.00

***(Anticipated action – move to approve and accept the donation as listed, to be placed in the Coalition Legal Fund)***

- B. Letter from Andrea Abbott, Portsmouth Halloween Parade, requesting permission to hold the 21<sup>st</sup> annual Portsmouth Halloween Parade on Saturday, October 31, 2015 ***(Anticipated action – move to refer to the City Manager with power)***

- C. Request for License from Lisa Shah, owner of LIT Boutique for property located at 19 Congress Street for a projecting sign located on Congress Street on an existing bracket ***(Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Lisa Shah, owner of LIT Boutique for a projecting sign located on Congress Street on an existing bracket and, further, authorize the City Manager to execute License Agreements for this request)***

**Planning Director's Stipulations:**

- ***The license shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting sign, for any reason, shall be done at no cost to the City; and***
- ***Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works***

Councilor Spear moved to adopt the Consent Agenda. Seconded by Councilor Lown and voted.

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

- A. Letter from William Guernier regarding Transportation Network Services Ordinance

Assistant Mayor Splaine moved to accept the letter and refer it to the City Attorney for review and report back. Seconded by Councilor Shaheen.

Assistant Mayor Splaine said the letter is positive and the City has worked well to create a ride share ordinance and we need to find a way to allow a ride share or taxi company to operate in the City. He said there may be some technical changes that would need to be made if UBER does apply they can begin the process and find a way to meet our ordinance. He asked about the current status of UBER and enforcement of the ordinance.

City Attorney Sullivan said we are only in a few days of operation but everything about the ordinance is positive. He said that the City Clerk has issued 10 transportation service providers. The application is in the UBER legal department and they would be filing their application soon.

Councilor Kennedy said the City Council did not vote against ride sharing. She encouraged the newspaper to write a letter on this matter.

Councilor Dwyer said she heard one UBER driver presented an insurance policy to the Police Department and they were not allowed to operate. City Attorney Sullivan said an individual driver could go through UBER or could qualify individually. He further stated that the new ordinance will create some growing pains, as the regulations are completely new.

**Motion passed.**

## **XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

### **A. CITY MANAGER**

1. Approval of Land Transfers for Proposed Municipal Parking Structure at 165 Deer Street

City Attorney Sullivan said the garage would be constructed with a major private developer Deer Street Associates and we will need to cross over their land and they would cross over our land. He spoke on the requirement of acquiring land. The administration needs authority from the City Council to make items proceed forward.

Planning Director Taintor explained in detail the Disposition Plan, consisting of Sheet C1 and Land Ownership and Sheet C2 Easements.

**Councilor Spear moved to acquire from Deer Street Associates a parcel of land off Deer Street and Bridge Street containing 54,017 ± s.f. (1.2401 ac.) for construction of a municipal parking garage and associated access and utility improvements, and to acquire or convey any further property interests necessary to implement the intent of this acquisition.**

**Said parcel is shown as Lot "A" on the Disposition Plan, Sheet C1 – Disposition Plan Land Ownership, prepared by Ambit Engineering, Inc., dated July 2015 (amended 9/15/15). Easements to be created, terminated or relocated in connection with this acquisition are shown on the Disposition Plan, Sheet C2 – Disposition Plan Easements, prepared by Ambit Engineering, Inc., dated July 2015 (amended 9/15/15).**



**Voted to transfer to Deer Street Associates the City's right, title and interest in a parcel of land at the intersection of Deer Street and Bridge Street, containing 1,717 ± s.f. (0.0394 ac.).**

**Said Parcel is shown as Lot "B" on the Disposition Plan, Sheet C1 – Disposition Plan Land Ownership prepared by Ambit Engineering, Inc., dated July 2015 (amended 9/15/15).**

**Voted to acquire from the John W. Gray Revocable Trust and the Bradford A. Gray Revocable Trust a triangular parcel of land off Bridge Street containing 421 ± s.f. (0.0097 ac.) for construction of access and utility improvements, and to acquire or convey any further property interests necessary to implement the intent of this acquisition, including an 8-foot sidewalk easement between said parcel and Bridge Street.**

**Said parcel is shown as Lot "C" on the Disposition Plan, Sheet C1 – Disposition Plan Land Ownership, prepared by Ambit Engineering, Inc., dated July 2015 (amended 9/15/15). The sidewalk easement is shown as Easement "12" on the Disposition Plan, Sheet C2 – Disposition Plan Easements prepared by Ambit Engineering, Inc., dated July 2015 (amended 9/15/15). Seconded by Councilor Shaheen.**

Councilor Spear said that this is in line with the vision of the City Council and meets the Councilors expectations.

Councilor Kennedy asked when money would be exchanged for the land and where does this come into play.

City Manager Bohenko said the motion approved by the City Council was a bond to build the garage and purchase land we have the authority to do that and the key is, the purchase and sales agreement.

City Attorney Sullivan said the first funds to be exchanged would be \$5,000,000.00 to Deer Street Associates for the purchase and sales we are working on and the document will come to the City Council for approval.

Councilor Kennedy said we are doing this work and we do not have a purchase and sale agreement right now. City Attorney Sullivan said the vote this evening does not transfer property it allows the City Manager to do so when the purchase and sales agreement is final.

City Manager Bohenko said he would let the City Council know when we borrow money and how much. He also stated that a pro-forma would be done for the entire project.

Assistant Mayor Splaine said the City Council voted unanimously on this matter and does not want to see any more delay. He said we need the parking and we will see more tourists. He said we need to make sure that this is done as quickly as possible.

Councilor Thorsen wants to insure if something changes that the City Council would not be responsible for granting the easements, land swap and purchase. He asked when the trigger is pulled on this project and when does that happen.

City Attorney Sullivan said we will negotiate tomorrow and the purchase and sales would be put together and signed with conditions. He said we adopted the approach to solved the major conditions and satisfy everything before we have a purchase and sales. He said if all conditions are satisfied and resolved we may have a more simple purchase and sales agreement.

Councilor Morgan said she does not understand where we are in the process. She wants to see a letter or a plan of where we are and what happens next. She said the City Council needs to see a road map, and not just a snap shot.

City Attorney Sullivan said the road map is a big book and we are early into writing it. He assured the City Council that the things we need are major items in the purchase and sales and if they can't be resolved there would not be a transfer and it would not bind the City Council this evening. He said this is one step in the process.

Councilor Morgan said she would like the City Council informed on a regular basis on where we are in the process. City Manager Bohenko said he would work on a schedule but it would not have dates but would outline the critical path to be followed.

Councilor Shaheen said the Council voted unanimously on the purchase of the property and all things were contingent to have transfers and easements.

City Attorney Sullivan said things would come back to the City Council before any property is accepted.

Councilor Thorsen asked if we should add that language. Councilor Spear agreed to add the language "**Contingent upon the Purchase and Sales Agreement.**"

**On a unanimous roll call vote 9-0, motion passed.**

**Councilor Lown moved to suspend the rules in order to take up Item XII. A.3. – License Agreement Re: WSCA. Seconded by Councilor Spear and voted.**

3. License Agreement Re: WSCA

**Councilor Spear moved to authorize the City Manager to amend the existing WSCA License to allow an 80-foot free-standing antenna and to make such other minor amendments to the agreement as may be necessary to accommodate the change. Seconded by Councilor Shaheen and voted.**

2. Proposed Land Acquisition (Frank Jones Center Property)

City Manager Bohenko said he met with Brian Thibeault of Portsmouth Land Acquisition LLC, owner of the property and he is willing to sell 8.4 acres for \$9,000,000.00.

**Councilor Kennedy moved that the City Manager continue to negotiate and look at making a counter offer. Seconded by Councilor Morgan.**

Councilor Kennedy said we need to look at affordable housing and the Police Department is looking for a new place to go and this may be a nice option. She also mentioned the construction of a Transportation Center. She said we are always reacting and she would like to see the Council be proactive.

Councilor Spear said he would vote against the motion. He said he would not spend \$9,000,000.00 on something that is hypothetical right now. Councilor Spear said there are many projects that are part of the CIP that need to be done.

Assistant Mayor Splaine said no one is asking to purchase the land right now. He said we need to open the access to the property and consider the possibilities of our future.

Councilor Shaheen said she is opened to continue the conversation and putting forward a recommendation to move forward.

Councilor Lown said he is voting against the motion because the City doesn't need the property right now. He said the City Councilors wanting to vote in favor of this are the ones that voted against the study for the Fire Department and this is an enormous amount of money.

Councilor Morgan said no one asked for the City to make an enormous investment. She said we have had discussion on the need for a new Police Department we brought forward several ideas to the table to start somewhere.

Councilor Dwyer said she would like to allow for continued negotiations and the Council needs to decide what portion of the land we want.

**In a roll call vote 6-3, motion passed. Assistant Mayor Splaine, Councilors Shaheen, Kennedy, Dwyer, Morgan and Thorsen voted in favor. Councilors Lown, Spear and Mayor Lister voted opposed.**

4. License Request for 386-390 State Street

**Councilor Lown moved to authorize the City Manager to enter into a license with FA Gray to facilitate the completion of painting activities for 386-390 State Street. Seconded by Councilor Shaheen and voted.**

5. Polling Hours – November 3, 2015 Municipal Election

**Councilor Spear moved to set the polling hours from 8:00 a.m. to 7:00 p.m. for the Municipal Election on Tuesday, November 3, 2015. Seconded by Councilor Kennedy and voted.**

At 9:20 p.m., Mayor Lister declared a brief recess. Mayor Lister called the meeting back to order at 9:30 p.m.

**D. COUNCILOR KENNEDY**

1. Concerns with Property Assessments

City Manager Bohenko asked Finance Director Belanger and Assessor Maurice Lentz to come forward to discuss the revaluation.

Finance Director Belanger discussed the tax rate and the law requiring us to conduct a revaluation every 5 years. She indicated that property taxes make up the majority of funds for municipal services. She said the tax levy may change the tax rate as the preliminary numbers come in. She stated that an increase in value is a decrease in the tax rate to \$16.97 which represents a 6.3% decrease. She explained how some taxpayers may see an increase in their taxes, some a decrease and others will remain the same. Director Belanger spoke regarding the elderly and disabled exemptions and that the asset levels will be reviewed but would not be effective for this tax bill, but for next year.

Assessor Maurice Lentz said there are 8,843 taxable properties in the City with 83% being residential. She explained that there is a 2% shift in values for the comparable 2015 median house valued at \$346,450.00 was 8.6% from last year. She stated there are differences between properties and neighborhoods and that she will review all data collected by the consultant to set the values.

Councilor Kennedy stated that people were not given ample time to set appointments from the time the letters were sent out by the Assessor's office. She suggested that the letters be color coded so people will realize it is not a normal correspondence issued by the City but it is regarding the revaluation. She asked to see the formula used in setting values and said some neighborhood people have seen prices increase; some decrease and others remain the same. She feels there are a great deal of inconsistencies and spoke to there being big differential land values.

Assessor Maurice Lentz stated that the DRA determines our values and they were accurate during the 2010 revaluation. She said there will be different values on different streets as prices change based on what people are looking to purchase. She indicated there is no given formula it is what people are willing to purchase a property for.

Councilor Kennedy said it would be helpful to present the model for residents to hear. City Manager Bohenko said we would set something up in the Levenson Room before the tax bills are mailed out and before the tax rate is set. He said we would publicize the date and location of the presentation.

Councilor Shaheen asked how many property owners requested a hearing. Assessor Maurice Lentz said about 450 residents.

Councilor Dwyer said there is confusion about what people do if they want to file for abatement. Assessor Maurice Lentz said once final values are posted on the website people can bring any information to the office and they have until March 1, 2016 to file for abatement.

Councilor Morgan asked if we could put our resources to meet with neighborhoods that are having meetings regarding their revaluations. City Manager Bohenko said he would like to speak with the Finance Director and Assessor on how to approach this.

**Councilor Shaheen moved to go briefly beyond 10:00 p.m. Seconded by Councilor Kennedy and voted.**

**B. MAYOR LISTER**

1. Appointments to be Considered:
  - Reappointment of Shari Donnermeyer to the Parking & Traffic Safety Committee
  - Appointment of Jennifer Pyke to the Portsmouth Housing Authority

The City Council considered appointments listed above which will be voted on at the October 5, 2015 City Council meeting.

2. Appointments to be Voted:
  - Appointment of Richard Winstanley to the Cable Television and Communications Committee
  - Appointment of Jolanda Fannin to the Library Board of Trustees filling the expired term of Jody Record until October 1, 2015
  - Reappointment of Ernie Greenslade to the Library Board of Trustees
  - Reappointment of Ronald Cypher to the Parking & Traffic Safety Committee
  - Reappointment of Frederick (Ted) Gray, Jr. to the Parking & Traffic Safety Committee
  - Reappointment of Harold Whitehouse to the Parking & Traffic Safety Committee

**Councilor Lown moved to appoint Richard Winstanley to the Cable Television and Communications Committee until April 1, 2016; appointment of Jolanda Fannin to the Library Board of Trustees until October 1, 2018; reappointment of Ernie Greenslade to the Library Board of Trustees until October 1, 2018; reappointment of Ronald Cypher to the Parking & Traffic Safety Committee until September 17, 2018; reappointment of Frederick (Ted) Gray, Jr. to the Parking & Traffic Safety Committee until September 17, 2018; reappointment of Harold Whitehouse to the Parking & Traffic Safety Committee until September 17, 2018. Seconded by Assistant Mayor Splaine and voted.**

**C. ASSISTANT MAYOR SPLAINE**

1. Thanking John Connors

City Attorney Sullivan said Mr. Connors has filed a federal law suit against the City in excess of \$500,000.00 and statements made by the City Council as a whole would be admissible in a trial and request that the City Council as a whole not take any action on the matters to be discussed.

Assistant Mayor Splaine said John Connors was not treated as well as he should have been and he wanted to thank John Connors. He said he would not ask for the City Council to take a position on the statement he had on the agenda.

**E. COUNCILOR LOWN**

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the August 13, 2015 meeting
2. Parking & Traffic Safety Committee Action Sheet and Minutes of the September 3, 2015 meeting

**Councilor Dwyer moved to approve and accept the minutes of the August 13, 2015 and September 3, 2015 Parking & Traffic Safety Committee meetings. Seconded by Councilor Shaheen.**

Councilor Dwyer spoke regarding the request for angle parking and would like to see the Parking & Traffic Safety Committee revisit this request. Councilor Lown said he would have PTS revisit the matter.

**Motion passed with Councilor Kennedy voting opposed.**

**F. COUNCILOR DWYER**

1. Motion to request that the City Council engage the expert in police facility construction to make a presentation to the Council about the particular requirements for a police facility

Councilor Dwyer said we need more information for specific requirements for a police facility to inform us on getting to a decision.

**Councilor Dwyer moved to have a presentation to the City Council on the requirements for a police facility. Seconded by Councilor Shaheen and voted.**

**G. COUNCILOR THORSEN**

1. Recent Vote Restricting PPAF Operation, and Motion to Reconsider

Councilor Lown indicated he would need to recuse himself from discussion and voting on this matter. Councilor Lown left the City Council meeting.

City Attorney Sullivan explained that a two-thirds vote is required to suspend the rules to reconsider motions.

**Councilor Thorsen moved to suspend the rules in order to bring a motion for reconsideration. Seconded by Councilor Dwyer.**

He stated from his memorandum dated September 16, 2015 that the Council should not have voted to restrict the operation of the Prescott Park Arts Festival (PPAF), although the concern over scheduling is a valid one. He said that this vote was rushed, and on further consideration even thwarts the ability of the parties to work out a creative and successful agreement. He further stated the better approach would be to give the negotiating process as much flexibility as possible, providing guidelines at most rather than absolutes, and allow the parties to come to an agreement satisfactory to all.

Councilor Kennedy said she does not believe the motion was right but believes the outcome was. She said this is a concert people didn't think about and the evening of the event it was extremely loud.

**Motion passed. Mayor Lister voted opposed and Councilor Lown abstained.**

**Councilor Thorsen moved to reconsider the recent vote restricting the PPAF operations. Seconded by Councilor Shaheen.**

Councilor Thorsen said he wants to see a creative solution to this matter.

Councilor Dwyer said we made progress moving forward and how a stage plan would be done. She said the Trustees of the Trust Fund are in the driver's seat of Prescott Park and the vote by the Council must have made them feel like a fifth wheel. She further stated to do a complete prohibition seems wrong. Councilor Dwyer said we need to come to a similar solution and a strategic plan and hear from the community.

Councilor Kennedy said things improved this summer but Wednesday evening it was much louder than past performances. She would vote against the motion to reconsider and that the past two years is where the problems have arisen.

Councilor Morgan said she agrees with Councilor Kennedy and that Prescott Park is a gift to the City and the Trustees of the Trust Fund have had an obligation and would like them to be part of the meetings with the subcommittee. She said we need to move quickly with a long term plan for the park.

Assistant Mayor Splaine said the process followed by the City Council at the last meeting was not the best and there was not a discussion and he comes down on the side that we find a solution for all the parties.

Councilor Shaheen said she is in favor of the reconsideration because it does not seem like the process was right. She said we need to advance the work and that PPAF has the assurances they need. She said it is best to weigh on the side of a better, more open process and we need to get to a long term agreement.

Mayor Lister passed the gavel to Assistant Mayor Splaine.

Mayor Lister said he would not support the motion. He said the working group has had a review of PPAF. He said they met on a regular basis and opened up communication. He said the interest was not to hear just about noise and these activities should not take place on school nights. He further stated there were 83 performances this year and there were 2 performances that could have been moved to another weekend. Mayor Lister said he does not want to get to the point that affects a long term agreement. He said a report back will come from the working group.

**On a roll call 5-3, voted to reconsider the recent vote restricting the PPAF operations. Assistant Mayor Splaine, Councilors Shaheen, Dwyer, Spear and Thorsen voted in favor. Councilors Kennedy, Morgan and Mayor Lister voted opposed. Councilor Lown was not present for the vote.**

Councilor Thorsen would like to see negotiations prior to the long term agreement. He said there needs to be an agreement in place before operations. He said he would leave this to the people in the working group.

Councilor Shaheen said the goal was to work with Trustees of the Trust Fund on a general understanding how the season would work to come forward with a long term plan.

Councilor Kennedy said she would like to know a date when the group will have a report back.

Councilor Dwyer said we can't do this until we have an agreement and the group has brought a report forward 3 times this summer. She said the Trustees of the Trust Fund have had a year to year agreement and there is nothing new to report from the 3 previous reports. She said the strategic plan needs to come forward and that should be done by December.



Councilor Shaheen said the group has heard a tremendous amount of public input and it is feedback that will weigh in on the report.

Councilor Morgan said she would like a report on who is leading the long term plan.

**XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

**XIV. ADJOURNMENT**

At 11:00 p.m., Councilor Thorsen moved to adjourn. Seconded by Councilor Shaheen 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, MMC, CMC, CNHMC  
City Clerk

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 7, VEHICLES, TRAFFIC and PARKING of the ordinances of the City of Portsmouth be amended as follows by deletions from existing language stricken and highlighted in **red**; additions to existing language bolded and highlighted in **red**, remaining language unchanged from existing:

*[Explanatory note not part of ordinance. The following amendments to the parking ordinance were either implemented by the Parking and Traffic Safety Committee on a trial basis last year or are part of ongoing improvements to the parking ordinance and are forwarded to the City Council for approval. Each ordinance change is shown on diagrams attached hereto.]*

---

**A. Amend:** Chapter 7, Article III – TRAFFIC ORDINANCE, Section 7.326 Limited Parking – Fifteen Minutes

**Section 7.326: LIMITED PARKING – FIFTEEN MINUTES:**

A. No person having control or custody of any vehicle shall cause the same to stop or park for longer than 15 minutes at any time between 9:00 a.m. and 7:00 p.m., Monday through Saturday, and between 12:00 p.m. and 7:00 p.m. Sunday, Holidays not included, on the following streets and locations:

6. Hanover Street:

**c. northerly side, first two spaces east from Bridge Street.**

---

**B. Amend:** Chapter 7, Article III – TRAFFIC ORDINANCE, Section 7.328 Limited Parking – Three Hours

**Section 7.328: LIMITED PARKING – THREE HOURS:**

A. No person having control or custody of any vehicle shall stop or cause the same to stop or park for longer than three hours at any time between the hours of 9:00 a.m. and 7:00 p.m. Monday through Saturday, and between 12:00 p.m. and 7:00 p.m. Sunday, Holidays excluded, on the following streets and locations:

**~~5. Chestnut Street: both sides from State Street to Court Street.~~**

16. Market Street:
- a. westerly side from Market Square to Bow Street, except for the ~~first two parking spaces from Market Square. The first of which is hereby designated for police cruiser parking only and the second of which is designated as a taxi stand (see Section 7.A408)~~ first space closest to Bow Street, which shall be designated as bicycle parking when a bicycle corral is present.
  - b. easterly side from Daniel Street to Deer Street: ~~except for the first two parking spaces from Market Square. The first of which is hereby designated for police cruiser parking only and the second of which is designated as a taxi stand (see Section 7.A408).~~
  - c. both sides from Deer Street to Russell Street.
- 

**C. Amend:** Chapter 7, Article III – TRAFFIC ORDINANCE, Section 7.330: No Parking

**Section 7.330: NO PARKING**

- A. Unless otherwise designated by ordinance, parking shall be prohibited at all times in the following described streets and locations:

20. Chestnut Street:

**c. both sides, entire length of street between State Street and Court Street.**

31. Dearborn ~~Street Place~~: ~~westerly northerly~~ side from Maplewood Avenue to the easterly end of Dearborn ~~Lane Place~~ (entire ~~westerly northerly~~ side).

**32. Dearborn Lane: both sides, from Dearborn Street westerly to property line of 39 Dearborn Street, a distance of 60 feet.**

53. Hanover Street:

a. (Hanover Street Extension): northerly side from ~~Pearl Street Rock St.~~ to Brewster St.

117. State Street:

**g. South side, between Fleet Street and Court Place, when reserved for use by licensed vendor.**

---

**D. Amend:** Chapter 7, Article IVA – BUS STOPS, TAXICAB STANDS & HORSE DRAWN CARRIAGES

**Section 7A.408: TAXI STANDS DESIGNATED**

The following areas are hereby designated as Taxi stands:

**D. State Street: northerly side, 40 feet east from Pleasant Street for a distance of 20 feet, from 7 p.m. to 6 a.m., Monday through Sunday.**

---

**E. Amend:** Chapter 7, Article VA: COMMUNITY CENTER, CITY HALL, DISTRICT COURT PARKING.

~~**Section 7A.501: COMMUNITY CENTER PARKING**~~

~~**Parking in the parking lot at the rear of the Community Center, which said lot is on Chapel Street, shall be restricted to vehicles used by Recreation Department Staff.**~~**Section**

~~**7A.502: CITY HALL PARKING**~~

~~**Parking in the area adjacent to the City Hall and lying between City Hall and Chapel Street shall be restricted to use by visitors with official business at City Hall.**~~

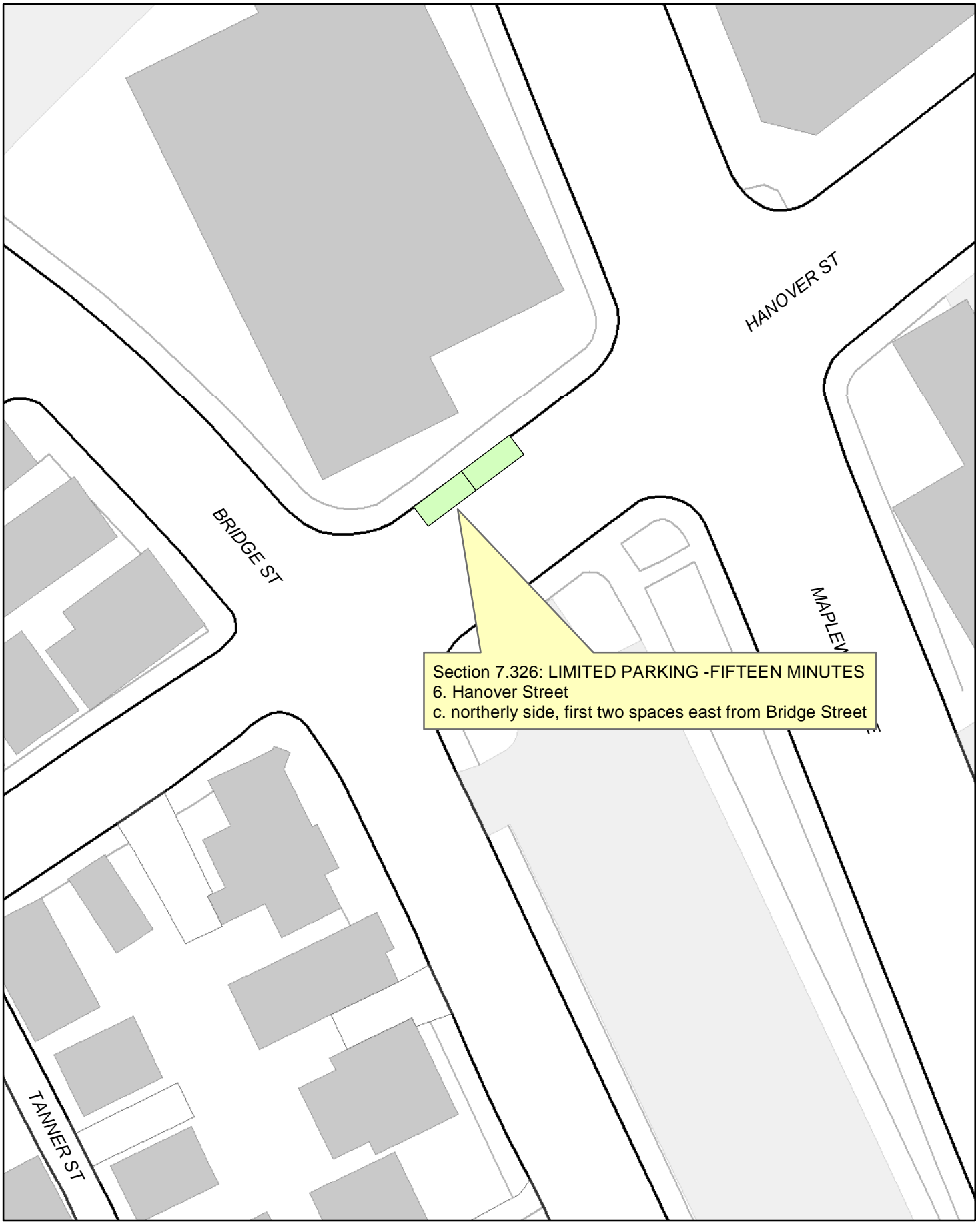
---

**F. Amend:** Chapter 7, Article VI – TRUCK LOADING/UNLOADING ZONES, Section 7.601 Truck Loading/Unloading Zones Established:

**Section 7.601: TRUCK LOADING/UNLOADING ZONES ESTABLISHED**

The following locations are established as exclusive “Truck Loading Zones” on Mondays through Saturdays between the hours of 6:00 a.m. and 7:00 p.m. or as otherwise described below with regard to any particular location. During these times only trucks, vans and other commercial delivery vehicles actively engaged in loading or unloading of product, merchandise or equipment (meaning that no more than 10 consecutive minutes pass without loading or unloading activity) may park. Such vehicles may park at the designated locations for a period not to exceed 30 minutes. Unless otherwise determined by ordinance, at all other times these zones shall be open parking for all vehicles.

11. State Street: northerly side, 40 feet east from Pleasant Street for a distance of 20 feet. **In addition, from 7:00 p.m. to 6:00 a.m., Monday through Sunday, this area shall be designated as a taxi stand per Section 7A.408.**
-

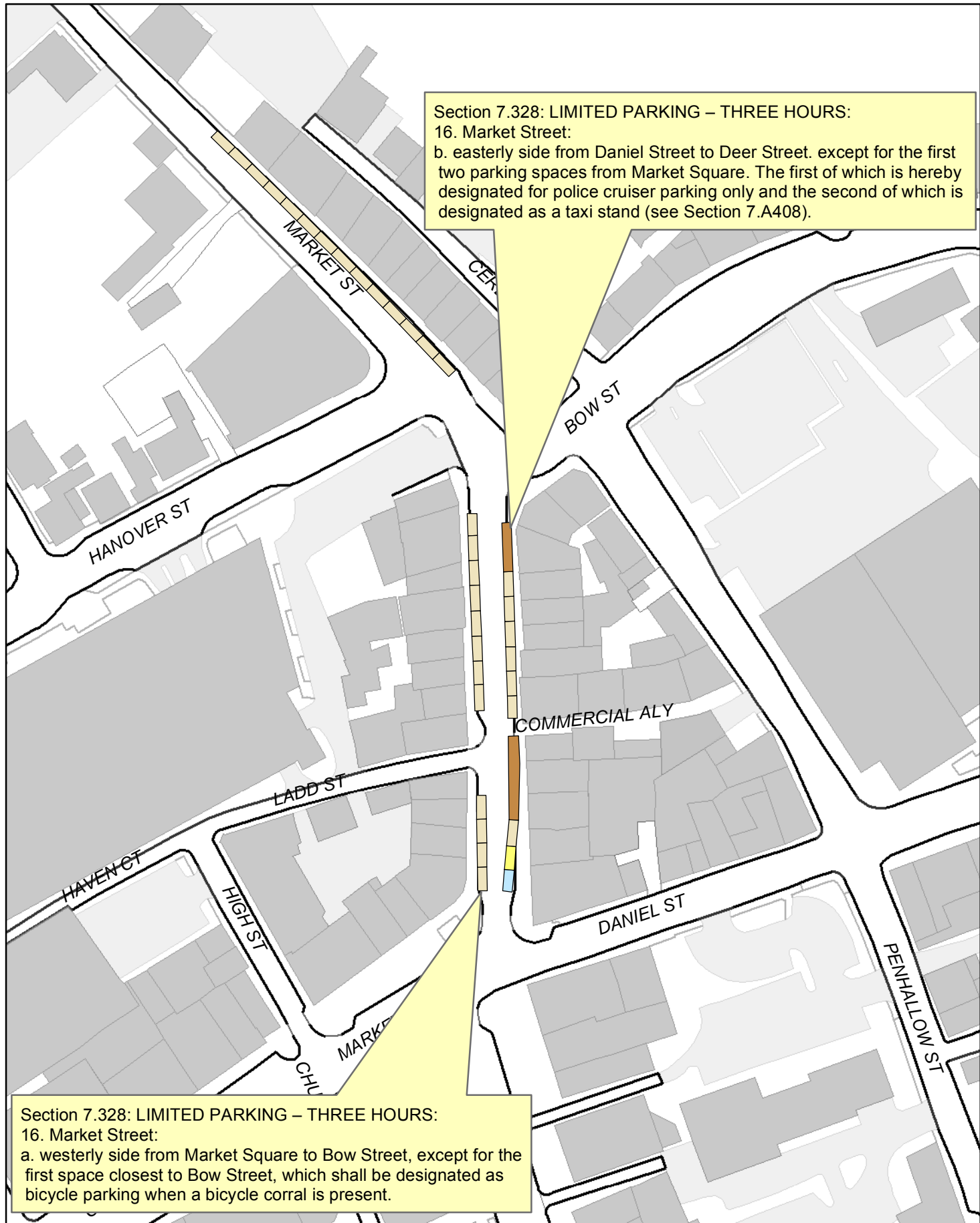


Section 7.326: LIMITED PARKING -FIFTEEN MINUTES  
6. Hanover Street  
c. northerly side, first two spaces east from Bridge Street

**Hanover Street Two Parking Spaces 15 minutes  
Portsmouth, New Hampshire**

Map prepared by Portsmouth Department of Public Works, 6 August 2011  
Map document: U:\Projects\0263 Parking Traffic & Safety\Traffic and Parking Ordinance Changes





Section 7.328: LIMITED PARKING – THREE HOURS:  
 16. Market Street:  
 b. easterly side from Daniel Street to Deer Street. except for the first two parking spaces from Market Square. The first of which is hereby designated for police cruiser parking only and the second of which is designated as a taxi stand (see Section 7.A408).

Section 7.328: LIMITED PARKING – THREE HOURS:  
 16. Market Street:  
 a. westerly side from Market Square to Bow Street, except for the first space closest to Bow Street, which shall be designated as bicycle parking when a bicycle corral is present.

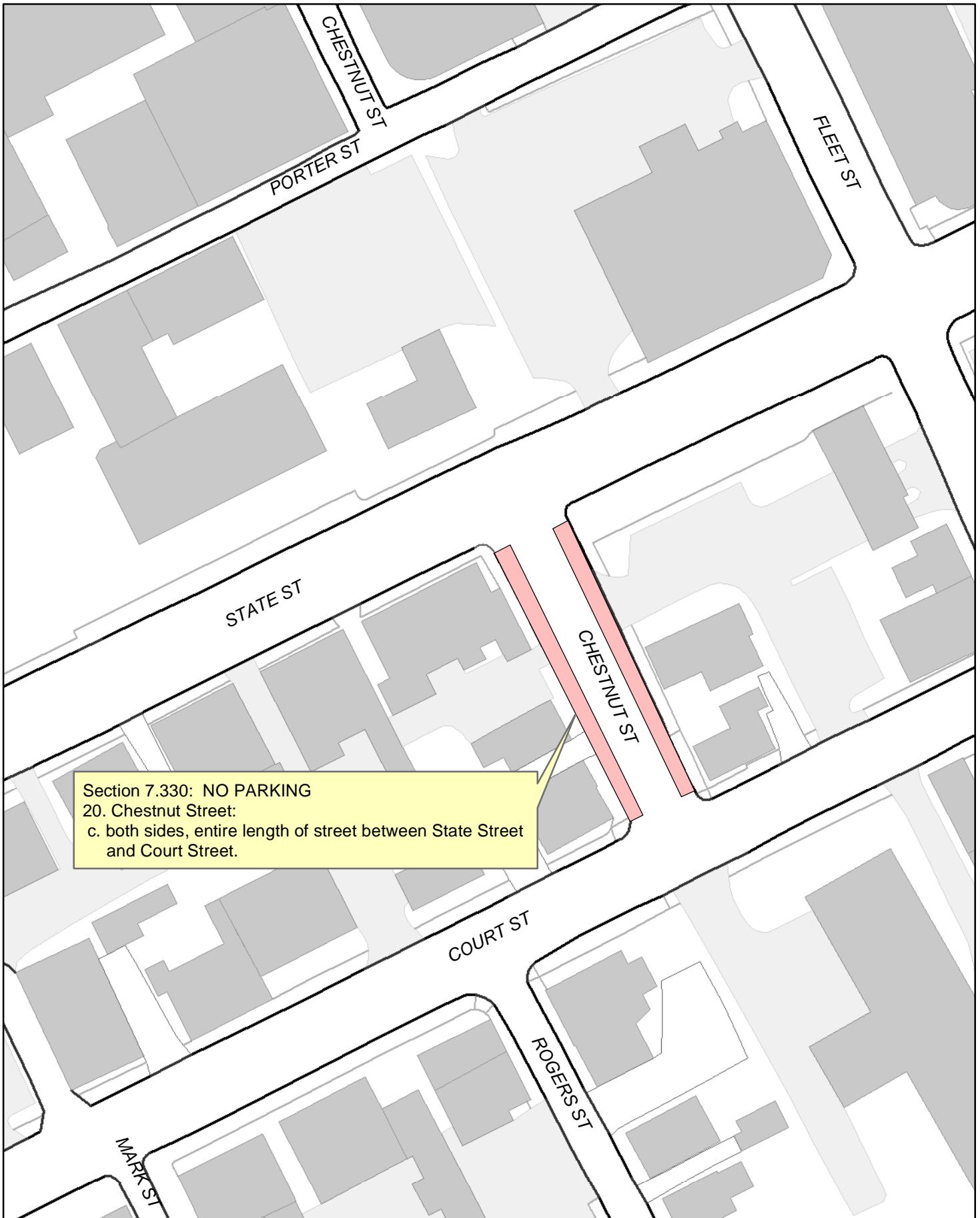
**Market Street Limited Parking  
 Portsmouth, New Hampshire**

Map prepared by Portsmouth Department of Public Works, 6 August 201  
 Map document: U:\Projects\0263 Parking Traffic & Safety\Traffic and Parking Ordinance Changes

**Legend**

- Three Hour Parking
- Taxi
- Police
- Loading Zone



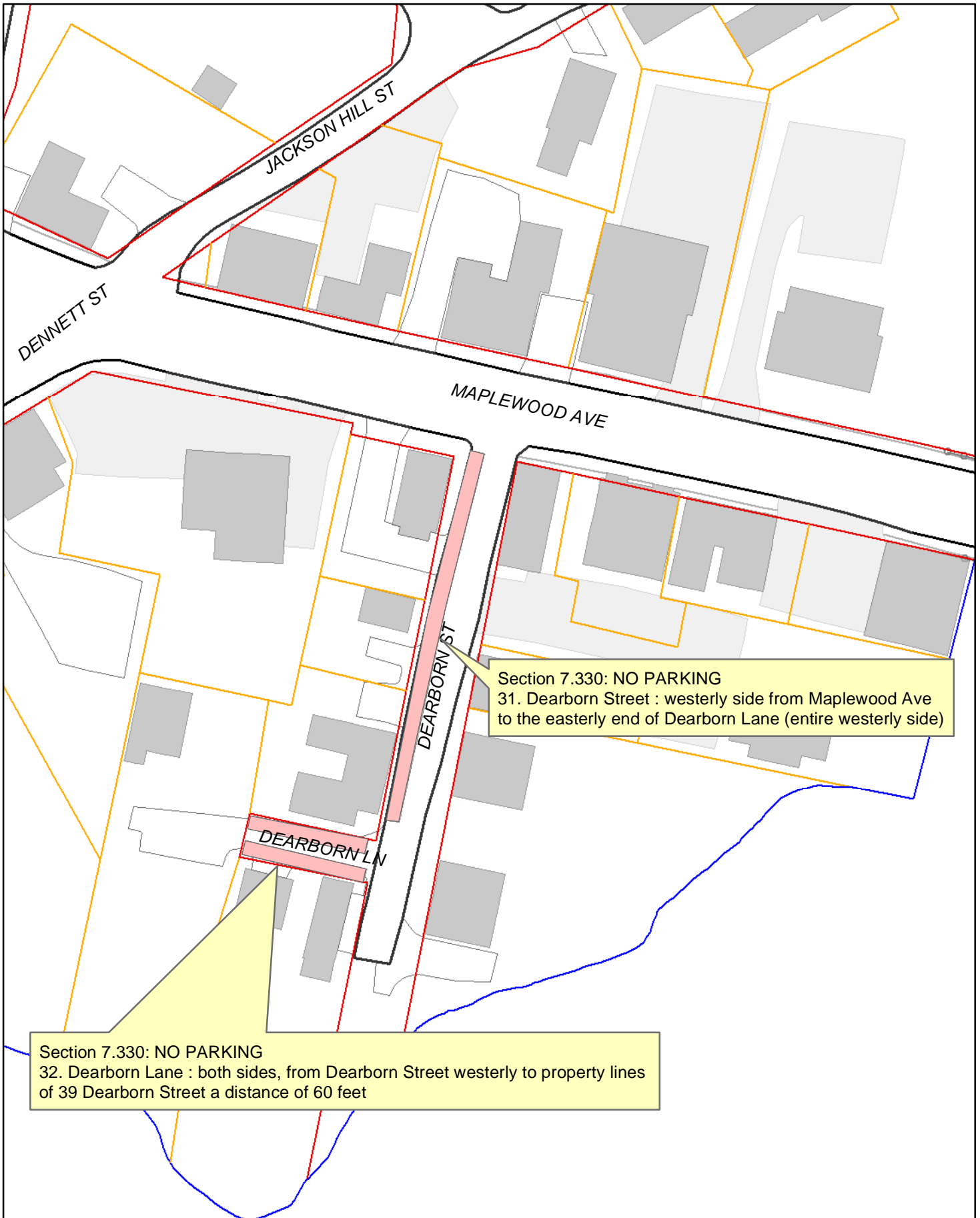


**Chestnut Street No Parking  
Portsmouth, New Hampshire**

Map prepared by Portsmouth Department of Public Works, 10 August 201  
Map document: U:\Projects\0263 Parking Traffic & Safety\Traffic and Parking Ordinance Changes

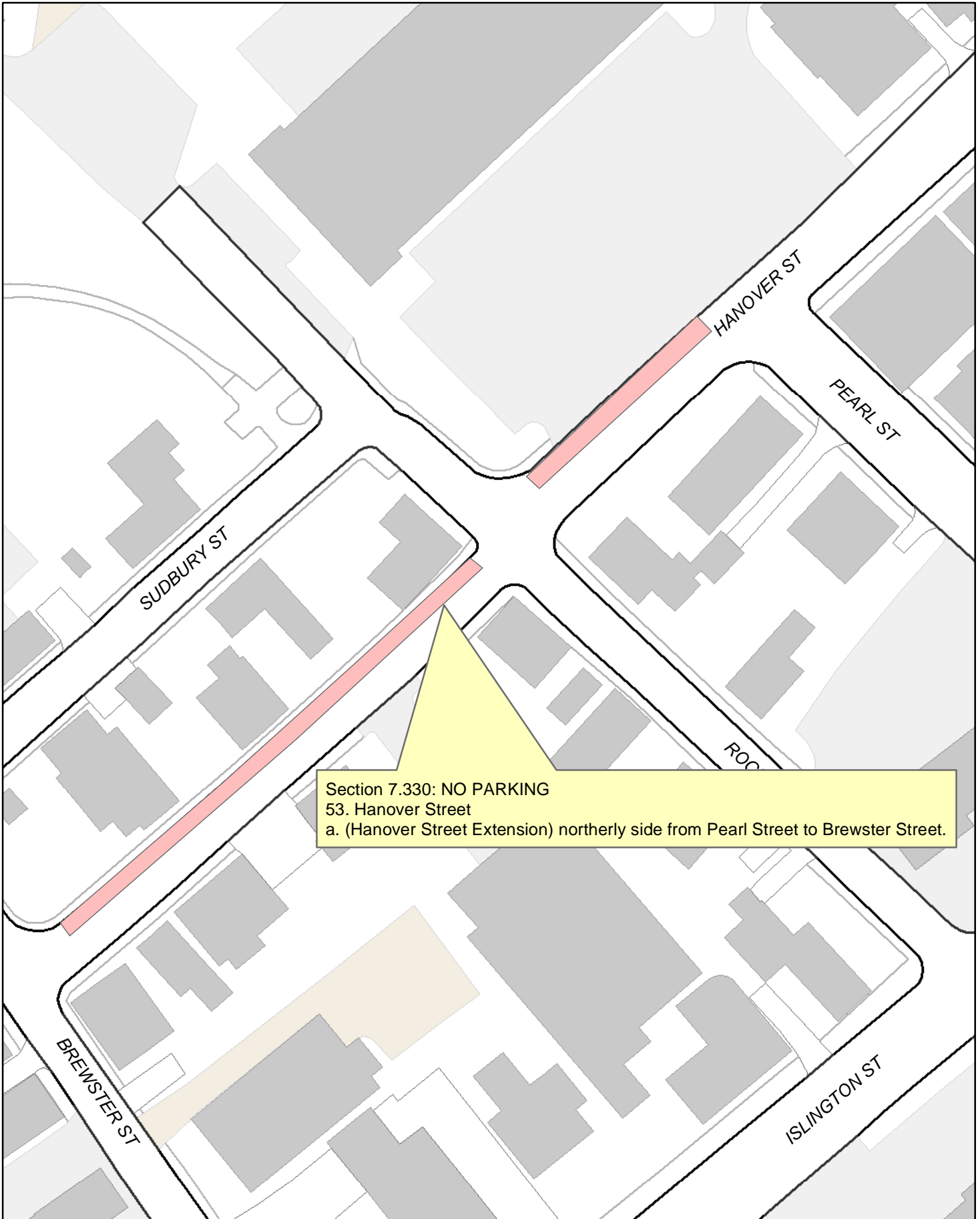






**Dearborn Street and Dearborn Lane No Parking  
Portsmouth, New Hampshire**

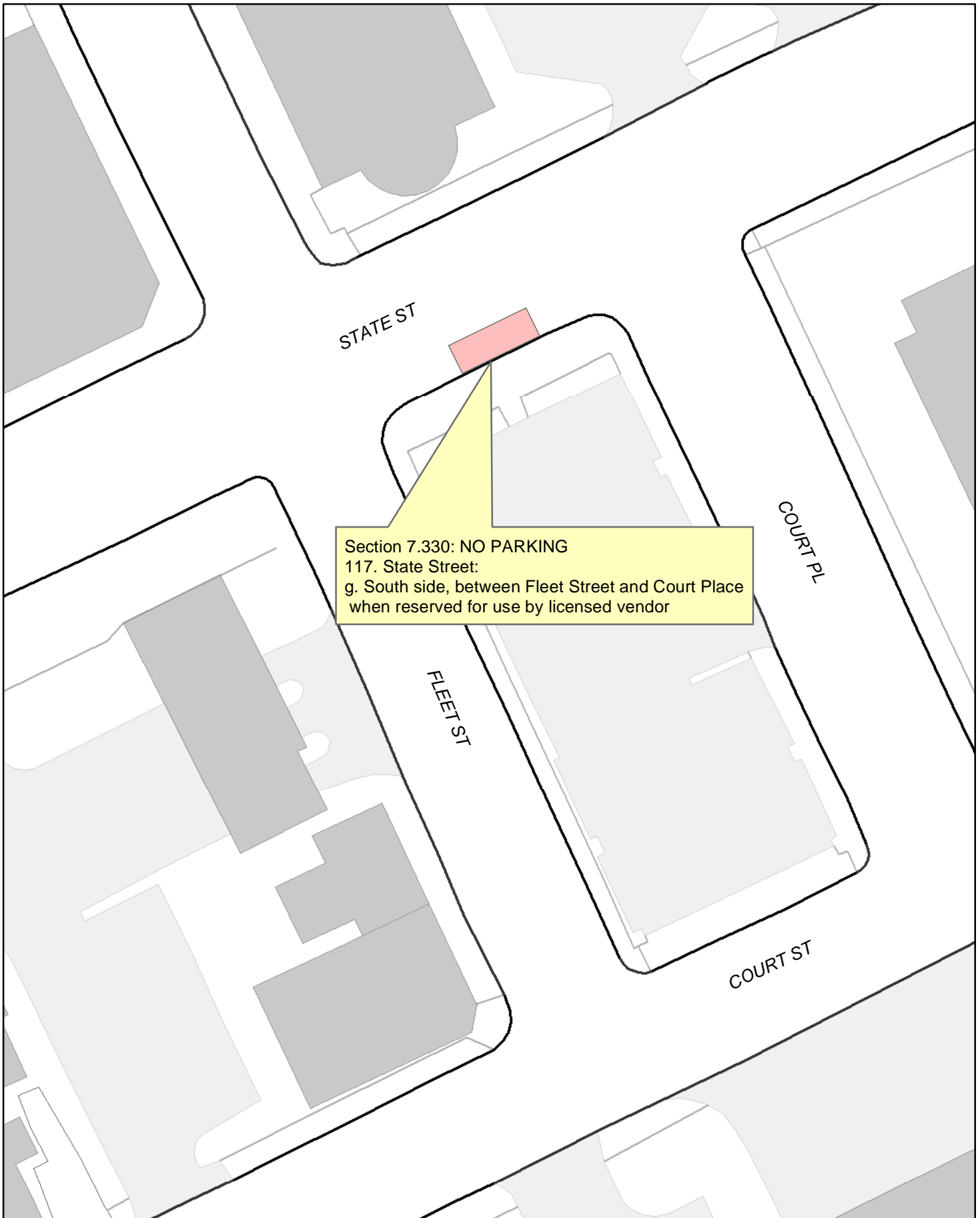
Map prepared by Portsmouth Department of Public Works, 6 August 2011  
Map document: U:\Projects\0263 Parking Traffic & Safety\Traffic and Parking Ordinance Changes



Section 7.330: NO PARKING  
53. Hanover Street  
a. (Hanover Street Extension) northerly side from Pearl Street to Brewster Street.

**Hanover Street Extension  
Portsmouth, New Hampshire**





STATE ST

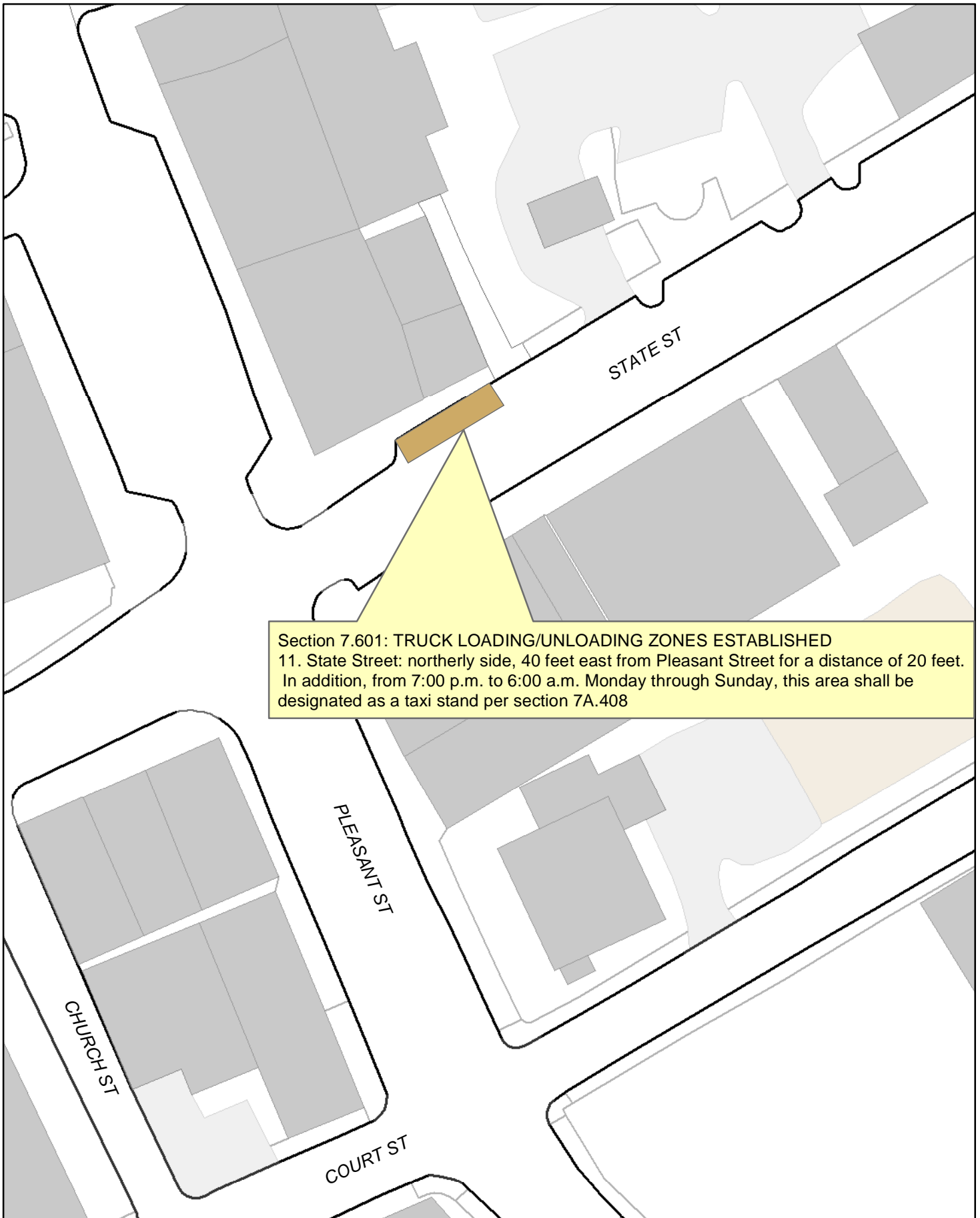
COURT PL

FLEET ST

COURT ST

Section 7.330: NO PARKING  
117. State Street:  
g. South side, between Fleet Street and Court Place  
when reserved for use by licensed vendor

**State Street No Parking  
Portsmouth, New Hampshire**

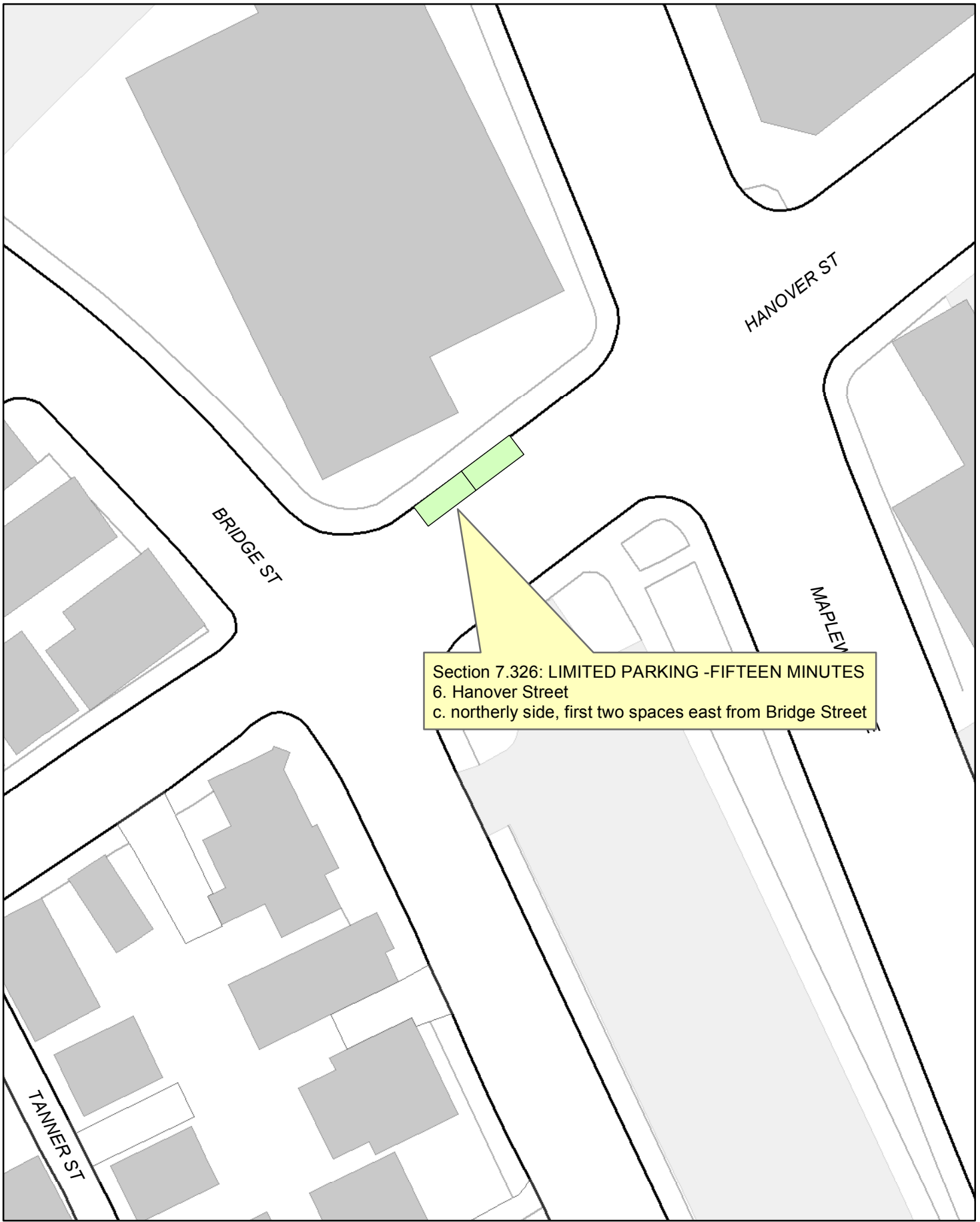


**Section 7.601: TRUCK LOADING/UNLOADING ZONES ESTABLISHED**  
11. State Street: northerly side, 40 feet east from Pleasant Street for a distance of 20 feet. In addition, from 7:00 p.m. to 6:00 a.m. Monday through Sunday, this area shall be designated as a taxi stand per section 7A.408

**State Street Taxi Stands and Truck Loading Zone  
Portsmouth, New Hampshire**

Map prepared by Portsmouth Department of Public Works, 6 August 2011  
Map document: U:\Projects\0263 Parking Traffic & Safety\Traffic and Parking Ordinance Changes



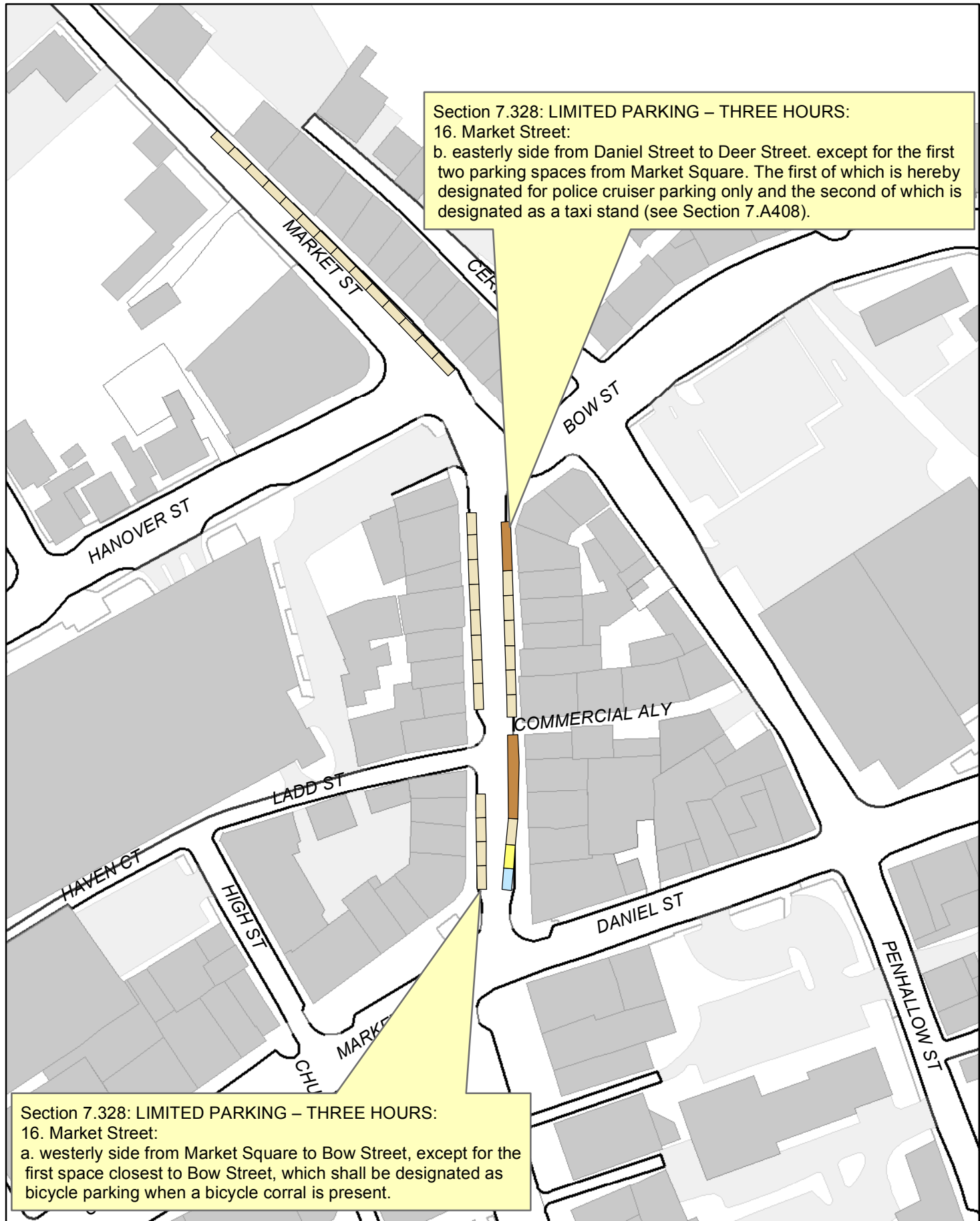


Section 7.326: LIMITED PARKING -FIFTEEN MINUTES  
6. Hanover Street  
c. northerly side, first two spaces east from Bridge Street

**Hanover Street Two Parking Spaces 15 minutes  
Portsmouth, New Hampshire**

Map prepared by Portsmouth Department of Public Works, 6 August 2011  
Map document: U:\Projects\0263 Parking Traffic & Safety\Traffic and Parking Ordinance Changes





Section 7.328: LIMITED PARKING – THREE HOURS:  
 16. Market Street:  
 b. easterly side from Daniel Street to Deer Street. except for the first two parking spaces from Market Square. The first of which is hereby designated for police cruiser parking only and the second of which is designated as a taxi stand (see Section 7.A408).

Section 7.328: LIMITED PARKING – THREE HOURS:  
 16. Market Street:  
 a. westerly side from Market Square to Bow Street, except for the first space closest to Bow Street, which shall be designated as bicycle parking when a bicycle corral is present.

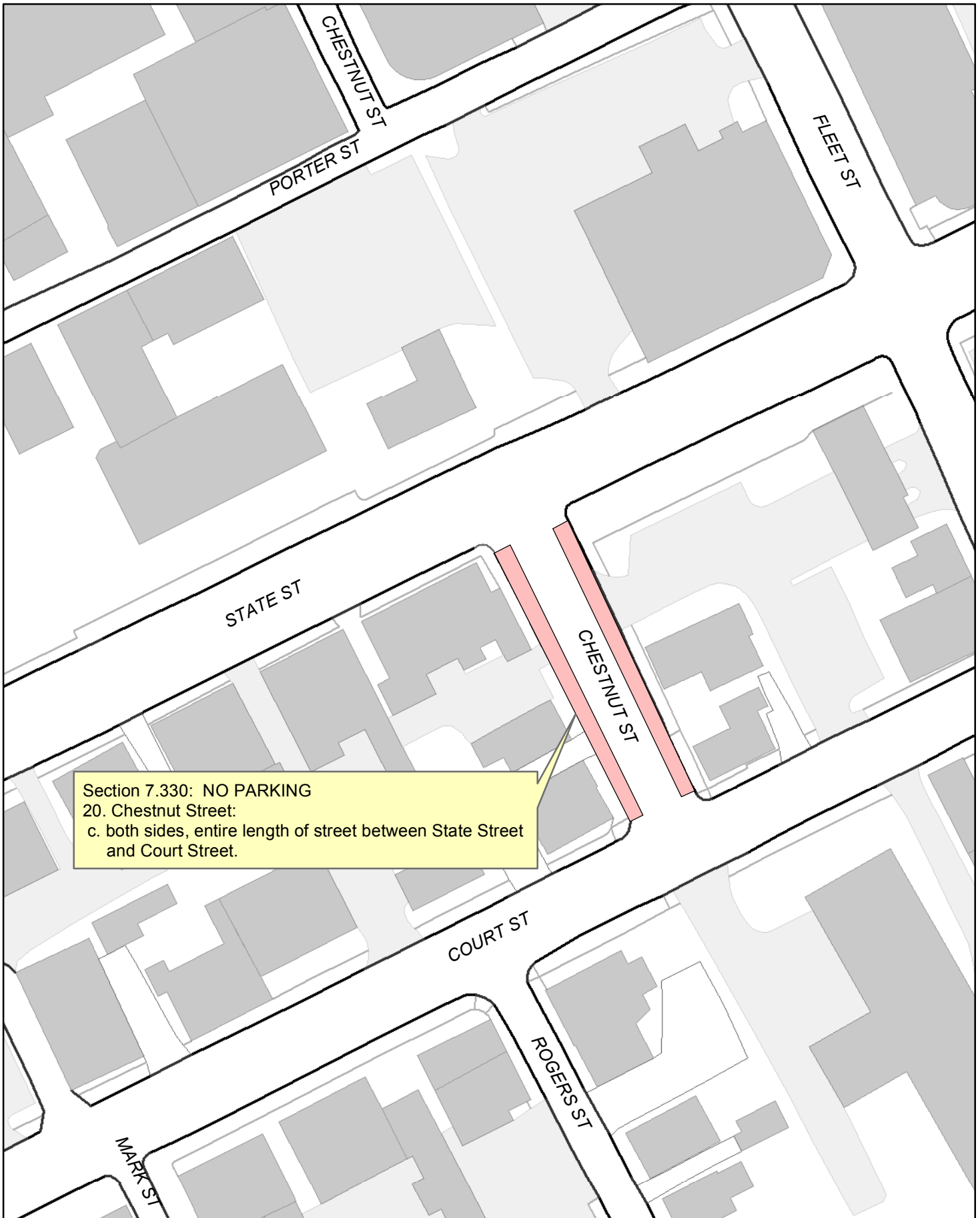
**Market Street Limited Parking  
 Portsmouth, New Hampshire**

Map prepared by Portsmouth Department of Public Works, 6 August 201  
 Map document: U:\Projects\0263 Parking Traffic & Safety\Traffic and Parking Ordinance Changes

**Legend**

- Three Hour Parking
- Taxi
- Police
- Loading Zone



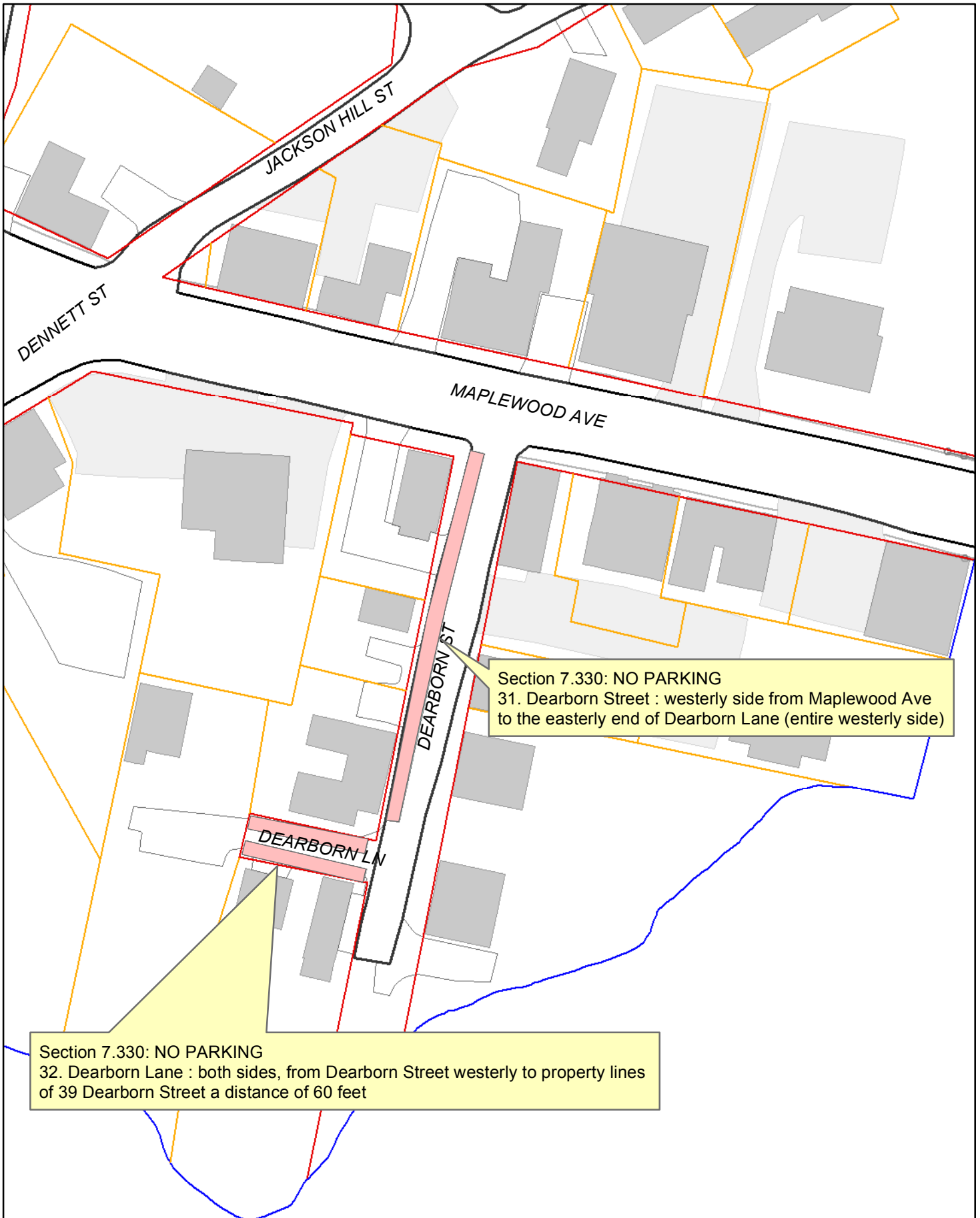


Section 7.330: NO PARKING  
20. Chestnut Street:  
c. both sides, entire length of street between State Street  
and Court Street.

**Chestnut Street No Parking  
Portsmouth, New Hampshire**

Map prepared by Portsmouth Department of Public Works, 10 August 201  
Map document: U:\Projects\0263 Parking Traffic & Safety\Traffic and Parking Ordinance Changes

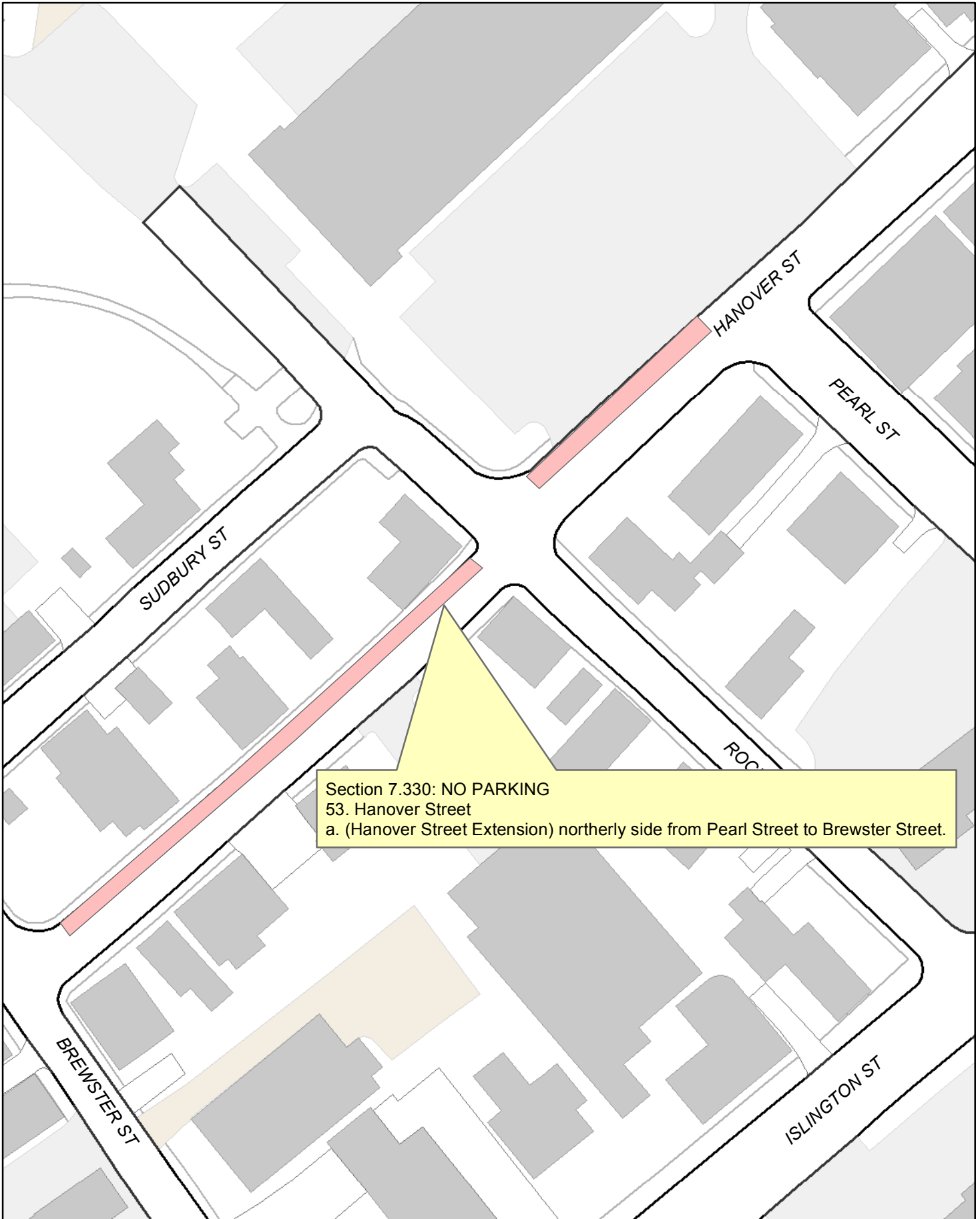




**Dearborn Street and Dearborn Lane No Parking  
Portsmouth, New Hampshire**

Map prepared by Portsmouth Department of Public Works, 6 August 2011  
Map document: U:\Projects\0263 Parking Traffic & Safety\Traffic and Parking Ordinance Changes

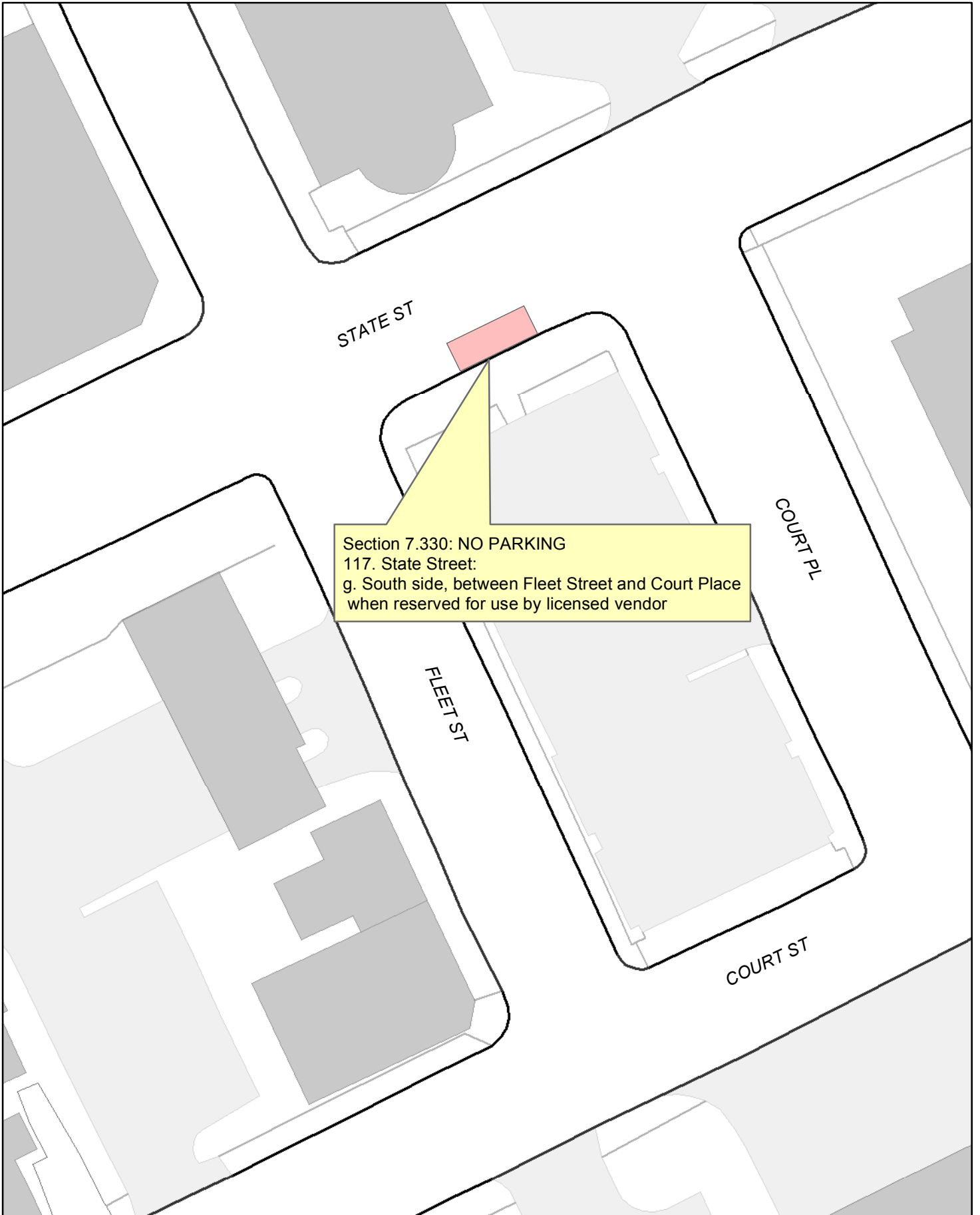




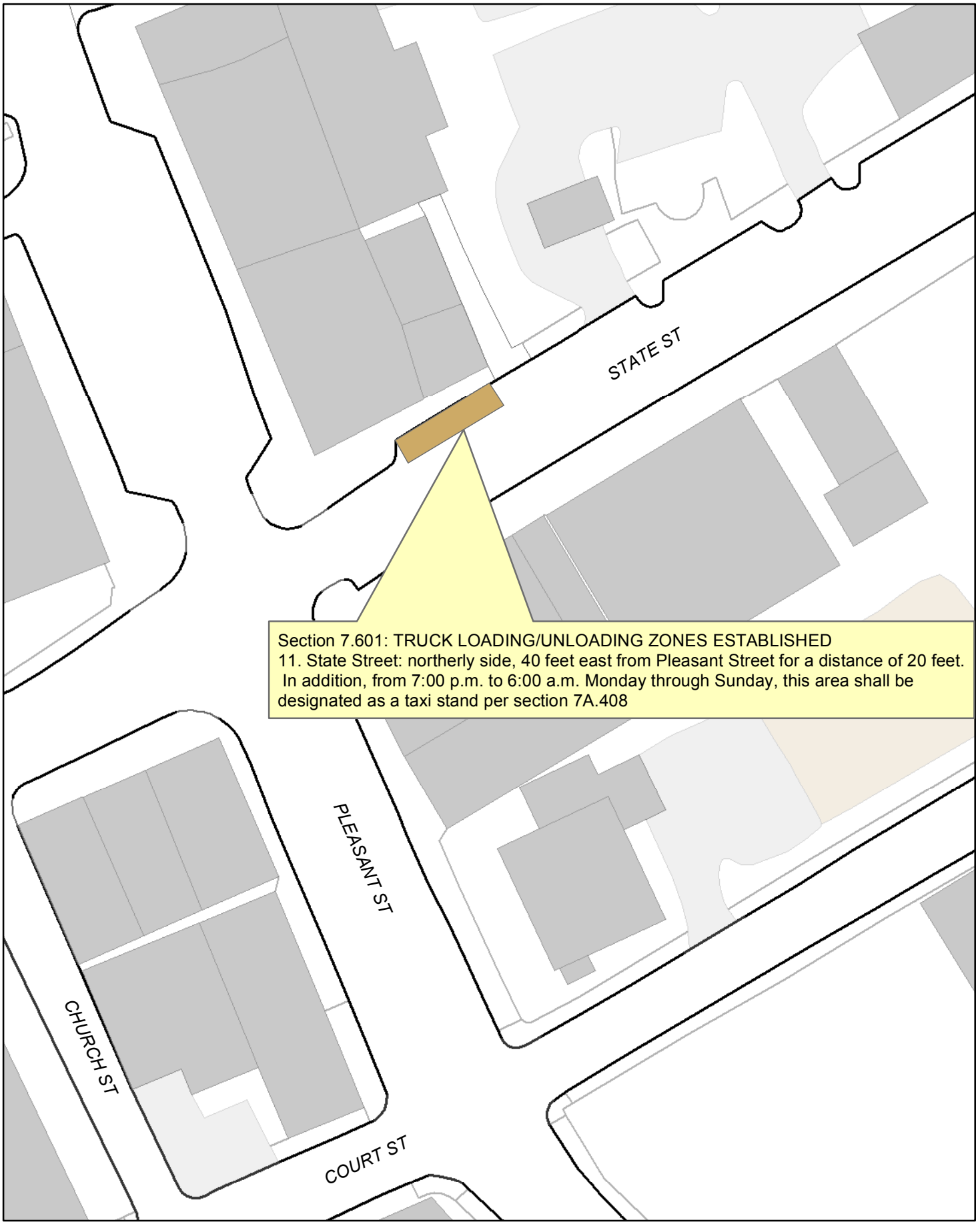
Section 7.330: NO PARKING  
53. Hanover Street  
a. (Hanover Street Extension) northerly side from Pearl Street to Brewster Street.

**Hanover Street Extension  
Portsmouth, New Hampshire**





**State Street No Parking  
Portsmouth, New Hampshire**



Section 7.601: TRUCK LOADING/UNLOADING ZONES ESTABLISHED  
11. State Street: northerly side, 40 feet east from Pleasant Street for a distance of 20 feet.  
In addition, from 7:00 p.m. to 6:00 a.m. Monday through Sunday, this area shall be designated as a taxi stand per section 7A.408

**State Street Taxi Stands and Truck Loading Zone  
Portsmouth, New Hampshire**



<b>Ordinance Change/Location</b>	<b>Net change in parking spaces</b>	<b>Comment</b>
A – Change two 3-hour spaces to 15-minute spaces on Hanover Street	0	For new deli
B1, C1 - No Parking on Chestnut Street	-6	Spaces removed as part of African Burial Ground project
B2 - Market Street west side 3 hour limit (seasonal)	-1	Only when bike corral present
B3 - Market Street east side 3 hour limit	0	Wording of ordinance corrected
C2 - Deerborn Street No Parking	0	Wording of ordinance corrected
C3 - Deerborn Lane No Parking	0	Illegal spaces confirmed
C4 - No parking on Hanover Street	-4	To allow access to new Rock Street parking lot
C5 - State Street No Parking (seasonal)	-1	Space licensed to vendor from 7 AM -11 PM, April 15 through November 15.
D1, F1 - State Street taxi stand	0	Shared with existing loading zone
E1 - Old City Hall, Community Center	0	Deleting old ordinance
Additional Actions Affecting On-Street Parking Spaces		
• Crosswalk on State Street at African Burial Ground	-1	
• HarborCorp project on Deer Street and Russell Street	-26	
• New crosswalk on Hanover Street at Portwalk Place	-1	
<b>Total Change in On-Street Spaces</b>	<b>-40</b>	
Additional public spaces from HarborCorp parking garage	+70 to 170	Other than during special events at HarborCorp
<b>Net Change in Private/Public Parking Spaces</b>	<b>+30 to 130</b>	

ORDINANCE #  
THE CITY OF PORTSMOUTH ORDAINS

That Chapter 11, Article II, Section 11.216 – SEWER USER CHARGES/RECORDS/HOOK-UP of the Ordinance of the City of Portsmouth be amended to read as follows (deletions from existing language ~~stricken in red~~; additions to existing language **bolded in red**; remaining language unchanged from existing):

**Section 11.216: SEWER USER CHARGES/RECORDS/HOOK-UP**

- B.** The owner of any house, building, or property used for human occupancy, employment, recreation or other purposes which is connected to a public sewer shall pay a sewer user charge. The sewer user charge shall be established by the City from time to time to defray the cost of management, maintenance, operation and repair, including replacement, of the municipal waste water system. Sewer user charges shall be based upon water use whenever possible. ~~No allowance shall be made for water lawns, watering gardens or washing cars, except for single residential customers who have installed at their own cost a second meter, meeting the specifications determined by the Water Department to measure water use which is reasonably calculated not to be discharged into the sewer system. Where such second meters have been installed a separate account will be established and no sewer charges will be applied to this usage. (Amended 11/17/97).~~

If records of metered water use are not available or do not reasonably reflect the quantity of waste discharged into the sewage system, the sewer user charge shall be based upon estimated water use or on actual measurement of the volume of waste discharged into the sewer system.

Sewer surcharges shall be levied upon users whose waste characteristics are found to be above normal strength. For the purpose of evaluating waste characteristics, the terms of the Report on the Proposed Rates and Charges for Sewer Services by the City of Portsmouth, prepared by Coffin and Richardson, dated June 15, 1976, are incorporated herein for reference.

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 as of January 1, 2016~~upon passage.~~

APPROVED:

\_\_\_\_\_  
Robert J. Lister, Mayor

ADOPTED BY COUNCIL:

\_\_\_\_\_  
Kelli L. Barnaby, City Clerk



September 30, 2015

Mayor Robert J. Lister and City Council  
1 Junkins Avenue  
Portsmouth, NH 03801

Dear Mayor Lister & City Council Members,

I am the Community Director for the March of Dimes New Hampshire Division and am writing to you to request your permission to host our **2016 Seacoast March for Babies in Portsmouth on May 7, 2016**. March for Babies is a walk-a-thon event that raises money to support the mission of the March of Dimes, to improve the health of babies by preventing birth defects, premature birth, and infant mortality.

March for Babies has been held at Little Harbour Elementary School in Portsmouth for the past few years. I would like to move our walk site to Peirce Island this year. This letter is a request to reserve Peirce Island on May 7, 2016 from 6:00am to 12:00pm. In the event that space is unavailable I would like to reserve Little Harbour Elementary School as it has been there in the past. We expect approximately 250 people to join us as we walk to improve the health of all babies.

Once our venue is reserve I can request a certificate of insurance and forward the official document to you upon receipt. Enclosed for your review is the anticipated the walk directions/map. Thank you for your consideration of a permit for this event.

If you have any questions or concerns please feel free to contact me at 978-729-5849 or [jdolan@marchofdimes.com](mailto:jdolan@marchofdimes.com).

For Healthy Babies,

Jenelle Dolan  
Community Director

## March for Babies Seacoast Walker Route

Starting at Peirce Island,  
Take a left onto Marcy Street,  
Veer right onto South Street,  
Follow South Street,  
Take a right on Middle Street,  
Take a right at the Baptist Church,  
Turn right onto Court Street.  
At the end of Court Street turn right onto Marcy Street.  
Continue walking across the bridge and the finish will be at Peirce Island

Greetings Kelli and Mayor Lister,

Thank you for meeting with Tabitha McElroy this morning and for considering our request to work with the City of Portsmouth to host the New England GIFT box in Market Square this fall. We are grateful for the opportunity to present our proposal to the City Council during the meeting on Monday, October 5th.

### **GIFT box Background**

The GIFT box is a unique project launched by STOP THE TRAFFIK and the United Nations Global Initiative to Fight Human Trafficking (UN.GIFT). The GIFT box, a 7 foot square, 10 foot tall structure, is a walk-in piece of public art, symbolizing the way in which traffickers entice their victims with false promises. The outside of the box offers the “gift” of a brighter new life. Once inside guests are confronted with a three dimensional, thought-provoking and interactive experience, introducing the stories of local survivors of human trafficking.

Initially launched at the London 2012 Olympics, GIFT boxes have proven to be successful in large-scale awareness raising, introducing people to the issue of human trafficking and inspiring them to take further action. The Gift Box has been hosted in over 30 locations throughout the UK, Australia, The United States, Slovakia, Haiti and Brazil! Hundreds of volunteers have been trained to host the box and have become advocates for ending human trafficking - engaging thousands of community members. The New England GIFT box debuted in the spring of 2015 visiting 4 locations including placement in front of Boston City Hall and Dimond Library, UNH.

The Goals of the GIFT Box are:

1. To make people AWARE of human trafficking
2. To EDUCATE people and GATHER INFORMATION about human trafficking
3. To EMPOWER people to TAKE ACTION

Below are a few photos of the New England GIFT box and a letter of endorsement from UN.GIFT concerning the Boston/New England box. Local non-profit, The Freedom Café oversees the management and placement of the New England GIFT Box. [www.thefreedomcafe.org](http://www.thefreedomcafe.org) in partnership with Stop the Traffik USA and the United Nations Global Initiative to Fight Human Trafficking.

### **Market Square Proposal**

The current GIFT box project is being planned and hosted by the Thompson School Community Leadership Class, CSL 401 as a way to put into practice the concepts of community leadership explored in the class. Because of the class schedule we are looking to host a 3 day event displaying the box in mid November. Our hope is that we can set up the GIFT box on the sidewalk in front of North Church, inviting guests to participate and view the display throughout the day on a Friday through Sunday. We are happy to work with the City on dates and the best times for set-up and take down of the display. Potential dates would be Nov. 13-15 or 20-22. The GIFT box would be staffed with trained volunteers when the display is open (9am-9pm) and closes and locks when unstaffed. The GIFT box comes with full public liability up to 1 million/case, damage and theft insurance. CSL 401 along with the Freedom Café will cover all costs associated with the GIFT box. Unless otherwise deemed necessary by the council, there is no need for additional policing or other resources from the city.



Please let me know if you have further questions. I look forward to meeting you on Monday the 5th.

Sincerely,  
Bryan

Adjunct Faculty  
Thompson School  
University of New Hampshire



**"THE MASSACHUSETTS ANTI-TRAFFICKING BILL IS SUPPORTING THE VICTIM. IT IS BASICALLY SAYING YOU WILL NEVER BE TREATED AS A CRIMINAL RUNAWAY IF YOU'RE UNDERAGE AND HAVE BEEN FORCED INTO SEXUAL EXPLOITATION. IT IS A CRIME, AND WE WILL TREAT IT THAT WAY. WE WILL FIND THE PERSON WHO TRAFFICKED YOU, NOT JUST GET THE PERSON WHO PAID."**

SOURCE: [www.traffick.com/11-11](http://www.traffick.com/11-11)

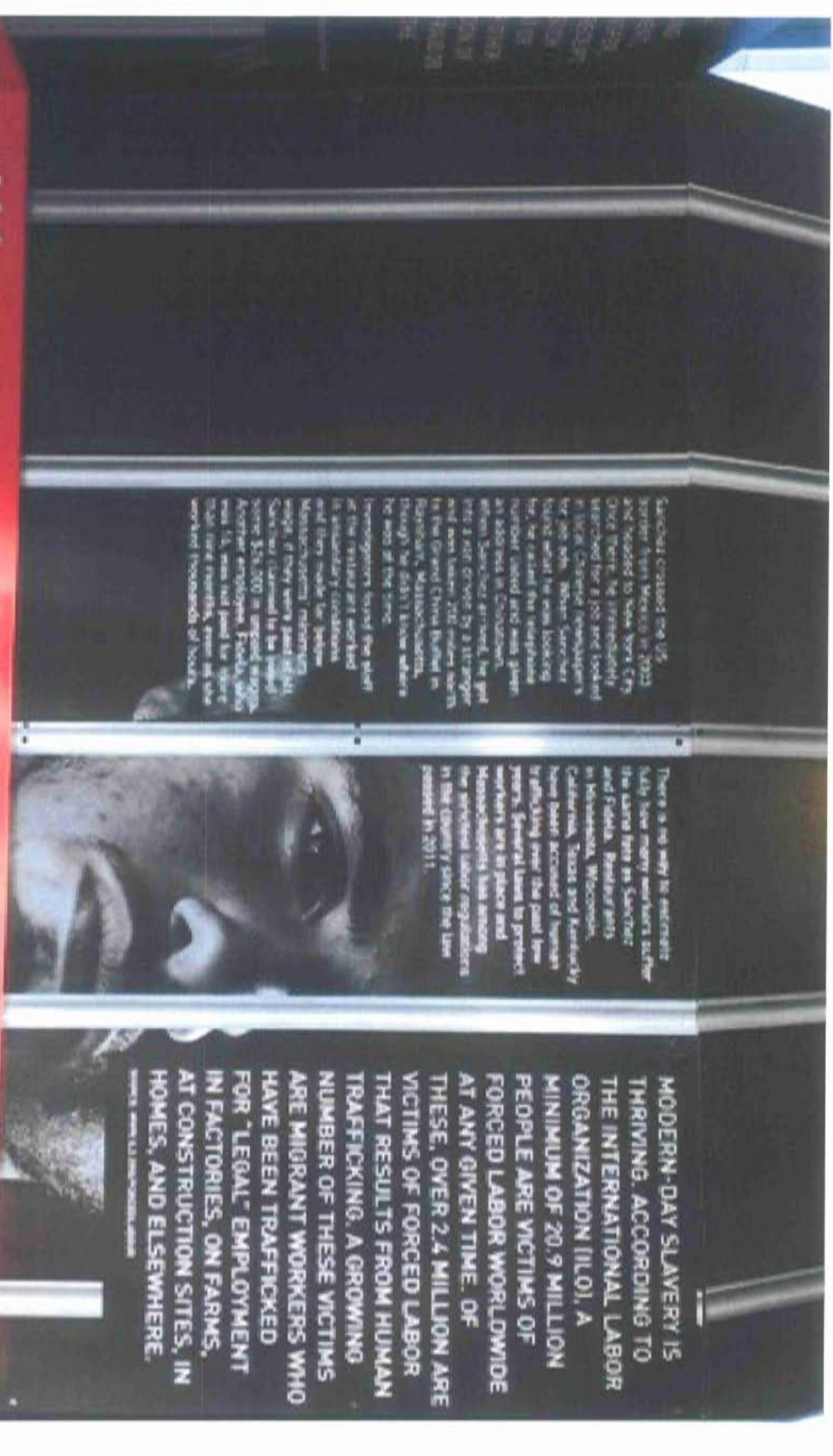
I was 18 years old when my name was changed to Tina. When my boyfriend drove me to Hartford, CT, I was under the impression I was to work at a massage parlor. I went there with only a debit card and the clothes on my back. Upon getting to my back, but I had been deceived. I had been trafficked for sexual exploitation.

I worked from 9pm until 3am for three days at a row, and was expected to earn at least \$500 per day. After three days, I had to hand over all the money I made to my boyfriend. I never - my trafficker. I was convinced and returned and worked in another \$200 to get a hotel house. I had previously been working at a bar where I'd make \$200 a day in an 8-hour shift. The last money was, convincing me having to sell my body repeatedly. From that point on, I had to come. From that point on, I had to come down - it was the only way to survive the next eight parts of my life.

Source: [www.traffick.com/11-11](http://www.traffick.com/11-11)

**HUMAN TRAFFICKING IS THE RECRUITMENT, TRAFFICKING, TRAFFIC, HARASSING OR RECEIPT OF A PERSON BY SUCH MEANS AS THREAT OR USE OF FORCE OR OTHER FORMS OF COERCION OR ABDUCTION, OR FAILURE OF PROTECTION FOR THE PURPOSE OF EXPLOITATION.**

**I was promised a**



Sanchez crossed the U.S. border from Mexico in 2002 and headed to New York City Over Time. He immediately searched for a job and looked at local Craigslist postings for job ads. When Sanchez found what he was looking for, he called the telephone number listed and was given an address in Connecticut.

When Sanchez arrived, he got into a van driven by a stranger and was taken 200 miles north to the Grand China Building in Plainfield, Massachusetts. Though he didn't know where he was at the time, investigators found the plant at the restaurant worked in secondary conditions and they made the below Massachusetts restaurant wages if they were paid at all. Sanchez claimed to be paid some \$14,000 in unpaid wages. Another employee, Paolo, who was 15, was not paid for three full-time months, even at the worked thousands of hours.

There is no way to accurately tally how many workers suffer the same fate as Sanchez and Paolo. Researchers in Massachusetts, Wisconsin, California, Texas and Kentucky have been accused of human trafficking over the past few years. Several laws to protect workers are in place and Massachusetts has among the strictest labor regulations in the country since the law passed in 2011.

**MODERN-DAY SLAVERY IS THRIVING. ACCORDING TO THE INTERNATIONAL LABOR ORGANIZATION (ILO), A MINIMUM OF 20.9 MILLION PEOPLE ARE VICTIMS OF FORCED LABOR WORLDWIDE AT ANY GIVEN TIME. OF THESE, OVER 2.4 MILLION ARE VICTIMS OF FORCED LABOR THAT RESULTS FROM HUMAN TRAFFICKING. A GROWING NUMBER OF THESE VICTIMS ARE MIGRANT WORKERS WHO HAVE BEEN TRAFFICKED FOR "LEGAL" EMPLOYMENT IN FACTORIES, ON FARMS, AT CONSTRUCTION SITES, IN HOMES, AND ELSEWHERE.**

Source: www.ilo.org/2012/05/01

...ed a life of great opportunity.





There is a way out.  
HELP STOP  
HUMAN TRAFFICKING  
TODAY

If you have seen anything that concerns you in your area please  
CALL the confidential US human trafficking hotline at 1-888-373-7888.  
In case of immediate danger please 911.

Find out more [www.stopthetraffik.org/usa](http://www.stopthetraffik.org/usa)  
[www.mceht.org](http://www.mceht.org)

US human trafficking hotline: 1-888-373-7888

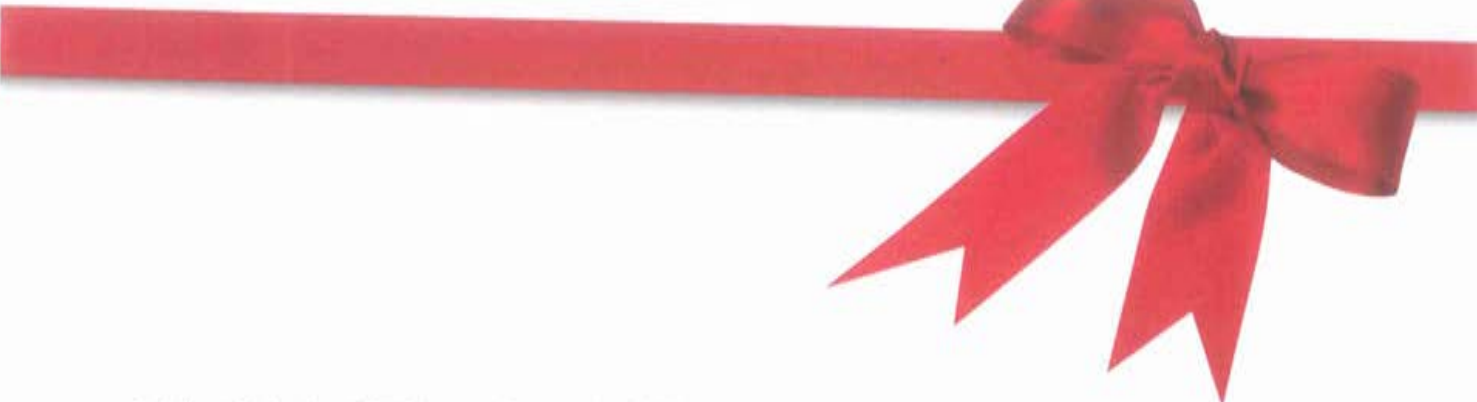
STOP THE TRAFFIK

UN.GIFT



...ed a life o





Subject: Bringing GIFT box to Boston in 2015

To whom it may concern,

The United Nations Global Initiative To Fight Trafficking (UN.GIFT) promotes the global fight on human trafficking on the basis of international agreements reached at the United Nations.

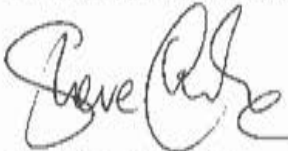
At the 2012 London Olympics, we joined with Stop The Traffik (STT), an NGO headquartered in London, England, to successfully present GIFT box, a project that educates the public on human trafficking.

Now we would like to help bring GIFT box to Boston to raise awareness and help end this crime. We work again with STT and with a range of local partners, led by Deb O'Hara--Rusckowski.

UN.GIFT fully supports the project that will be delivered in Boston, USA alongside in many other countries across the world.

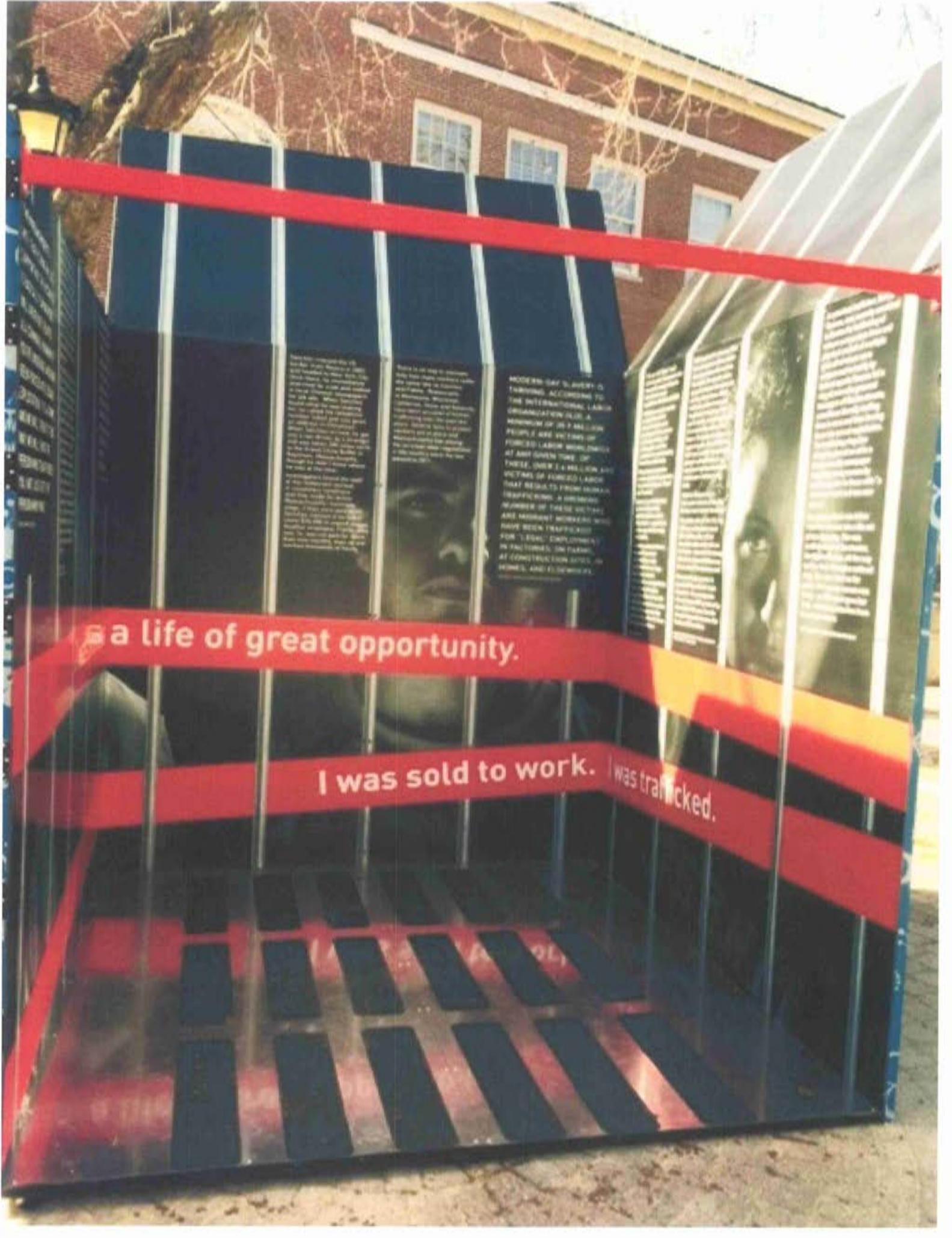
This project can educate many thousands about the consequences of human trafficking and the damage it inflicts on so many lives.

We urge you to grant your support to this project.



Steve Chalke MBE  
UN.GIFT Special Advisor on Community Action Against Human Trafficking  
Founder of STOP THE TRAFFIK

[www.ungiftbox.org](http://www.ungiftbox.org)



There are estimated to be 27 million slaves in the world today. Most are in the Asia-Pacific region, but they are found in every country. In the United States, they are found in the agricultural and service sectors. They are often exploited and forced to work in dangerous and unhealthy conditions. They are often paid very little or no wages. They are often subjected to physical and sexual abuse. They are often held in debt bondage. They are often held in inhumane conditions. They are often held in isolation. They are often held in fear. They are often held in silence. They are often held in shame. They are often held in despair. They are often held in hopelessness. They are often held in despair. They are often held in hopelessness.

There is a lot of talk about human rights. But what does it mean to have human rights? It means to be treated with dignity and respect. It means to be able to live your life as you see fit. It means to be able to work for a living. It means to be able to have a family. It means to be able to have a future. It means to be able to have a voice. It means to be able to have a say in the decisions that affect your life. It means to be able to have a chance at a better life. It means to be able to have a chance at a brighter future. It means to be able to have a chance at a better world. It means to be able to have a chance at a better life. It means to be able to have a chance at a brighter future. It means to be able to have a chance at a better world.

MODERN DAY SLAVERY IS TRADING. ACCORDING TO THE INTERNATIONAL LABOR ORGANIZATION (ILO), A MINIMUM OF 20.7 MILLION PEOPLE ARE VICTIMS OF FORCED LABOR WORLDWIDE AT ANY GIVEN TIME. OF THESE, OVER 14 MILLION ARE VICTIMS OF FORCED LABOR THAT RESULTS FROM HUMAN TRAFFICKING. A GROWING NUMBER OF THESE VICTIMS ARE Migrant WORKERS WHO HAVE BEEN TRAFFICKED FOR "LEGAL" EMPLOYMENT IN FACTORIES, ON FARMS, AT CONSTRUCTION SITES, IN HOMES, AND IN SERVICE INDUSTRIES.

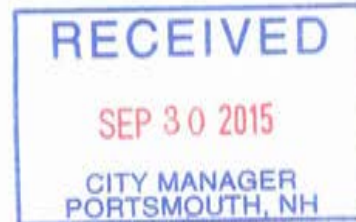
Human trafficking is a global problem that affects millions of people every year. It is the modern-day equivalent of slavery. Victims are often forced to work in dangerous and unhealthy conditions. They are often paid very little or no wages. They are often subjected to physical and sexual abuse. They are often held in debt bondage. They are often held in inhumane conditions. They are often held in isolation. They are often held in fear. They are often held in silence. They are often held in shame. They are often held in despair. They are often held in hopelessness. They are often held in despair. They are often held in hopelessness.

...is a life of great opportunity.

I was sold to work. I was trafficked.



Mayor Robert Lister  
City of Portsmouth  
1 Junkins Ave.  
Portsmouth, NH 03801



September 30, 2015

Mayor Lister:

The Mayor's Blue Ribbon Committee on Sustainable Practices recommends that the Portsmouth City Council pass the third reading to amend Chapter 11 Section 11.216:B of the City's Irrigation Meter Ordinance. The City of Portsmouth is an eco-municipality and the Ordinance furthers the City's 2005 Ten Year Master Plan goal of becoming more sustainable.

The current ordinance that allows single-family residential water customers on the City's water and sewer system to have separate irrigation meters which are only billed for water usage does not promote efficient water use. Although, many residents use the irrigation meters to conserve water, data shows the cheaper water has led to an average increase of 20 units of water per irrigation meter, a 17% increase over the past five years. If commercial properties were allowed to capitalize on the cheaper water irrigation meters offer, the Committee fears a significant increase in water usage overall.

The current ordinance encourages valuable drinking water to be used as irrigation water. In addition to passing the amendment, it would be far preferable if the City encouraged better water practices through more incentives like the current high-efficiency toilet and washing machine rebate program. For example, Portsmouth could have a rebate system for drip systems or water sensors. The City could also reinstitute the former rain barrel program to encourage non-drinking water for irrigation.


Financially, conserving water saves Portsmouth money because it lessens the demand and maintenance on our sewer system. Environmentally, conserving water should lessen the chemicals running off into our aquifer from fertilizer. Furthermore, encouraging efficient water use could lead to more sustainable practices such as zero or permeable landscaping. For these reasons, the Committee recommends the City Council pass the third reading to amend the ordinance.

Very Respectfully,

Bert Cohen  
Chairman

**CITY OF PORTSMOUTH  
PORTSMOUTH, NH 03801**

**Office of the City Manager**

**Date:** October 1, 2015  
**To:** Honorable Mayor Robert J. Lister and City Council Members  
**From:** John P. Bohenko, City Manager   
**Re:** City Manager's Comments on October 5, 2015 City Council Agenda

---

**6:00 p.m. Non-meeting with counsel in accordance with RSA 91-A:2, I (b).**

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

---

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

1. **Third and Final Reading of Proposed Ordinance.**

1.1 **Third and Final Reading of Annual Omnibus Ordinance Change, Parking and Traffic.** As a result of the September 21<sup>st</sup> City Council meeting, under Section VIII of the Agenda, I am bringing back for third and final reading the [attached proposed annual omnibus set of ordinances recommended by the Parking and Traffic Safety Committee](#). This year's omnibus changes are detailed on the [attached sheets](#), including changes to on-street spaces and updated wording to reflect current conditions.

By way of background, On March 29, 2000, the City Council adopted Ordinance #4-2000 under Chapter 7, Article 1, Section 7.103 of the Vehicles, Traffic and Parking Ordinance. This ordinance was adopted in order to be more responsive to the changing parking needs of the downtown. Before its adoption, it often took three readings of the City Council to simply change a parking space from a two-hour time restriction to a 15-minute one. This process would often take four to six months to complete.

The current ordinance authorizes the Parking Traffic and Safety Committee to recommend temporary parking and traffic regulations to the City Council for its approval in the form of its monthly meeting minutes. Once the Council approves

these minutes, the temporary regulations are in effect for a period not to exceed one year. During that year the Council and the public have the benefit of seeing how a temporary regulation works before adopting it as a permanent change to the parking ordinance. These temporary regulations are presented at one time to the Council for its consideration.

The [attached amendments to Chapter 7, Vehicles, Traffic and Parking](#) for the Council's consideration summarize the temporary parking regulations implemented by the Parking and Traffic Safety Committee between June 13, 2014 and June 11, 2015, as well as updates to reflect current conditions.

In addition, [attached is a summary](#) of the number of new parking spaces created and lost by the annual proposed Omnibus Ordinance change, which lists the ordinance changes and their impact on parking spaces. Further, other changes in the downtown area that affected parking spaces, but were not part of the omnibus ordinance, are included for informational purposes.

[As shown in this attachment](#), the Ordinance changes result in a loss of ten on-street spaces year round. This represents approximately 1 percent of the total 783 on-street spaces in the downtown area. Twenty-eight additional on-street metered spaces are lost due to development projects. However, the HarborCorp project will include the construction of a 523-space parking garage, of which 70 to 170 spaces are projected to be available to the public during typical peak demand of the HarborCorp site. These additional private spaces offset the loss of 40 on-street parking spaces and, with the exception of special events, will add a net of 30 to 130 spaces.

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

- 1.2 **Third and Final Reading of Proposed Ordinance amending Chapter 11, Article II, Section 11.216:B – Sewer User Charges/Records/Hook-up - by the Elimination of Irrigation Meters.** As a result of the August 3<sup>rd</sup> City Council meeting, under Section VIII of the Agenda, I am bringing back for third and final reading the attached proposed Ordinance amending Chapter 11, Article II, Section 11.216:B – Sewer User Charges/Records/Hook-up regarding the elimination of irrigation meters.

*Therefore, I recommend that the City Council move to table the aforementioned matter at this time. Action on this matter should take place under Section VIII of the Agenda.*

## ***Consent Agenda:***

1. **Acceptance of Donation to the Coalition Legal Fund.** The City of Portsmouth has received a donation from the Town of Rye in the amount of \$5,000 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.*

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

1. **Request for Approval of Proposed Tentative Agreements for the School Custodial Supervisors Union and the Association of Portsmouth School Administrators.** The School Board has approved the Tentative Agreements with the Association of Portsmouth School Administrators and the Custodial Supervisors. Both of these bargaining units have agreed to a three (3) year agreement with the ten (10) year rolling COLA in each year.

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

- [A letter from Thomas Closson, City Negotiator outlining the changes.](#)
- [The School Custodial Supervisors and Portsmouth School Administrators Contracts showing the insertions and deletions to implement the Tentative Agreement if approved.](#)
- [Cost Analysis for each.](#)

*I recommend the City Council move to accept the proposed contracts with the School Custodial Supervisors Union and Association of Portsmouth School Administrators to expire on June 30, 2018.*

2. **Request for Approval of Proposed Tentative Agreement between the City of Portsmouth and the Portsmouth City Employees Local #1386-B.** I am bringing forward a new contract for approval. AFSCME #1386-B has agreed to break out the contract into two (2) units. The contract before you represents, the clerical staff in City Hall and at Public Works and the Library staff. The other unit will include all non-office public work employees. This agreement is for a three-year term. There is no COLA for July 1, 2014, a 2% COLA increase effective October 1, 2015 and a 10 year rolling COLA on July 1, 2016.

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

- A letter from Thomas Closson, City Negotiator outlining the changes.
- The Portsmouth City Employees Local #1386-B showing the insertions and deletions to implement the Tentative Agreement if approved.
- Cost Analysis.

*I recommend the City Council move to accept the proposed contract with Portsmouth City Employees Local #1386-B to expire on June 30, 2017.*

3. **Report Back Re: Proposed Easements for North Mill Pond Multi-Use Path.** At its meeting on September 8, 2015, the City Council voted to refer to the Planning Board a proposal to acquire land or easements as necessary to construct a multi-use path along the south shore of North Mill Pond between Market Street and Bartlett Street. This proposed path would provide a scenic and low-stress route for bicyclists and pedestrians between the North End and the West End (see attached maps).

The Planning Board reviewed this proposal at its meeting on September 17, 2015, and voted unanimously to support the North Mill Pond Path project and to recommend that the City Council authorize the City Manager to proceed with acquisition of the land and/or easements necessary to implement the project.

*I recommend the City Council move to accept the Planning Board's recommendation, and, further, authorize the City Manager to begin negotiations acquiring property for easements for the North Mill Pond Bike/Walk Path.*

### ***Informational Items:***

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on September 21, 2015. In addition, this can be found on the City's website.
2. **Household Hazardous Waste Day.** For your information, Household Hazardous Waste Day is scheduled for Saturday, October 24, 2015 from 8:00 a.m. – Noon. Residents of Portsmouth, Greenland and Newington may bring their household hazardous waste to the Department of Public Works facility at 680 Peverly Hill Road, Portsmouth. Please note that Proof of Residency Required. There is more information on the City's Website at <http://cityofportsmouth.com/publicworks/solidwaste-recycle-hhw.htm> .
3. **Update Re: Transportation Services Ordinance.** For your information, the following is an update regarding the Transportation Services Ordinance. As you are aware, the Ordinance became effective on September 17, 2015. There are currently four companies that have submitted the appropriate required paperwork and are currently registered as Transportation Services. They are Great Bay Taxi, Rockingham Taxi, BINX Cabs, and Anchor Taxi. The City Clerk's Department continues to work with the Legal and Police Departments on additional approvals. The Police Department is currently stopping and reporting on any Ordinance violations and today there has been only one reported violation.



Representing Management Exclusively in Workplace Law and Related Litigation

Jackson Lewis P.C.
100 International Drive
Suite 363
Portsmouth, New Hampshire 03801
Tel 603 559-2700
Fax 603 559-2701
www.jacksonlewis.com

- ALBANY, NY
ALBUQUERQUE, NM
ATLANTA, GA
AUSTIN, TX
BALTIMORE, MD
BIRMINGHAM, AL
BOSTON, MA
CHICAGO, IL
CINCINNATI, OH
CLEVELAND, OH
DALLAS, TX
DAYTON, OH
DENVER, CO
DETROIT, MI
GRAND RAPIDS, MI
GREENVILLE, SC
HARTFORD, CT
HOUSTON, TX
INDIANAPOLIS, IN
JACKSONVILLE, FL
LAS VEGAS, NV
LONG ISLAND, NY
LOS ANGELES, CA
MEMPHIS, TN
MIAMI, FL
MILWAUKEE, WI
MINNEAPOLIS, MN
MORRISTOWN, NJ
NAPA, CA
NEW ORLEANS, LA
NEW YORK, NY
NORFOLK, VA
OMAHA, NE
ORANGE COUNTY, CA
ORLANDO, FL
PHILADELPHIA, PA
PHOENIX, AZ
PITTSBURGH, PA
PORTLAND, OR
PORTSMOUTH, NH
PROVIDENCE, RI
RALEIGH-DURHAM, NC
RAPID CITY, SD
RICHMOND, VA
SACRAMENTO, CA
SAINT LOUIS, MO
SAN DIEGO, CA
SAN FRANCISCO, CA
SAN JUAN, PR
SEATTLE, WA
STAMFORD, CT
TAMPA, FL
WASHINGTON, DC REGION
WHITE PLAINS, NY

TO: John P. Bohenko and Members of the Portsmouth City Council
FROM: Thomas M. Closson
DATE: September 15, 2015
RE: Tentative Agreement – School Custodial Supervisors Union

On July 21, 2015, the School District’s negotiating team reached a tentative agreement (“the TA”) with the School Custodial Supervisors Union. The School Board has approved the TA, and I am now pleased to recommend it to you.

The TA includes the following significant provisions:

- Three year duration (to June 30, 2018).
- Starting on July 1, 2016, the City will offer full-time employees only the Consumer Driven Health Plan (CDHP) issued by Cigna Insurance under its SchoolCare Plan of the New Hampshire School Health Care Coalition. The employee’s premium cost share for the CDHP (single, 2-person or family option) will be 5% of the total premium. The City’s premium cost share will be 95% of the total premium. If, at any time, the cost of the CDHP exceeds the threshold level(s) for assessment of the Cadillac Tax under the ACA, the parties will immediately reopen the contract on the issue of health insurance only, for the purpose of selecting a replacement plan that does not exceed the threshold level(s) for assessment of the Cadillac Tax under the ACA. If the parties are not able to agree on a replacement plan, the City’s total contribution to health insurance coverage (including premiums, additional taxes and assessments) will not exceed the current threshold levels for assessment of the Cadillac Tax under the ACA (\$10,200 for a single plan and \$27,500 for a two person/family plan).
- Annual COLAs based on the rolling 10-year average CPI-U, between 2% and 5%, effective on 7/1/2015 (retroactive), 7/1/2016 and 7/1/2017.
- Modify Merit Pay Schedule as follows: \$0.20 per hour for 1 to 3 years as a Supervisor in the District; \$0.25 per hour for 3 to 6 years as a Supervisor in the District; \$0.30

per hour for 6 to 15 years as a Supervisor in the District; and \$0.50 per hour for over 15 years as a Supervisor in the District. Additionally, add a provision to this section that an employee will only receive merit pay if his/her most recent performance evaluation is acceptable or better.

- For new hires to the District, eliminate the current top vacation accrual step (30 days per year at 25+ years - new cap will be 25 days per year at 16+ years).
- For new hires to the District, reduce Sick Leave accrual rate to 1 day per month, (down from 1.25 days per month), and increase employees' minimum call-in requirement from 1 hour before start of shift to 2 hours before start of shift.
- Provide all employees with 5 non-accumulating personal days per contract year (up from either 3 or 4 depending on years of service).
- Adjust Longevity stipend schedules to match those in the Custodians' CBA.

PORTSMOUTH SCHOOL DISTRICT CUSTODIAL SUPERVISORS  
FY 16-18

	FY 15-Base	FY 16- Cola 2 %	FY 17 Cola 2 %	FY 18 Cola 2 %	
Base Salary	507,499	518,669	532,646	544,731	
Merit	1,872	3,120	3,120	3,744	
Longevity	6,450	7,300	8,900	9,300	
Fica	39,460	40,475	41,667	42,670	
Retirement	57,617	59,099	60,839	62,303	
	612,899	628,664	647,172	662,748	
Diff 15 Base to 16		15,765			
		Diff 16 to 17.	18,509		
		Diff 17 to 18		15,576	
		Subtotal Cost of Contract		\$49,850	
		Health Savings		(\$13,088)	
		Total Cost of Contract		\$49,850	
		Total Percent Increase		8.13%	
		Average \$ increase per year		\$16,617	
		Average % Increase per year		2.71%	



**CUSTODIAL SUPERVISORS**

**WORKING AGREEMENT**

**BETWEEN**

**THE PORTSMOUTH SCHOOL BOARD**

**AND**

**CUSTODIAL SUPERVISORS UNION**

July 1, 200815 - June 30, 20158

## **WORKING AGREEMENT**

By this Agreement the School District, Administration Unit No. 52, City of Portsmouth, N.H., hereinafter called the SAU and THE Custodial Supervisors Unit of the Portsmouth School District, do hereby reach agreement.

### **WITNESSETH**

Whereas the Unit established itself as the exclusive representative of the custodial supervisors of the Portsmouth School District who are members of the unit and on regular active duty for the SAU and enrolled on the SAU's payroll, now, therefore, the parties hereto contract and agree with each other as a result of collective bargaining as follows.

#### **1. Recognition**

Whenever used in the Agreement, the word "employee(s)" refers to a person or persons actively and regularly engaged in SAU work or enrolled on the regular payroll of the SAU of the City of Portsmouth, N.H.

#### **2. Bargaining With Individual Employees**

The CSU agrees for itself and its members that no member individually will bargain with the School Board or any of its authorized agents on matters pertaining to wages, hours of work, working conditions, and transfers or promotions.

The District agrees for itself and any of its authorized agents that it will not bargain with an individual employee on matters pertaining to wages, hours of work, working conditions, and transfers or promotions in accordance with the provisions of Chapter 273-A (PELRB).

#### **3. Management's Rights**

It is understood that the SAU shall have the exclusive control of its operation. Nothing in this agreement shall be deemed to limit the SAU in anyway in the exercise of the regular and customary functions of management, including the direction of the working forces, the establishment or methods of operation, the establishment of plans for efficiency, the adoption and maintenance of engineering standards, and the right to select or employ supervisory employees and their assistants, except as specifically and

expressly limited by any of the provisions of this agreement.

#### **4. CSU Rights**

It shall be the right of the CSU to present and process grievances for its members whose wages, working conditions or status of employment are changed as a result of management's exercising the above mentioned rights, whenever such grievances exist in accordance with the provisions of Chapter 273-A:XII (PELRB).

#### **5. Holidays**

Regular, full-time employees shall be paid the following legal holidays. Should a holiday fall on a Sunday, it will be celebrated on Monday. Should a holiday fall on a Saturday, the preceding Friday will be considered the holiday. All regular, full-time employees shall be paid for this day. The following shall be designated as holidays.

Independence day	*1/2 day before Christmas
Labor Day	Christmas Day
Veterans' Day	Day after Christmas Day
*1/2 day before Thanksgiving	Day before New Year's Day
Thanksgiving Day	New Year's Day
Day after Thanksgiving	Memorial Day
Martin L. King Day	

\* The SAU agrees to grant one-half a day before Thanksgiving Day and Christmas Day when the School Department is in session one-half day before Thanksgiving Day and Christmas Day, provided it is not a regular school day. Beginning with the 2003-04 school year, Columbus Day will be designated as a holiday in any year that is not a regular school day.

#### **6. Holiday Pay**

Holiday pay shall be granted if an employee reports for work on the last regularly scheduled work day prior to the holiday and the first regularly scheduled work day after the holiday, provided the absence from work for legitimate reasons, excluding sickness, will not be grounds for denying holiday pay.

#### **7. Holiday Pay (Overtime)**

All hours paid on a holiday shall be counted as hours worked when computing overtime.

**8. Holiday Pay (While on Leave)**

If a holiday occurs while an employee is on paid leave, the employee shall be granted an extra day. This day may be taken at any time during the year with sufficient notice, subject to the approval of the Building Principal.

**9. Vacations**

All full-time employees shall receive a paid vacation. Length of service on the chart below will be measured as of the July 1 prior to the employee's actual date of hire. For example an employee whose first day of work for the District was September 20, 1998 will be deemed to have completed six years of service for vacation purposes on July 1, 2004. District seniority within the building shall be the determining factor in selection of vacation time. Vacation pay will be based on an employee's regular rate of pay using the following schedule.

After 6 Months	5 days
1 Year - 5 Years	10 days
6 Years - 10 Years	15 days
11 Years - 15 Years	20 days
16 Years - 24 Years	25 days
25 Years and Beyond	30 days

All bargaining unit members employed on July 1, 2003 will move into this schedule without losing days from old schedule and will complete the transition by June 30, 2008. Bargaining unit members whose first day of work was after July 1, 2003 will be on the schedule immediately.

Employees hired into the district as of July 1, 2015 will follow the schedule below:

<u>After 6 Months</u>	<u>5 days</u>
<u>1 Year - 5 Years</u>	<u>10 days</u>
<u>6 Years - 10 Years</u>	<u>15 days</u>
<u>11 Years - 15 Years</u>	<u>20 days</u>
<u>16 Years and beyond</u>	<u>25 days</u>

**10. Vacation Accumulation**

Vacation accumulation is not to exceed forty (40) days.

**11. Vacation Notification**

Vacation may be taken at any time during the year with sufficient notice subject to the approval of the SAU.

The SAU agrees to notify each employee, in writing, of accumulated vacation leave days once a year in the month of July.

#### **12. Pre-Paid Vacation**

Employees are entitled to a prepaid vacation with a notice of one (1) week to the pay period.

#### **13. Vacation Termination**

Upon his termination of employment, the SAU shall pay to the employee an amount equal to one hundred percent (100%) of vacation leave earned prior to the date of termination of employment.

Upon the death of an employee while in the employment of the SAU, the SAU shall pay to that employee's estate an amount equal to one hundred percent (100%) of earned vacation leave.

#### **14. Promotions, Transfers and Postings**

The SAU reserves the right and shall have the right to make promotions and transfers primarily on the basis of ability, performance, attitude, and appearance but shall be governed by seniority when equal qualifications are present.

All employees who are successful candidates for a vacancy or new job will be given a reasonable opportunity to learn that job.

When a question arises as to the proper person having been chosen to fill any job and it cannot be resolved, it will be settled by using the grievance procedure.

All unit vacancies and new jobs that are to be filled shall be posted no later than five (5) days after the School Board has met in regular session after said vacancies or new jobs have occurred.

Custodial Supervisors will keep custodians who are supervised by them informed of any openings or transfers that occur in the Portsmouth School Department.

These vacancies and new jobs shall be posted for five (5) working days in each school to allow employees the opportunity to apply for said position. All vacancies and new jobs must be filled within thirty (30) working days after the expiration of the posting period.

After the position is awarded, the name of the person who has been awarded the position shall be posted for five (5) working days. Any candidate who has applied for the posted position may, in writing, request a meeting with the Building Principal and Personnel Director to discuss the reason(s) why he/she was not selected. Said meeting should take place no later than five (5) working days after the written request has been received.

The CSU members shall receive copies of all unit vacancies and new jobs. If vacancies or new jobs are not to be filled or cannot be filled, the SAU shall notify the CSU members no later than thirty-five (35) work days after the position was posted or if the School Board, prior to posting, decides not to fill said vacancy or new position.

Job Elimination - It is understood that an employee may not bump an employee in a higher job category.

#### **15. Job Posting**

Job posting shall include job specifications, job location, shift and hours, if the job is permanent with a permanent rating. All postings are to be dated, indicating month, day and year.

The above procedure shall be followed in all transfers and vacancies whether temporary or permanent.

The SAU agrees to assign employees to the school nearest the employee's residence whenever it is feasible and in the best interest of the School Board. Assignment will be based on employee's seniority.

After an award has been made concerning new jobs and vacancies, the name of the person, job location, shift, and/or hours shall be posted for five (5) working days. This also applies when the School Board goes outside to fill the above-mentioned jobs.

#### **16. Non-Selection**

Employees who apply for new jobs, promotions, transfers and vacancies who are not selected, may request a meeting with the Building Principal and Personnel Director in writing to discuss reasons for the non-selection. Said meeting shall be held within five (5) working days.

#### **17. Management Positions**

Vacancies in management positions shall be posted in each school to allow employees the opportunity to bid on such positions.

## **18. Disciplinary Procedures**

All disciplinary actions shall be applied in a fair manner and shall be consistent with the infraction for which disciplinary action is being applied.

All suspensions and discharges must be in writing with reasons stated and a copy given to the employee.

Disciplinary action shall follow this order:

- A. Verbal warning
- B. Written warning
- C. Suspension without pay (five (5) days maximum)
- D. Discharge

However, the above sequence need not be followed if an infraction is sufficiently severe to merit immediate suspension or discharge, including but not limited to the following reasons:

- (a) Misconduct during employment
- (b) Incompetency or inefficiency
- (c) Failure to perform assigned duties
- (d) Disobedience to his superior
- (e) Failure to observe rules and regulations
- (f) Incompatibility with other employees
- (g) Unauthorized absence from duty
- (h) Being under the influence of liquor or illegal drugs while on duty
- (i) Drinking intoxicating beverages and using illegal drugs on duty
- (j) Falsifying sickness or any other cause of absence

## **19. Just Cause**

No employee shall be penalized, disciplined, suspended, reprimanded, adversely evaluated, reduced in rank or compensation, or deprived of any advancement without just cause.

## **20. Written Reprimand**

The personnel record of an employee will be cleared of a written reprimand after a period of one (1) year from the date of the reprimand, provided there are no similar infractions committed during the intervening period. However, if the discipline involves misconduct of any type against a minor, the document shall remain in the personnel file.

## **21. Suspension Notices**

The personnel record of an employee will be cleared of suspension notices after a period of two (2) years from the date of suspension provided no similar infractions have been committed during the intervening period. However, if the discipline involves misconduct of any type against a minor, the document shall remain in the personnel file.

## **22. Grievance Procedure**

22.1 A grievance for the purpose of this Agreement is a complaint against the employer by an employee with respect to the meaning and/or application of a provision of this Agreement.

22.2 A grievance must be filed within fifteen (15) working days of its occurrence or when the employee, by reasonable diligence, should have known of its occurrence. Grievances shall be processed in the following manner:

- A. An employee (or the Union) who has a grievance shall discuss the grievance with his steward. An initial meeting will be held among the employee, a Union representative, and the Building Principal for the purposes of determining if the matter can be resolved informally.
- B. If an employee is not satisfied with the informal resolution of the matter, a grievance may be filed with the business Administrator within five (5) working days after the meeting with the Building Principal. The grievance shall be in writing and on an official grievance form. The Business Administrator shall meet with the Building Principal, employee, and the Union representative and render a decision in writing within five (5) days after the meeting.
- C. An unfavorable decision in Step B may be appealed in writing within five (5) working days to the Superintendent of Schools. The Superintendent of Schools shall have four (4) working days to render a decision in writing. The parties agree to accept the Superintendent of Schools decision as final and binding.
- D. By mutual agreement of the parties, the above time limits may be extended to any step and may be by passed for failure to respond.

## **23. Seniority**



An employee's seniority shall commence with his/her date of hire and shall continue for as long as he/she is employed by the SAU.

An employee shall not forfeit seniority for absences caused by the following:

- (a) Illness resulting in total/temporary disability due to his/her regular work with the School Board, certified by an affidavit from the worker's compensation carrier.
- (b) Illness not the result of misconduct resulting in total/temporary disability certified by a physician.
- (c) Duty with the Armed Forces.

#### **24. Promotions, Transfers, Layoffs, Vacations and Overtime**

Seniority, ability, attitude and performance shall be determining factors in promotions and transfers. Seniority alone shall be the determining factor in layoffs, vacations and overtime. A three (3) week notice by certified mail shall be sent to any employee to be laid off.

#### **25. Seniority (Definition)**

Seniority shall be defined as having priority over or being given preference because of continuous years of employment as a custodian. In no case will seniority be forfeited or accrued while on layoff or approved leaves of absence.

#### **26. Seniority List**

The SAU agrees to establish and keep up to date a seniority list by district. This list shall be posted once a year in July.

#### **27. Seniority/Forfeited**

Seniority is forfeited by voluntary resignation, discharge for just cause and retirement.

#### **28. Re-Employment List**

The person with the most seniority will be hired back first. All employees who have been laid off will be kept on a re-employment list for a minimum of two years. Qualified and available permanent employees shall be reinstated before new employees are hired.

An employee who is offered a regular full-time job and does not accept recall shall be dropped from the reemployment list. Employees offered reemployment shall have two (2) weeks to decide upon the offer and must be ready to start work within two weeks of notifying the School Department of acceptance unless the parties agree otherwise in a specific instance.

### **29. Sick Leave Days (Accumulation)**

Sick leave without loss of pay or fringe benefits shall be computed at the rate of 1 1/4 days per month or 15 days per year and may be accumulated without limitation. For employees hired after 1/1/90 accumulation to be limited to 150 days. It will be credited to an employee's record only after earned. For employees hired into the district after July 1, 2015, sick leave without loss of pay or fringe benefits shall be computed at the rate of 1 day per month or 12 days per year.

### **30. Sick Leave (Pay Back)**

The School Board agrees to pay 60% of the accumulated sick days (in a cash payment at their present per diem rate) to any employees who terminates employment with the School District, so long as the employee has been employed in the system for ten (10) or more years, the only exception being if an employee is discharged for just cause. In all cases, prior notice of termination or retirement must be given a year in advance of that termination or retirement.

Employees hired after July 1, 1996 shall not receive any sick leave payout upon termination, retirement, layoff, or death.

Employees seeking payment under this Article shall notify the Superintendent by the first of January prior to their last year of work in order to receive severance pay at retirement. If the employee complies with this notice, severance pay will be payable on or after July 1 of the year in which the notice is given. If the employee does not so notify the Superintendent, he/she will receive severance pay no later than the fiscal year following his/her retirement.

### **31. Sick Leave (Notification)**

The School Board agrees to notify each employee in writing of accumulated sick leave days once a year in the month of July.

**32. Sick Leave and Vacation (Overtime)**

Paid sick leave taken and vacation shall not be counted as hours worked when computing overtime.

**33. Sick Leave (Medical or Dental)**

Sick leave shall be used for medical or dental appointments during working hours. Employees shall be charged for actual time absent.

**34. Sick Leave (Call In)**

All employees shall call in at least ~~one~~two hour prior to shift starting time if they are taking a sick day. This does not apply in cases of emergency.

**35. Bereavement Leave**

In addition to sick leave, bereavement leave will be granted, as follows:

Up to three (3) days

- brother-in-law
- sister-in-law
- grandparents
- aunt or uncle
- niece or nephew
- blood relative or ward residing in the same household

Up to five (5) days

- parents
- sister
- brother
- parent-in-laws

Up to seven (7) days

- Husband, wife or civil union partner
- children

Extensions may be granted by application and approval of the Superintendent.

**36. Personal Days**

All employees shall be entitled to ~~three (3) non-accumulative personal days per year. Employees with five (5) years or more of service to the School District will be eligible for four (4) non-accumulative personal days per year.~~ Five (5) non-accumulative personal days per year. Permission to use these days is subject to the approval of

the Building Principal, with a copy sent to Personnel 24 hours prior to taking, except in the case of an emergency.

Effective on July 1, 2009, eligible members will be entitled to two (2) additional personal days for the 2009-10 contract year only. This is a one-time only increase in personal days and will not carry forward into 2010-11. The additional personal days may not be carried forward or cashed out under any circumstances.

### **37. National Guard/Armed Reserves Leave**

An employee called to serve a training tour of duty or for emergency (floods, hurricanes, riots, etc., or upon the call of the Governor of the State of New Hampshire) with the National Guard or Armed Reserves will suffer no loss of pay or fringe benefits and will be paid the difference between the fee received for such service and the amount of straight time earnings lost by reason of such service. Reimbursement under this section shall not exceed four weeks per employee per year.

### **38. Civil Leave for Juror or Witness Service**

Employees who are subpoenaed as witnesses in a civil or criminal case, or who are called for service on a jury, will be granted paid leave for the period of time they are unable to report to work. The employee shall transmit any monies received from such assignment, other than those paid for personal expenses (e.g., travel) to the School Board.

All time spent while serving on jury duty shall be counted as hours worked.

### **39. Leave Of Absence**

A leave of absence may be granted without pay or benefit, with the written approval of the Superintendent and the School Board after an employee has been employed for at least three years.

### **40. Normal Work Week**

The normal work week shall consist of any five consecutive days, Monday through Saturday. The normal work day shall consist of any eight consecutive hours within a 24 hour period, exclusive of 1/2 an hour for lunch period for the day shift and 1/2 an hour for the night shift employees. By mutual agreement between the principal and the employee, a work week of four 10-hour days may be implemented during the summer school vacation.

#### **41. Work Schedule Change**

In the event that it is necessary to change the work schedule in effect, it may be changed provided a two (2) weeks notice is given in advance to those employees affected, stating the duration of the change. This shall not apply in an emergency situation. Any changes not covered by this section, hereof, shall be by agreement of the parties.

#### **42. Avoid Payment Of Overtime**

The SAU agrees that the employee's normal work day or normal work week shall not be interrupted to avoid payment of overtime.

#### **43. Evaluations**

All employees covered by this agreement shall have a conference with their supervisors to explain their evaluations. After that conference, both the employee and the supervisor are to initial the evaluation and, if it is desired, either may at that time indicate and attach any substantial agreement or disagreement with that which is written. Such initials shall indicate only that the evaluation has been read and in no way indicates agreement. Upon notice, employees shall have the right to review and reproduce material in their personnel files.

#### **44. No Strike Clause**

There shall be no strikes of any kind, stoppage of work, slowdowns or any kind of interference with or interruptions of the SAU's business by the CSU or its members. There shall be no lockout, partial or total, by the SAU as provided in Chapter 273-A:3 (PELRB).

#### **45. Stability Of Agreement**

Should any article, section, portion thereof of this Agreement be in violation of a State law or be held unlawful and unenforceable by any court of competent jurisdiction, such decision of the court shall apply only to the specific article, section, or portion thereof directly specified in the decision; upon issuance of such a decision, the parties agree immediately to negotiate a substitute for the invalidated article, section or portion thereof.

#### **46. Work Breaks**

Coffee breaks or other similar breaks shall be granted to all employees covered by this agreement for a fifteen (15) minute period during each four consecutive hours of work.

#### **47. Overtime**

All employees shall receive time and a half for all hours worked over forty in any one week. Employees who are requested to work on Sundays for non-school related work (non-school related work is when the school department will receive reimbursement from another party for the custodians'

hours) shall be paid two times their regular hourly rate of pay.

#### **48. Call-In Time**

When employees are called in to work outside their regularly scheduled working hours, they shall be paid a minimum of three (3) hours at time and one-half their regular hourly rate.

#### **48A. Week-End Building Checks**

Employees scheduled by the Principal or the Business Administrator to check the building over the week-end shall be paid a minimum of 3 hours of overtime for the week-end (6 hours at the High School).

#### **49. Safety**

The SAU shall have the right to make regulations for the safety and health of its employees during their hours of employment.

#### **50. Proper Care**

The Union and its members agree to exercise proper care and to be responsible for all School Board property issued or entrusted to them.

#### **51. Personnel File**

No written material concerning an employee's conduct, service, character or personality while on the job shall be placed in the employee's personnel file unless the employee has had an opportunity to read and initial the actual copy to be filed with the understanding that such signature merely signifies that the material has been read and in no way indicates agreement.

#### **52. Clothing Allowance/Shoe Allowance**

Seven (7) new sets of uniforms will be furnished by the School Board at its expense for all employees covered by this Agreement, including two (2) sets of summer uniforms (shorts and polo shirts). The School Board will replace said uniforms no later than 30 days after request to replace. No later than 30 days after the completion of the probation period or as soon as possible thereafter employees will be issued new uniforms. Upon termination each employee must return all uniforms. The School Department will provide eighty dollars (\$80.00) annually for work boots/shoes/sneakers effective July 1, 2004. The School Department shall have the right to establish the specifications for boots/shoes/sneakers purchased under this section.

### **53. Special Clothing**

Special clothing will be issued upon the request of a custodian if approved by the Building Principal.

### **54. Retirement**

All employees covered by this agreement shall participate in the New Hampshire State Employee's Retirement System in accordance with its terms.

### **55. Credit Union**

As an additional service, all employees are entitled to participate in the Portsmouth Northeast Federal Credit Union.

### **56. Bulletin Boards**

The School Board shall provide space for bulletin boards for the posting of notices of the SAU addressed to the employees and notices of the Union addressed to its members.

### **57. Non-Contracting Service Clause**

The School Board agrees that work or services presently performed shall not be subcontracted, transferred, leased, assigned, or conveyed, whole or in part, to any other agency, person, private contractor, or non-unit employee, where such work or services can be performed by present employees. The Association understands that the School Board's position is that this clause is not legally enforceable and in the event the School Board successfully attacks the validity or enforceability of such a clause in another school department labor agreement, through litigation, the association agrees to be bound by the final decision.

#### **58. Related To Another Employee**

No employee related to another employee shall work in the same building if one of the employees is in a supervisory capacity.

#### **59. Copy Equipment**

The SAU agrees to allow the use of its copying equipment to members of the CSU unit when the purpose is to provide notices and information to its members. This work will be

performed with prior approval by the building administrator and at a time designated by that administrator, and the materials are to be supplied by the CSU.

#### **60. Copies**

The SAU agrees to provide each custodial supervisor unit member with a copy of this agreement within 30 days of signing. The SAU agrees to further provide each custodial supervisor with a copy of the contract between the SAU and the custodian unit.

#### **61. Benefits (Maintenance of)**

Nothing in this agreement, either by inclusion or exclusion, shall be so interpreted as to limit any benefits now enjoyed by the custodial Supervisors.

#### **62. Emergency Definition**

For the purpose of the agreement, an emergency shall be defined as an unexpected event or happening.

#### **63. School Building**

The SAU agrees that the bargaining unit and its representatives may have permission to use a designated room with sufficient prior notice, in a school building to conduct general meetings at reasonable hours.

#### **64. Bonding Of Employees**

The SAU agrees that the bonding of custodial supervisors shall remain at the present level throughout the duration of this AGREEMENT.

#### **65. Blue Cross/Blue Shield**

The School Board shall pay provide health insurance for individual, two person, or family coverage for full-time employees. ~~The health insurance will be BC/BS Plan COMP-100~~



~~with a Managed Care rider or Blue Choice One (1) or Matthew Thornton as available through the NHMA Health Insurance Trust or equal and comparable coverage to said plans. Said plans shall include at least \$1,000,000.00 life time coverage. Employees will be allowed to choose annually between plans prior to the beginning of each plan year. Employees choosing to change their plan must notify the School Department in writing by April 1 prior to the start of the new plan year on an appropriate form to be filed with the insurer.~~

~~Effective July 1, 2008 the employee's cost will be nineteen percent (19.0%) of the premium and the Board will pay eighty-one percent (81.0%). On July 1, 2010, the employee's cost will be twenty percent (20.0%) of the premium and the Board will pay eighty percent (80.0%)~~

~~The employees shall pay the following percentage of the cost of premiums so long as Matthew Thornton's cost remains at least 5% below the Blue Choice premium. If the premium for Matthew Thornton is not at least 5% below the Blue Choice premiums the employee and employer's percentage cost of the premiums shall be the same as those for Comp 100-MC and Blue Choice as set forth below:~~

~~\_\_\_\_\_ Employee Percentage \_\_\_\_\_~~

<del>2008-09</del>	<del>15.0%</del>
<del>2009-10</del>	<del>15.0%</del>
<del>2010-11</del>	<del>15.5%</del>
<del>2011-12</del>	<del>15.5%</del>
<del>2012-13</del>	<del>15.5%</del>
<del>2013-14</del>	<del>15.5%</del>

~~Effective July 1, 2009 or as practicable thereafter, the District may offer two (2) additional optional plans based upon Blue Choice One and Matthew Thornton plans with premium share as described above. Co-pay shall be twenty dollars (\$20.00) for office visits, one hundred dollars (\$100.00) for emergency room visits, and \$10/\$20/\$30 for 30-day retail or 90-day mail order prescriptions.~~

~~Employees will have the option of choosing between the POS, HMO or Open Access plan offered through SchoolCare. The employee's will pay fourteen (14%) of the plan and the School Department will pay eighty-six (86%) of the plan.~~

Starting on July 1, 2016, the City will offer full-time employees only the Consumer Driven Health Plan (CDHP) issued by Cigna Insurance under its SchoolCare Plan of the New Hampshire School Health Care Coalition. The employee's premium cost share for the CDHP (single, 2-person or family option) will be 5% of the total premium. The City's premium cost share will be 95% of the total premium. If, at any time, the cost of the CDHP exceeds the threshold level(s) for assessment of the Cadillac Tax under the ACA, the parties will immediately reopen the contract on the issue of health insurance only, for the purpose of selecting a replacement plan that does not exceed the threshold level(s) for assessment of the Cadillac Tax under the ACA. If the parties are not able to agree on a replacement plan, the City's total contribution to health insurance coverage (including premiums, additional taxes assessments) will not exceed the current threshold levels for assessment of the Cadillac Tax under the ACA (\$10,200 for single plan and \$27,500 for a two person/family plan).

The Association agrees to participate in a City-wide committee to explore health insurance options.

Should the parties agree in writing to establish a cafeteria style plan dealing in insurance issues during the course of this five (5) year agreement such plan would only become effective if ratified by the Association, approved by the School Board and approved by the City Council.

The Board need not provide coverage under Blue Cross/Blue Shield if the employee is already covered under the same plan or a plan with equal benefits. If an employee is found to have dual coverage, the employee must pay back to the Board an amount equal to the premiums paid by the Board during this time.

Effective as soon as possible after final approval of this contract, the School Board will offer employees the option of participating in an IRS 125 Plan (premium conversion plan) so employees may pay their portion of the premium with pre tax dollars (applicable to co-pay attributed to 95 if possible).

#### **66. Long Term Disability**

The Board will purchase income protection insurance for each employee to begin on the 91st day of disability in an amount equal to 66 2/3%, up to \$1200.00, of the monthly salary of the employee at the date of disability. Said insurance

shall run until age 65 and shall be coordinated with Social Security benefits.

#### **67. Life Insurance**

The School Board shall purchase one hundred percent (100%) of term life insurance for all employees, equal to twice the annual income of each employee. It is understood that employees age 70 and over will have their benefits reduced in accordance with the Certificate Schedule attached.

#### **68. Delta Dental**

SAU agrees to provide ~~Delta Dental~~ Cigna (Plan One - see Appendix A) or an equivalent plan and to pay one hundred percent (100%) of the premium cost for single, two-person, or family plan.

#### **69. Liability Insurance**

The School Board shall save harmless all employees from financial liability arising out of any claim suit, criminal prosecution or judgment against them because they are an employee of the School Board or because of an act taken by them in the course of their employment.

The above shall not apply in cases where an employee is guilty of gross negligence or gross irresponsibility. An employee who has been found guilty of gross negligence or gross irresponsibility by the employer may appeal such decision through the grievance procedure. Should said appeal find in favor of the employee, the employer shall make the employee whole in terms of all financial liability or loss and all costs related to the alleged negligence or irresponsibility and the subsequent appeal.

#### **70. Unemployment Compensation**

All unit employees shall be covered by the State of New Hampshire Unemployment Compensation Act, as provided in Chapter 348 and all amendments thereafter.

#### **71. Worker's Compensation**

Worker's Compensation benefits will be provided as specified in the New Hampshire Statutes. In cases where an employee is on total disability, the School Board shall pay to the employee the difference between the Worker's Compensation benefit and the employee's take-home pay. In accordance with past practice an employees accumulated sick leave time shall

be used to pay the supplemental pay to make up the difference in the Worker's Compensation benefit and the employees take home pay.

In no event shall such payments exceed fifty-two (52) weeks.

## 72. Wages And Salary Guide

All Custodial Supervisors will be paid in accordance with the following schedule.

All Custodial Supervisor's base pay will be the highest base pay of a custodian plus \$.40 (forty cents) per hour effective July 1, 2003. Effective July 1, 2010, the differential shall be \$0.45; on July 1, 2011, \$0.50; and on July 1, 2012, \$0.55.

Custodial Supervisor's Merit Pay Schedule:

1 to 3 years a supervisor in the Portsmouth School  
Dept. - \$0.~~10~~ 20per hour

3 to 6 years a supervisor in the Portsmouth School  
Dept. - \$0.~~15~~ 25per hour

~~Over~~ 6 to 15 years a supervisor in the Portsmouth  
School Dept. - \$0.~~20~~ 30per hour.

Over 15 years as a supervisor in the Portsmouth School  
Dept. - \$0.50 per hour.

An employee will only receive merit pay if his/her most  
recent performance evaluation is acceptable or better.

The pay schedule for the High School Lead Custodian shall increase by \$0.50 on July 1, 2010 and by \$0.50 on July 1, 2011.

### COLA Adjustment

Effective July 1, 20~~08~~15, and each July 1 of each year from July 1, 201~~05~~5 through June 30, 201~~38~~8 a COLA adjustment percentage increase shall be computed which shall not be less than 2% nor more than 5%.

The COLA adjustment percentage shall be determined by the ten (10)-year rolling average in the CPI-U for the Boston-Brockton-Nashua --MA-NH-ME-CT all items index as computed by the Bureau of Labor Statistics of the U.S. Department of Labor for the most recent calendar year preceding the July 1

adjustment. BLS's calendar year for this index is November through November. It is not published on a December to December basis. The reference base is 1982-1984 equals 100 until BLS updates the reference base at which time the parties agree to adopt the official reference based as used by BLS.

*Thus if the ten (10)-year rolling average for the CPI-U for the Boston SMSA calendar year is 1.5% the applicable COLA adjustment would be 2%; if it is 3.5% the applicable COLA adjustment would be 3.5%; if it is 5.5% the applicable COLA adjustment would be 5%.*

Applicability After Contract Expires: It is clearly understood that in the event that the ~~six-three~~ year Working Agreement expires without a successor Working Agreement being settled prior to July 1, 201~~4~~8, that no further COLA adjustments after July 1, 201~~3~~7 will be generated under the Working Agreement even though the Working Agreement has an evergreen clause. It is further agreed that continuation of COLA adjustments are not to be deemed "status quo" as the term has been used by the PELRB in the event that a successor agreement has not been settled by July 1, 201~~4~~8.

### 73. Longevity

Longevity will be paid in accordance with the following schedule:

	<u>July 1, 2015</u>	<u>July 1, 2016</u>
After 5 years	<u>\$525 600</u>	<u>\$700</u>
After 10 years	<u>\$625 700</u>	<u>\$800</u>
After 15 years	<u>\$725 800</u>	<u>\$900</u>
After 20 years	<u>\$825 900</u>	<u>\$1,000</u>
After 25 years	<u>\$925 1,000</u>	<u>\$1,100</u>

Increasing by - \$150 for each additional five years of service.

This will be paid in a separate check on the first payday in August.

Longevity is based on years of employment with the SAU in any full time capacity.

### 74. Mileage

Employees required or requested to use their personal vehicles in the course of their duty, shall be reimbursed at the minimum rate of 31.5 cents per mile. The rate for

mileage shall increase based on the IRS justifiable mileage rate as set by that agency. Mileage payments shall be paid in agreement with the Business Office.

**75. Collective Bargaining Procedure**

Any party desiring to bargain shall serve written notice of its intention on the other party at least one hundred twenty (120) days prior to May 16th.

The parties agree to enter into negotiations no later than the third week of January, if possible, to reach agreement on salaries, fringe benefits and other conditions of employment, pertinent to the provisions of N.H. RSA 273-A.

**76. Duration Of Agreement**

SAU agrees to a ~~six~~three (63) year AGREEMENT. This agreement shall be in full force and effect from July 1, 200815 through June 30, 20148 and shall continue from year to year thereafter unless written notice of desire to cancel or terminate the Agreement is served by either party upon the other at least one hundred twenty (120) days prior to the date of expiration as provided in Chapter 273-A:3:11.

A (PELRB). Where no such cancellation or termination notice is served, and the parties desire to continue this Agreement but also desire to negotiate changes or revisions in this Agreement, either party may serve upon the other a notice at least one hundred twenty (120) days prior to budget submission date, as provided in Chapter 273-A:3:11 (PELRB), advising that such a party desires to revise or change terms or conditions of such Agreement and specifies the articles to be renegotiated. The Agreement shall remain in full force and effect until such changes and revisions have been agreed upon.

SIGNATURES

EXECUTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 200915.

PORTSMOUTH SCHOOL DISTRICT

CSU OF THE PORTSMOUTH  
SCHOOL DEPARTMENT

~~Mitchell Schuldman~~Leslie Stevens, Chair  
School Board

~~Dr. Robert Lister~~Stephen Zadavec  
Ashley  
Superintendent of Schools

Arthur

Steve Barlett  
Business Administrator

Edward O'Connell

Thomas ~~Flygare~~Closson  
City Negotiator

**APPENDIX A  
YOUR DENTAL CARE BENEFITS:**

Your dental plan is comprehensive. It will pay the following percentage of your bill for all dental procedures covered by the plan.

	Paid by Delta	Paid by Patient
<b>COVERAGE A:</b>		
Diagnostic – Initial Examination; Examinations to ..... determine the required dental treatment once in a 6-month period; X-Rays – Full Mouth/Panorex X-Rays once in a 3-year period; Bitewing X-Rays once each 12-month period; Periapical X-Rays as necessary	100%	0%
Preventive – cleaning once in a 6-month period; ..... Fluoride once in a 12 month period (age limit 19); Space Maintainers	100%	0%
<b>COVERAGE B:</b>		
Restorative – Amalgam, Silicate and Acrylic ..... restorations	60%	40%
Oral Surgery – Extractions .....	60%	40%
Endodontics – Pulpal therapy; root canal filling .....	60%	40%
Periodontics – Treatment of gum disease .....	60%	40%
Denture Repair – Repair of removable denture ..... to its original condition	60%	40%
Palliative – Emergency treatment .....	60%	40%
<b>COVERAGE C:</b>		
Prosthetic – Bridges, partial and complete ..... dentures, rebase and recline, crowns, inlays and onlays	50%	50%

**EXCLUSIONS:**

Services which are not covered by your plan include orthodontics, cosmetic dentistry, equilibration, analgesias, plaque control programs, sealants, myofunctional therapy, implantology, prescription drugs, and treatment of temporomandibular joint dysfunctions.

**MAXIMUM:**

The maximum amount which your plan will pay is \$750.00 per person per Contract Year.



**INDEX**

APPENDIX A.....23

    Avoid Payment of Overtime ..... 13

    Bargaining With Individual Employees ..... 2

BENEFITS (*Maintenance of*) ..... 16

    Bereavement Leave ..... 11

    Blue Cross/Blue Shield ..... 16

BONDING OF EMPLOYEES ..... 16

BULLETIN BOARDS ..... 15

    Call-In Time ..... 14

    Civil Leave for Juror or Witness Service ..... 12

    Clothing Allowance/Shoe Allowance ..... 14

    COLA Adjustment ..... 19

COLLECTIVE BARGAINING PROCEDURE ..... 21

COPIES ..... 16

COPY EQUIPMENT ..... 15

CREDIT UNION ..... 15

    CSU Rights ..... 3

    Delta Dental ..... 18

DISCIPLINARY PROCEDURES ..... 6

DURATION OF AGREEMENT ..... 21

EMERGENCY DEFINITION ..... 16

EVALUATIONS ..... 13

GRIEVANCE PROCEDURE ..... 8

    Holiday Pay (Overtime) ..... 3

    Holiday Pay (While on Leave) ..... 4

    Holiday Pay ..... 3

HOLIDAYS .....	3
INSURANCE .....	16
Job Posting .....	6
Just Cause .....	7
LEAVE OF ABSENCE .....	12
LEAVES .....	10
Liability Insurance .....	18
Life Insurance .....	18
Long Term Disability .....	18
LONGEVITY .....	20
Management Positions .....	6
Management's Rights .....	2
MILEAGE .....	21
National Guard/Armed Reserves Leave .....	12
NO STRIKE CLAUSE .....	13
NON-CONTRACTING SERVICE CLAUSE .....	15
Non-Selection .....	6
Normal Work Week .....	12
Notification .....	10
OVERTIME .....	13
Personal Days .....	11
PERSONNEL FILE .....	14
Pre-Paid Vacation .....	4
PROMOTIONS, TRANSFERS AND POSTINGS .....	5
Promotions, Transfers, Layoffs, Vacations and Overtime ..	9
PROPER CARE .....	14
Proper Care .....	14

RECOGNITION .....	2
Re-Employment List .....	9
RELATED TO ANOTHER EMPLOYEE .....	15
RETIREMENT .....	15
SAFETY .....	14
SCHOOL BUILDING .....	16
SENIORITY .....	9
Seniority (Definition) .....	9
Seniority Forfeited .....	9
Seniority List .....	9
Sick Leave - Pay Back .....	10
Sick Leave (Call In) .....	11
Sick Leave (Medical or Dental) .....	10
Sick Leave (Overtime) .....	10
Sick Leave Days (Accumulation) .....	10
SIGNATURES .....	21
SPECIAL CLOTHING.....	15
Stability of Agreement .....	13
STABILITY OF AGREEMENT .....	13
Suspension Notices .....	7
Unemployment Compensation .....	19
Vacation Accumulation .....	4
Vacation Notification .....	4
Vacation Termination .....	5
VACATIONS .....	4
WAGES AND SALARY GUIDE .....	19
WITNESSETH .....	2

Work Breaks .....	13
Work Schedule Change .....	12
Worker's Compensation .....	19
WORKING AGREEMENT .....	2
Written Reprimand .....	7



Attorneys at Law

Jackson Lewis P.C.
100 International Drive
Suite 363
Portsmouth, New Hampshire 03801
Tel 603 559-2700
Fax 603 559-2701
www.jacksonlewis.com

Representing Management Exclusively in Workplace Law and Related Litigation

- ALBANY, NY
ALBUQUERQUE, NM
ATLANTA, GA
AUSTIN, TX
BALTIMORE, MD
BIRMINGHAM, AL
BOSTON, MA
CHICAGO, IL
CINCINNATI, OH
CLEVELAND, OH
DALLAS, TX
DAYTON, OH
DENVER, CO
DETROIT, MI
GRAND RAPIDS, MI
GREENVILLE, SC
HARTFORD, CT
HOUSTON, TX
INDIANAPOLIS, IN
JACKSONVILLE, FL
LAS VEGAS, NV
LONG ISLAND, NY
LOS ANGELES, CA
MEMPHIS, TN
MIAMI, FL
MILWAUKEE, WI
MINNEAPOLIS, MN
MORRISTOWN, NJ
NAPA, CA
NEW ORLEANS, LA
NEW YORK, NY
NORFOLK, VA
OMAHA, NE
ORANGE COUNTY, CA
ORLANDO, FL
PHILADELPHIA, PA
PHOENIX, AZ
PITTSBURGH, PA
PORTLAND, OR
PORTSMOUTH, NH
PROVIDENCE, RI
RALEIGH-DURHAM, NC
RAPID CITY, SD
RICHMOND, VA
SACRAMENTO, CA
SAINT LOUIS, MO
SAN DIEGO, CA
SAN FRANCISCO, CA
SAN JUAN, PR
SEATTLE, WA
STAMFORD, CT
TAMPA, FL
WASHINGTON, DC REGION
WHITE PLAINS, NY

TO: John P. Bohenko and Members of the Portsmouth City Council
FROM: Thomas M. Closson
DATE: September 15, 2015
RE: Tentative Agreement – Association of Portsmouth School Administrators

On August 25, 2015, the School District’s negotiating team reached a tentative agreement (“the TA”) with the Association of Portsmouth School Administrators. The School Board has approved the TA, and I am now pleased to recommend it to you.

The TA includes the following significant provisions:

- Three year duration (to June 30, 2018).
- Continue annual COLAs based on the rolling 10-year average CPI-U, between 2% and 5%.
- Continue annual adjustments to longevity and travel stipends based on the rolling 10-year average CPI-U, between 2% and 5%.
- Adopt the longevity and advanced degree stipend schedules from the 2013–2014 school year of the Portsmouth Teachers’ CBA.
- Add “Administrators serving on the Teacher Quality Panel (TQP) will be paid an annual stipend of \$3,000, to be paid at the same time and in the same manner as TQP stipends are paid to Portsmouth teachers.”
- Add the following additional language to address the Cadillac Tax – “If the cost of the CDHP exceeds the threshold levels for assessment of the ‘Cadillac Tax’ under the ACA, the Employer and the Association will immediately reopen the contract on the issue of health insurance only, with the express intent of identifying a healthcare plan that complies with the ACA and does not result in the imposition of the ‘Cadillac Tax.’ If the parties cannot agree on a proposed plan, the plans shall be submitted to

binding arbitration no later than April 1, 2017. The parties shall mutually agree on the selection of the Arbitrator.”

- Add the following new provision related to compensation - “Starting in the 2016-2017 school year, the parties will create a joint labor/management committee to study and make recommendations about possible performance based compensation systems for the Administrators’ bargaining unit, utilizing data from the implementation of the new Portsmouth Teachers’ Association collective bargaining agreement to inform the process.”
- Change “Middle School Dean of Students” to “Middle School Assistant Principal” and bring salary to same level as High School Assistant Principals.
- Change Principals and Pupil Support and Instruction position to 230 day contracts. Adjust only Pupil Support and Instruction position salary by corresponding *per diem* to reflect additional contract days.
- Change Special Education/Assistant Principal (Little Harbor) to 210 day contract and increase salary by corresponding *per diem* to reflect additional contract days.
- Change Career and Technology Education Director salary level to same as High School Assistant Principals.

PORTSMOUTH SCHOOL DISTRICT ADMINISTRATORS

	FY 15-Base	FY 16- Cola 2%	FY 17 Cola 2%	FY 18 Cola 2%	
Base Salary	1,364,860	1,411,851	1,440,183	1,468,981	
Degree	118,972	122,369	124,809	127,298	
Longevity	14,129	14,412	14,699	15,492	
Extra Days	10,558	11,016	11,232	11,448	
Fica	115,402	119,313	121,706	124,176	
Retirement	205,911	233,834	238,528	243,345	
	1,829,832	1,912,795	1,951,156	1,990,741	
Diff 15 Base to 16		<b>82,963</b>			
		Diff 16 to 17.	<b>38,361</b>		
		Diff 17 to 18		<b>39,584</b>	
		Subtotal Cost of Contract		<b>\$160,909</b>	
		Total Cost of Contract		<b>\$160,909</b>	
		Total Percent Increase		<b>8.79%</b>	
		Average \$ Increase per year		<b>\$53,636.23</b>	
		Average % increase per year		<b>2.93%</b>	

**Administrator's Schedule**

**2015-2016**

<b>Position</b>	<b>Days</b>	<b>Base Amount</b>
CTE Director	210	\$85,893
Director Of School Nutrition	211	\$81,467
RJLA Principal	217	\$86,806
Large Elementary School Principal	230	\$98,305
High School Assistant Principal	210	\$85,893
Middle School Principal	230	\$102,651
High School Principal	230	\$110,892
Middle School Assistant Principal	210	\$85,893
Director of Pupil Support and Instruction	230	\$97,186
Assistant Superintendent	230	\$110,982
Business Administrator	230	\$103,843
Special Ed/Assistant Principal LH	210	\$79,538

**Advanced Degree**

<b>Degree</b>	<b>13 Years or More</b>		<i>Track A</i>	<i>Bachelors</i>
			<i>Track B</i>	<i>Bachelors + 15</i>
Track B	\$2,581	\$5,417	<i>Track C</i>	<i>Masters or Bachelors + 45</i>
Track C	\$6,306	\$9,711	<i>Track D</i>	<i>Masters + 15 or Bachelors + 60</i>
Track D	\$6,972	\$10,478	<i>Track E</i>	<i>Masters + 30 or Bachelors + 75</i>
Track E	\$7,635	\$11,245	<i>Track F</i>	<i>Two Masters or CAGS or Masters+45 or Bachelors + 90</i>
Track F	\$8,967	\$12,664		
Track G	\$10,298	\$14,184	<i>Track G</i>	<i>PhD/EdD or Two Masters + 15 or CAGS + 15 or Masters + 60 or Bachelors + 105</i>

**TQP Committee**

\$ 3,000

**Longevity**

After 13      \$ 3,132  
 After 16      \$ 3,760



**Administrator's Schedule**

**2016-2017**  
**2% cola**

<b>Position</b>	<b>Days</b>	<b>Base Amount</b>
CTE Director	210	\$87,610
Director Of School Nutrition	211	\$83,096
RJLA Principal	217	\$88,542
Large Elementary School Principal	230	\$100,271
High School Assistant Principal	210	\$87,610
Middle School Principal	230	\$104,704
High School Principal	230	\$113,109
Middle School Assistant Principal	210	\$87,610
Director of Pupil Support and Instruction	230	\$99,129
Assistant Superintendent	230	\$113,201
Business Administrator	230	\$105,817
Special Ed/Assistant Principal LH	210	\$81,332

**Advanced Degree**

<b>Degree</b>	<b>13 Years or More</b>		<i>Track A</i>	<i>Bachelors</i>
			<i>Track B</i>	<i>Bachelors + 15</i>
			<i>Track C</i>	<i>Masters or Bachelors + 45</i>
Track C	\$6,432	\$9,905	<i>Track D</i>	<i>Masters + 15 or Bachelors + 60</i>
Track D	\$7,111	\$10,687	<i>Track E</i>	<i>Masters + 30 or Bachelors + 75</i>
Track E	\$7,787	\$11,469	<i>Track F</i>	<i>Two Masters or CAGS or</i>
Track F	\$9,146	\$12,917		<i>Masters+45 or Bachelors + 90</i>
Track G	\$10,503	\$14,467	<i>Track G</i>	<i>PhD/EdD or Two Masters + 15 or</i>
				<i>CAGS + 15 or Masters + 60 or</i>
				<i>Bachelors + 105</i>

**TQP Committee**

\$ 3,000

**Longevity**

After 13      \$ 3,194  
After 16      \$ 3,835

**Administrator's Schedule**

<b>2017-2018</b> <b>2% cola</b>
------------------------------------

<b>Position</b>	<b>Days</b>	<b>Base Amount</b>
CTE Director	210	\$89,362
Director Of School Nutrition	211	\$84,757
RJLA Principal	217	\$90,312
Large Elementary School Principal	230	\$102,276
High School Assistant Principal	210	\$89,362
Middle School Principal	230	\$106,798
High School Principal	230	\$115,371
Middle School Assistant Principal	210	\$89,362
Director of Pupil Support and Instruction	230	\$101,111
Assistant Superintendent	230	\$115,465
Business Administrator	230	\$107,933
Special Ed/Assistant Principal LH	210	\$82,958

<b>Advanced Degree</b>
------------------------

<b>Degree</b>	<b>13 Years or More</b>		<i>Track A</i>	<i>Bachelors</i>
			<i>Track B</i>	<i>Bachelors + 15</i>
			<i>Track C</i>	<i>Masters or Bachelors + 45</i>
Track C	\$6,560	\$10,103	<i>Track D</i>	<i>Masters + 15 or Bachelors + 60</i>
Track D	\$7,253	\$10,900	<i>Track E</i>	<i>Masters + 30 or Bachelors + 75</i>
Track E	\$7,942	\$11,698	<i>Track F</i>	<i>Two Masters or CAGS or</i>
Track F	\$9,328	\$13,175		<i>Masters+45 or Bachelors + 90</i>
Track G	\$10,713	\$14,756	<i>Track G</i>	<i>PhD/EdD or Two Masters + 15 or</i>
				<i>CAGS + 15 or Masters + 60 or</i>
				<i>Bachelors + 105</i>

**TQP Committee**

\$ 3,000

**Longevity**

After 13      \$ 3,257  
 After 16      \$ 3,873

**AGREEMENT BETWEEN**

**THE PORTSMOUTH SCHOOL BOARD**

**AND**

**THE ASSOCIATION OF PORTSMOUTH SCHOOL ADMINISTRATORS**

**EFFECTIVE JULY 1, 2008<sup>15</sup> THROUGH JUNE 30, 2015<sup>8</sup>**

## **ARTICLE I RECOGNITION**

The Portsmouth School Board recognizes the Association of Portsmouth School Administrators comprising building principals, assistant principals, and directors as listed by position in this Agreement for the purpose of salaries, working conditions, and benefits. If the position title of an Association member is changed but the function remains essentially unchanged, then the person filling that position and carrying out its function shall be considered as part of the Association and said person shall be entitled to the salary, working conditions, and benefits as agreed to between the School Board and the Association. The work year of all positions in this contract shall remain the same for the duration of the contract. New positions created shall have a working year as designated and agreed upon by the School Board and the Association. If this position is designated as a management position, the new employee shall be scheduled as outlined by the article on the salaries. The Association is thus professionally responsible for the operation of the Portsmouth School System and considers itself an integral part of the system in its relationship with Central Office administrators and with the School Board.

## **ARTICLE II EXISTING CONDITIONS OF EMPLOYMENT**

Association members shall be entitled to all financial and leave benefits; along with working conditions as negotiated between the Association of Portsmouth Teachers and the Portsmouth School Board, unless otherwise specified in this contract. It is understood that Administrators shall not receive a strategic planning stipend. Association members shall receive said benefits simultaneously with the teachers. Additional benefits to which the Association is entitled are contained within this Agreement.

Health insurance premium payments shall be based upon the teachers' contract. It is agreed that the optional health insurance plans to be made available to Administrators shall provide for a one hundred dollar (\$100.00) emergency co-pay.

Professional Learning Projects: Administrators agree to support the School District's administration of the Profession administration of the Professional Learning Projects (PLP) for teachers. Administrators will not join PLPs with teachers, but may initiate PLPs with other administrators, subject to the same terms and conditions as the PLP program in the Association of Portsmouth Teachers contract.

**ARTICLE III  
LONGEVITY**

Effective July 1, 2008~~08~~15:

After 13 yrs.                 ~~\$2729~~ \$3,132

After 16 yrs.                 ~~\$3276~~ \$3,760

Administrators with more than 25 years of service in the District are eligible to join the Interdisciplinary Council. The Council will meet no more than quarterly during off-duty hours at the call of the Superintendent to provide input on curricular and instructional issues to the Curriculum Committee. Attendance at meetings will be mandatory. Eligible administrators joining the Council will be eligible for a \$4000 base rate adjustment in lieu of a longevity adjustment. Hours will count for certification but not count for Professional Learning Project credits.

Administrators serving on the Teacher Quality Panel (TQP) will be paid an annual stipend of \$3,000, to be paid at the same time and in the same manner as TQP stipends are paid to Portsmouth teachers.

Effective July 1, 2010~~05~~ and July 1 of each year through June 30, 2015~~08~~, the longevity schedule will be adjusted by the 10 year rolling COLA.

Longevity will be based on years employed in the Portsmouth School District in any certified capacity.

**ADVANCED DEGREE**

Beginning in 1987/88 the payment will be the same as negotiated by the Association of Portsmouth Teachers starting at the Masters level, ~~except that there shall be no increase in the advanced degree schedule for Administrators in 2009-10.~~ The schedule shall be as follows:

Steps 1-12:

<del>2008-09</del>	<del>Rolling 10-year average COLA.</del>
<del>2009-10</del>	<del>No change.</del>
<del>2010-11</del>	<del>Rolling 10-year average COLA.</del>
<del>2011-12</del>	<del>Rolling 10-year average COLA plus \$300.</del>
<del>2012-13</del>	<del>Rolling 10-year average COLA.</del>
<del>2013-14</del>	<del>Rolling 10-year average COLA.</del>
<del>2014-2015</del>	<del>Rolling 10-year average COLA.</del>

Step 13:

2008-09	<del>Rolling 10-year average COLA plus 5% plus \$750.</del>
2009-10	<del>No change.</del>
2010-11	<del>Rolling 10-year average COLA plus 5%.</del>
2011-12	<del>Rolling 10-year average COLA plus 5%.</del>
2012-13	<del>Rolling 10-year average COLA plus \$300.</del>
2013-14	<del>Rolling 10-year average COLA.</del>
2014-2015	<del>Rolling 10-year average COLA</del>

13 Years or More

Track B	\$2,581	\$ 5,417	Bachelors +15
Track C	\$6,306	\$ 9,711	Masters or Bachelors +45
Track D	\$6,972	\$10,478	Masters +15 or Bachelors + 60
Track E	\$7,635	\$11,245	Masters + 30 or Bachelors + 75
Track F	\$8,967	\$12,664	Two Masters or CAGS or Masters+45 or Bachelors +90
Track G	\$10,298	\$14,184	PhD/Ed or Two Mastes + 15 or CAGS + 15 or Masters + 60 or Bachelors + 105

Adjustments will be made to contracts for any course work completed prior to September 1, if the transcript is received in Central Office before this date. It is the employee's responsibility to notify Central Office that an adjustment should be made. Any credits earned after September 1 applicable for additional money will be on the following year's contract. For each ten (10) hours of staff development time, one (1) credit will be recorded to a maximum of five (5) credits every three (3) years within each administrator's re-certification cycle provided that each formal course count only once toward such payments. Such credits must be directly related to improvement within the administrator's assigned area. The administrator must initiate all such adjustment requests.

**ARTICLE IV  
PROFESSIONAL LEAVE**

Each member shall be entitled to attend various professional conferences with the prior approval of the Superintendent. Each member shall be reimbursed up to three hundred and fifty dollars (\$350) for each school year. Said allowance may be transferable from one member to another with prior approval of the Superintendent. During each school year, two members shall receive five hundred dollars (\$500) each towards the cost of a national conference. The five hundred dollars (\$500) will be in addition to the member's allotted yearly amount.

**ARTICLE V  
SICK LEAVE**

5-1 Each Association member will be granted fifteen (15) days leave per year for personal illness or illness in the immediate family. After five (5) years in the Portsmouth School System, sick leave will be earned at the rate of twenty (20) days per year with a total accumulation of two hundred fifty (250) days. [See Section 5-10 with respect to limitations established for employees hired by the School Department after June 30, 1996 who become administrators.]

- 5-2 Utilization of the sick leave entitlement up to fifteen (15) days may be for the purpose of illness in the immediate family. Enlargement of the foregoing provision may be made in extenuating circumstances upon the recommendation of the Superintendent and approval of the School Board.
- 5-3 In the event of prolonged absence as a result of accident or illness, the School Board will consider circumstances that might warrant extension of full or partial sick pay.
- 5-4 A leave bank is hereby established which entitles an individual for reasons of personal illness to borrow, in advance, sick leave not yet accumulated, not to exceed the number of days in the member's contract. The leave bank may only be used if long-term disability is not available.
- 5-5 When an individual who has borrowed from the sick bank returns to work in the System, he/she will repay the sick bank at a rate of fifty percent (50%) of sick days that he/she is accumulating after returning to work.
- 5-6 In the event that a member leaves the System owing time to the sick bank, such time will be repaid in cash (days times the rate per day paid to the individual when the time was borrowed) over a period not to exceed three (3) years. This may be expanded with School Board approval.
- 5-7 The School Board will purchase term life insurance for each member in an amount equal to two (2) times the annual income of the member. The member's beneficiary and the School System will be co-beneficiaries of this insurance. In the event that a member dies while under contract to the School System, any sick leave borrowed from the sick leave bank will be repaid to the School System from the proceeds of the insurance. The balance of the proceeds will be turned over to the beneficiary named by the member. Additional life insurance may be purchased by the member. The member will pay for this insurance on a monthly basis.
- 5-8 The School Board shall purchase income protection insurance for each member to begin on the thirty-first (31st) day of disability in an amount equal to sixty-six and two-thirds percent (66 2/3%) of the monthly salary of the members at the date of disability and will continue through the age of sixty-five (65) and shall be coordinated with social security benefits. It is understood that a member shall not accept benefits under the income protection plan and simultaneously borrow time from the sick bank. The member and the School System shall be joint beneficiaries of this insurance. Should a disabled member owe days to the sick bank at the time he/she accepts payment under the income protection plan, it is agreed that these days will be repaid from the insurance proceeds over five (5) years.
- 5-9 Any member receiving sick bank or income protection benefits under Article V shall be entitled to sick leave, life insurance, retirement, disability insurance, and health insurance for a period of five (5) years. If a disabled member returns to work under this provision, he/she

will be paid a salary upon return commensurate with the rate he/she would have received if he/she had not become disabled. After five (5) years the member will have the option of continuing these benefits at his/her own expense while the member is on disability he/she will be deemed to be under contract to the School System.

- 5-10 Association members shall receive ninety percent (90%) of all accumulated sick days (in cash payment at the per diem rate which the administrator last earned) upon retiring from the Portsmouth School System (with a maximum of 250 days as set forth in Section 5.1 above) or upon an administrator's voluntary resignation so long as the administrator has ten (10) or more years in the system. (The exception to this voluntary resignation provision is that an administrator resigning in the face of dismissal or non-renewal based upon charges of serious criminal misconduct will not be paid for accumulated sick leave under this contract even if the employee voluntarily resigns.) Employees hired by the School Department after January 1, 1996 who become school administrators shall be allowed to accumulate sick leave up to one hundred fifty (150) days based on the provisions in Section 5-1 but shall not be entitled to any payout upon retirement or death or resignation. It is understood that employees hired by the School Department prior to January 1, 1996 who become School Administrators after January 1, 1996 will receive payouts upon retirement, death, or resignation based upon their previous maximum allowance under the Collective Bargaining Agreement that applied to them prior to their promotion. For the purpose of this Section, employees hired prior to January 1, 1996 who are RIFFED and recalled shall be considered hired as of their initial date of hire.

For an administrator entitled to a payout, the retiring administrator may elect the option of accepting this payment as extra compensation during the last three years of service prior to retirement. This article applies to those employees eligible to enter the New Hampshire Retirement System. This payment will be adjusted to reflect the contract in effect at the time of retirement. Further should an administrator covered by this contract die while in the employ of the Portsmouth School System, his/her heirs shall be entitled to be paid for the administrators accumulated (unused) sick leave at one hundred percent (100%).

- 5-11 Any person covered under this Agreement shall be granted sick leave for the purpose of maternity. The duration of sick leave will be dependent upon the person's health as determined by her doctor. Upon receipt of such notification from the physician, the Superintendent will assign the member to her former position or an appropriate alternate position.
- 5-12 Members retiring must notify the Superintendent by September 1 of their retirement year in order to receive their severance pay at retirement. If the member does not notify the Superintendent, he/she will receive severance pay not later than the fiscal year following his/her retirement. Notice of retirement shall be kept confidential within the Central Office until one year prior to official retirement.

**ARTICLE VI**  
**PERSONAL LEAVE**



Each member shall be entitled to two (2) non-accumulative personal leave days per year to attend to matters that cannot be transacted at any other time. Personal leave does not accumulate.

Effective on July 1, 2009, eligible members will be entitled to four (4) personal days for the 2009-10 contract year only. This is a one-time only increase in personal days and will not carry forward into 2010-11. The additional personal days may not be carried forward or cashed out under any circumstances.

**ARTICLE VII  
COURSE REIMBURSEMENT**

Each member shall be entitled to course reimbursement up to the cost of one four (4) credit course at the University of New Hampshire. With prior approval of the Superintendent, monies may be transferable among members to meet the full cost of that course and any additional courses.

**ARTICLE VIII  
MEMBERSHIP IN PROFESSIONAL ASSOCIATIONS**

Each person who wishes to become a member of the State and National Association shall have full cost of his/her dues reimbursed up to five hundred dollars (\$500) for each school year by the School System. This provision is for membership in professional associations of the member's choice. Monies may be transferable among members of the Association.

**ARTICLE IX  
TRAVEL**

All members of the Association shall receive for expenses incurred in business-related travel the following:

<u>2015-2016</u>		<del>2008-09</del>	
	Principals	<del>_____</del>	\$434
	Tech/Career Director	<del>\$434</del>	
	Assistant Principals	<del>\$379</del>	
	Dean of Students	<del>\$379</del>	
	Athletic Director	<del>\$601</del>	
	Chapter I Director	<del>\$768</del>	
	Computer Director	<del>\$601</del>	
	Student Services Director	<del>\$601</del>	

~~The travel stipend will increase by fifty dollars (\$50.00) in 2009-10. In e~~Each year ~~thereafter~~ through June 30, 201~~5~~8, the travel stipend will increase by the COLA adjustment as described in Article XV.

## **ARTICLE X ASSIGNMENTS AND REASSIGNMENTS**

In the event of a reassignment during a contract year, no member shall incur a loss of pay resulting from such reassignment for the balance of that contract year. However, if the Association member initiates a request for such reassignment, his/her individual contract can be appropriately adjusted. The administrator transferred or reassigned involuntarily will continue to receive the daily rate of pay for the position from which he or she was transferred or the position to which he or she is being transferred, whichever is greater. The number of work days for the transferred administrator shall be established by mutual agreement.

Should any Association position (or portion of a position) be considered for elimination, the Superintendent shall discuss the matter with the chairperson of the Association negotiation team prior to making a decision regarding the elimination of the position or a portion of a position. See Section X-A below regarding the School Board's obligations with respect to position elimination. The date for notification to Administrators of contract non-renewal shall be April 1.

### **ARTICLE X-A POSITION ELIMINATION**

#### A. Entire Position Elimination:

If the Board decides to eliminate a position, the administrator affected may apply for any administrative opening in the system. (Openings in the system will be filled by the most qualified applicant, including outside applicants).

If the affected administrator is not awarded another position as an administrator in the system, he/she will be offered a teaching position so long as the administrator has the seniority under the APT's Collective Bargaining Agreement to get a full-time teaching contract in the next school year. If the administrator losing a position due to a job elimination would not have seniority to hold a teacher's full-time position and has 10 or more years of service with the Portsmouth School Department, the School Board will give the administrator one year's notice prior to the elimination of the administrator's position or one-half (1/2) of his/her annual salary in lieu of notice. The decision as to whether to give notice or pay in lieu of notice shall be at the discretion of the Superintendent. "One year's notice" shall mean notice by June 1, for a school year commencing July 1 and running through June 30 of the next year.

In the event an administrator whose position is eliminated is unable to find a full-time teaching or administrator's position starting by the school year next following the notice year and said administrator has five years' of service with the Portsmouth School Department, then the Department will pay said administrator 90% of accumulated sick leave not to exceed 150 workdays

unless the administrator is entitled to a greater payout of sick leave under Section V of the Contract based on voluntary termination payout for employees with ten (10) or more years of service. (Sick leave payout shall not be applicable to employees hired after January 1, 1996 regardless of the provisions set forth).

**B. Positions Reduced to Half-Time:**

If an administrator's position is going to be reduced to half-time and the administrator affected has ten (10) or more years of service with the Portsmouth School Department, the Administrator will be given one year's notice prior to the reduction to half-time or payment in lieu of notice of 25% of the current full-time salary. The decision as to whether to give the notice or pay in lieu of notice shall be mutually agreed between the administrator and the School Board.

**ARTICLE XI  
GENERAL**

If any provision of this contract or any application of this contract to any Association employee or group of employees shall be found contrary to law, then such provision or application shall not be deemed valid except to the extent permitted by law, but all other provisions or applications shall continue in full force and effect.

This contract constitutes School Board policy for the term of said contract and the School Board and the Superintendent shall carry out the commitments contained herein and give them full force and effect as School Board policy. The Association shall also carry out all of the terms and conditions contained herein, in the laws and according to regulations of governing boards.

**ARTICLE XII  
EVALUATION**

Evaluations shall be conducted according to the policies adopted by the School Board. It is understood that administrator evaluations will be conducted with due consideration for the Strategic Planning Process. It is the aim of the School Board that administrators will establish goals in coordination with the Strategic Plan and in the furtherance of the Continuous Improvement Process. The Superintendent and the administrator shall jointly establish yearly goals and objectives which will provide the frame work for the annual evaluation.

**ARTICLE XIII  
PER DIEM RATE**

Any Association member employed by the School System beyond his/her contracted days will be paid on a per diem rate based on the current salary of the fiscal year in which the work is performed. Any member who requests, in writing, to be employed beyond his/her contracted days shall submit his/her request to his/her supervisor who, through the Superintendent, will communicate his/her

decision as soon as possible. Members who are required to work non-school days will submit these days as contracted days.

#### **ARTICLE XIV REQUEST FOR REASSIGNMENT TO A TEACHING POSITION**

The following guideline shall be adhered to when a request for reassignment by an individual administrator (member of the Association) is submitted to the Superintendent of Schools, Portsmouth School System.

The administrator requesting reassignment, upon approval by the School Board, shall be granted salary and seniority commensurate with the total number of years invested with the Portsmouth School Department from the date of original hire.

#### **ARTICLE XV SALARIES**

16.1 The Superintendent may nominate a candidate for a position covered by this Agreement at an annual rate that is not to exceed an amount of three thousand dollars (\$3,000) for the first year; two thousand dollars (\$2,000) for the second year; and one thousand dollars (\$1,000) for the third year below the salary on the schedule. If a person remains in that position, he/she will be placed on schedule after three (3) years. The salary per diem shall never be lower than the highest teacher's salary with a Master's Degree.

16.2 Elementary principals shall be paid by category.

Category A - Large schools: Dondero, Little Harbour New Franklin

~~Category B - Medium schools: New Franklin~~

16.3 A person appointed to an acting position in the Association shall have his/her salary set in the same manner as a new person hired to fill a management position. (Note: New positions will be made known to the Association members prior to public announcement)

16.4 Each administrator will be paid twenty-six (26) payments, biweekly, starting with the first pay period in July.

Longevity, Advanced degrees and travel will be paid in a lump sum on the first pay day in December.

#### COLA Adjustment

Effective July 1, 2008~~15~~ and July 1 of each year from July 1, 2010~~5~~ through June 30, 2015~~8~~ a COLA adjustment percentage increase shall be computed which shall not be less than 2% nor more than 5%.

The COLA Adjustment percentage shall be determined by the rolling ten (10)-year average in the CPI-U for the Boston-Brockton-Nashua--MA-NH-ME-CT all items index as computed by the Bureau of Labor Statistics of the U.S. Department of Labor for the ten (10) most recent calendar years preceding the July 1 adjustment. BLS's calendar year for this index is November through November, it is not published on a December to December basis. The reference base is 1982-1984 equals 100 until BLS updates the reference base at which time the parties agree to adopt the official reference based as used by BLS.

*Thus if the rolling ten (10)-year average CPI-U for the Boston SMSA (November 2003 – November 2004) is 1.5% the applicable COLA adjustment would be 2%; if it is 3.5% the applicable COLA adjustment would be 3.5%; if it is 5.5% the applicable COLA adjustment would be 5.0%.*

Applicability After Contract Expires: It is clearly understood that in the event that the six year Working Agreement expires without a successor Working Agreement being settled prior to July 1, 20158 that no further COLA adjustments after July 1, 20147 will be generated under the Working Agreement even though the Working Agreement has an evergreen clause. It is further agreed that continuation of COLA adjustments are not to be deemed “status quo” as the term has been used by the PELRB in the event that a successor agreement has not been settled by July 1, 20158.

Therefore the salary schedule effective ~~with the 1st paycheck of 200815-0916~~ will read as follows:

<u>Position</u>	<u>Days</u>	<u>200815-0916</u>
<u>CTE Director</u>	<u>20810</u>	<u>\$72,12685,893</u>
<del>PASS-RJA</del> <u>Principal</u>	<u>2157</u>	<u>\$75,62586,806</u>
<del>Medium Elementary School Principals</del>	<u>225</u>	<u>\$81,197</u>
Large Elementary Principals	<u>2350</u>	<u>\$85,64398,305</u>
High School Assistant Principal	<u>20810</u>	<u>\$74,83185,893</u>
Middle School Principal	<u>2350</u>	<u>\$89,430102,651</u>
High School Principal	<u>2350</u>	<u>\$96,609110,892</u>
Middle School <del>Dean of Students</del> <u>Asst. Principal</u>	<u>20810</u>	<u>\$69,29485,893</u>
Director of <del>Student Services</del> <u>Pupil Support and Instruction</u>	<u>2350</u>	<u>\$81,72097,186</u>
Director of School Nutrition	<u>211</u>	<u>\$81,467</u>
<u>Special Ed/Assistant Principal LH</u>	<u>210</u>	<u>\$79,538</u>

Administrators will increase their work year by one (1) days in 2009-10 and an additional day in 2012-13.

Starting in the 2016-2017 school year, the parties will create a joint labor/management committee to study and make recommendations about possible performance based compensation systems for the

Administrators' bargaining uit, utilizing data from the implementation of the new Portsmouth Teachers' Association collective bargaining agreement to improve the process.

ARTICLE XVI  
HEALTH INSURANCE

1. Effective September 1, 2014, or as soon as possible thereafter, the School Department will offer unit members the Consumer Driven Health Plan (CDHP) issued only by Cigna Insurance under its "SchoolCare" plan of the New Hampshire School Health Care Coalition as administered in accordance with its Articles of Agreement and By-Laws or equal and comparable coverage.
2. The employee's premium share for the CDHP plan (Single, 2-Person, Family) will be five percent (5.0%) of the total premium. The School Department's share of the total premium will be ninety-five percent (95.0%).
3. The City shall enroll all Administrators in the SchoolCare – Plan 2 1500 Max (DPO2C) for individual, two-person or family coverage or equal and comparable coverage.
- 3.4. If the cost of the CDHP exceeds the threshold levels for assessment of the "Cadillac Tax" under the ACA, the Employer and the Association will immediately reopen the contract on the issue of health insurance only, with the express intent of identifying a healthcare plan that complies with the ACA and does not result in the imposition of the 'Cadillac Tax.' If the parties cannot agree on a proposed plan, the plans shall be submitted to binding arbitration no later than April 1, 2017. The parties shall mutually agree on the selection of the Arbitrator.

ARTICLE XVIII  
DURATION

This contract shall be effective as of the date of its approval by the City Council and shall continue and remain in full force and effect until June 30, 201~~5~~<sup>8</sup>. If no contract is signed upon the expiration of the old contract, then the old contract will be enforced.

**SIGNATURES**

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 201~~4~~<sup>5</sup>.

For the Portsmouth School District:

For the Association of Portsmouth  
School Administrators:

\_\_\_\_\_  
Leslie Stevens, Chair  
Portsmouth School Board

\_\_\_\_\_  
~~John Stokel~~ Phil Ahlin, Chief Negotiator

\_\_\_\_\_  
Thomas J. Closson, City Negotiator

\_\_\_\_\_

\_\_\_\_\_  
Edward R. McDonough, Superintendent

\_\_\_\_\_

\_\_\_\_\_  
Dianna Fogarty, Human Resources Director

\_\_\_\_\_

INDEX

ADVANCED DEGREE.....

ASSIGNMENTS AND REASSIGNMENTS.....	7
COLA ADJUSTMENT.....	10
COURSE REIMBURSEMENT.....	6
DURATION.....	11
EVALUATION.....	9
EXISTING CONDITIONS OF EMPLOYMENT.....	2
GENERAL.....	8
LONGEVITY.....	3
MEMBERSHIP IN PROFESSIONAL ASSOCIATIONS.....	7
PER DIEM RATE.....	9
PERSONAL LEAVE.....	6
POSITION ELIMINATION.....	8
PROFESSIONAL LEAVE.....	4
RECOGNITION.....	2
REQUEST FOR REASSIGNMENT TO A TEACHING POSITION.....	9
SALARIES.....	9-11
SICK LEAVE.....	4-6
SIGNATURES.....	11
TRAVEL.....	7





Attorneys at Law

Jackson Lewis P.C.
100 International Drive
Suite 363
Portsmouth, New Hampshire 03801
Tel 603 559-2700
Fax 603 559-2701
www.jacksonlewis.com

Representing Management Exclusively in Workplace Law and Related Litigation

- ALBANY, NY
ALBUQUERQUE, NM
ATLANTA, GA
AUSTIN, TX
BALTIMORE, MD
BIRMINGHAM, AL
BOSTON, MA
CHICAGO, IL
CINCINNATI, OH
CLEVELAND, OH
DALLAS, TX
DAYTON, OH
DENVER, CO
DETROIT, MI
GRAND RAPIDS, MI
GREENVILLE, SC
HARTFORD, CT
HOUSTON, TX
INDIANAPOLIS, IN
JACKSONVILLE, FL
LAS VEGAS, NV
LONG ISLAND, NY
LOS ANGELES, CA
MEMPHIS, TN
MIAMI, FL
MILWAUKEE, WI
MINNEAPOLIS, MN
MORRISTOWN, NJ
NAPA, CA
NEW ORLEANS, LA
NEW YORK, NY
NORFOLK, VA
OMAHA, NE
ORANGE COUNTY, CA
ORLANDO, FL
OVERLAND PARK, KS
PHILADELPHIA, PA
PHOENIX, AZ
PITTSBURGH, PA
PORTLAND, OR
PORTSMOUTH, NH
PROVIDENCE, RI
RALEIGH-DURHAM, NC
RAPID CITY, SD
RICHMOND, VA
SACRAMENTO, CA
SAINT LOUIS, MO
SAN DIEGO, CA
SAN FRANCISCO, CA
SAN JUAN, PR
SEATTLE, WA
STAMFORD, CT
TAMPA, FL
WASHINGTON, DC REGION
WHITE PLAINS, NY

TO: John P. Bohenko and Members of the Portsmouth City Council
FROM: Thomas M. Closson
DATE: September 15, 2015
RE: Tentative Agreement – Portsmouth City Employees Local #1386-B

On September 2, 2015, the City’s negotiating team reached a tentative agreement (“the TA”) with the Portsmouth City Employees Local #1386-B (“the Union”). I am pleased to recommend this TA to you.

The TA includes the following significant provisions:

- Duration to June 30, 2017.
- Revisions to the current Recognition Clause to reflect the revised bargaining unit, and corresponding language revisions throughout to remove provisions that no longer relate to the revised bargaining unit.
- Move Librarian II position to PMA bargaining unit.
- Annual COLA based on the rolling 10-year average CPI-U, between 2% and 5%, effective on the earlier of the date of City Council approval or October 1, 2015.
- Annual COLA based on the rolling 10-year average CPI-U, between 2% and 5%, on July 1, 2016.
- Upgrade Library Assistant II from Grade 3 to Grade 4.
- Upgrade Library Assistant III from Grade 5 to Grade 6.
- Add the following language on health insurance – “No later than 60 days after the execution of the CBA, Union members will be able to select coverage under only the BlueChoice 10/20/45 plan (at an 80%/20% premium split) or the Matthew Thornton 10/20/45 plan (at an 84.5%/15.5% premium split). If, on June 30, 2016, the total

premium cost for any of the plans offered by the City to Union members exceeds the current threshold level for assessment of the Affordable Care Act's ("the ACAs") Cadillac Tax (\$10,200 for single coverage and \$27,500 for 2-person/family coverage), the parties will consider alternative plans which may include SchoolCare's Consumer Driven Health Plan. If the parties are not able to agree on a plan that does not exceed the threshold levels for assessment of the ACA's Cadillac Tax, the Union and the City will each immediately select a plan that does not exceed the threshold levels for assessment of the ACA's Cadillac Tax and submit each plan to a mutually agreed upon arbitrator who will then select which plan the City will adopt."

- Longevity stipend adjusted based on the rolling 10-year average CPI-U, between 2% and 5%.
- Reduce the notice required to change employee hours of work from 60 calendar days to 12 working days.
- Add military and bereavement leave in the calculation of hours worked for purposes of determining overtime.
- Revise overtime provisions to comply with FLSA language requiring overtime after 40 hours of work per week.
- Modify the bereavement leave provision to specify "immediate family" throughout and to eliminate the benefit for part-time employees.
- Modify the holiday provision to eliminate automatic inclusion of "...any other holidays designated by the State of New Hampshire."

**AFSCME #1386 CLERICAL UNIT B**

9/14/2015

FY 14 Base FY15

Current FY16

FY 17

Total for 3 year

**Current Agreement**

Salaries	1,394,834.00	1,444,700.00	1,470,872.00	1,475,926.00	4,391,498.00
Longevity	9,592.67	9,463.35	9,243.75	10,640.86	29,347.96
<b>Sub Total</b>	<b>1,404,426.67</b>	<b>1,454,163.35</b>	<b>1,480,115.75</b>	<b>1,486,566.86</b>	<b>4,420,845.96</b>
Social Security	87,074.45	90,158.13	91,767.18	92,167.15	274,092.45
Medicare	20,364.19	21,085.37	21,461.68	21,555.22	64,102.27
Retirement	151,256.75	156,613.39	165,328.93	166,049.52	487,991.84
<b>Sub Total w/ Benefits</b>	<b>258,695.39</b>	<b>267,856.89</b>	<b>278,557.78</b>	<b>279,771.88</b>	<b>826,186.56</b>

**Cost of Current Contract 1,663,122.06 1,722,020.24 1,758,673.53 1,766,338.74 5,247,032.52**

58,898.18 3.54% 36,653.30 2.13% 7,665.21 0.44% 95,551.47

6.21% From FY15-FY17 2% Avg % Change

**Additional Cost Proposed from TA**

COLA			20,063.08	59,757.18	79,820.26
Reclassification			8,266.53	12,639.67	20,906.20
Longevity			184.88	429.89	614.77
<b>Sub Total</b>			<b>28,514.49</b>	<b>72,826.74</b>	<b>101,341.22</b>
Social Security		-	1,767.90	4,515.26	6,283.16
Medicare		-	413.46	1,055.99	1,469.45
Retirement		-	2,611.93	6,670.93	9,282.86
		-	4,793.28	12,242.17	17,035.46
Health Insurance			(18,148.00)	(60,116.30)	(78,264.30)

**Total Cost Rollout of Tentative Agreement c - 15,159.77 24,952.61 40,112.38**

1.50% From FY15-FY17 0.50% Avg % Change

---

**WORKING AGREEMENT**

**BETWEEN THE**

**CITY OF PORTSMOUTH, NEW HAMPSHIRE**

**AND**

**PORTSMOUTH CITY EMPLOYEES LOCAL #1386**

**OF THE**

**AMERICAN FEDERATION OF STATE, COUNTY AND MUNICIPAL EMPLOYEES**

**AFL-CIO**

**July 1, 200814 to June 30, 20147**

**Article 1  
WORKING AGREEMENT**

The City of Portsmouth, hereafter referred to as the City, and the Portsmouth City employees, Local #1386 of the American Federation of State, County and Municipal Employees, hereinafter referred to as the Union, in order to maintain the existing harmonious relationship between the City Manager, who is the Chief Executive Officer, as set forth in the City Charter, as amended, and its employees join in the Agreement to promote the morale, equal rights, well being and security of the Portsmouth City Employees, the City Manager, representing the City Council and the Union hereby agree as follows:

**Article 2  
NON-GENDER CLAUSE**

Within the Collective Bargaining Agreement where the male or female gender is exclusively used, it shall be understood that it does not limit the benefits to just the gender that was mentioned.

**Article 3  
RECOGNITION**

- 3.1 Employees covered by the Agreement are those who are members of the Union who are employees of the City of Portsmouth within the jurisdiction of the American federation of State, County and Municipal Employees in the positions defined in 3.4 below.
- 3.2 It shall be a continuing condition of employment with the City that all permanent employees covered by the Agreement, specifically, designated non-supervisory employees in positions defined in Section 3.4 (below), who have completed their probationary period shall:
- A. Become and remain members of the Union in good standing to the extent of paying the uniform union membership dues, initiation or reinstatement fees; or
  - B. In the alternative, an employee shall tender an agency or service fee to the Union in an amount which shall not exceed the monthly membership dues of Union members.

In December of each calendar year the Union shall notify the City of the amount of its dues and/or service fees.

Evidence of good faith of the employee complying with the above provisions will be considered to be his/her duly signed check off dues deduction card as presented to the City Accounting Department or an appropriate authorization for agency fee deductions.

The Union will notify its members of the window period when they can change to agency service fee (last two (2) weeks in June).

- 3.3 Evidence of the good faith of the employee in joining the Union will be considered to be his/her duly signed check-off dues deduction card as presented to the City Accounting Department.
- 3.4 The following position classifications come under the provisions of Union membership set forth in the contract:

Account Clerk	Accountant, Junior
Accountant, Assistant*	Accounting Assistant
Administration Assistant	Administrative Clerk*
<del>Assistant Foreman</del>	AutoCAD Technician
<del>Cashier/Attendant</del>	Collection Clerk
<del>Chemist</del>	<del>Custodian</del>
Clerk Typist	<del>Custodian Lead Man</del>
Deputy City Clerk	Deputy Tax Collector
<del>Dispatcher</del>	<del>Draftsman</del>
<del>Electrician</del>	<del>Engineering Technician</del>
<del>Equipment Mechanic</del>	<del>Equipment Operator, I, II</del>
<del>Laborer</del>	<del>Lab Technician</del>
<del>Legal Secretary</del>	Librarian I, II
Librarian Assistant I, II, III	<del>Lifeguard</del>
<del>Meter Reader</del>	<del>Meter Repairman</del>
<del>Parking Garage Attendant</del>	<del>Planning Aide*</del>
<del>Plant Operator I, II</del>	<del>Plant Operator Trainee</del>
<del>Pool/Spa Technician</del>	<del>Sanitary Laborer</del>
Secretary	Switchboard Operator/Typist
<del>Truck Driver I, II</del>	<del>Utility Mechanic</del>
Violations Clerk	<del>Watchman*</del>
<u>Lead Water/Sewer Billing Clerk</u>	<u>Manager</u>

\*Salary Schedule to be changed to accurately set forth title.

- 3.5 The City hereby recognizes that the Union is the sole and exclusive representative of all permanent employees of the City who are members of the Union for the purpose of bargaining with respect to wages, hours of work and working conditions and the Union unreservedly accepts and recognizes the necessity of the City to operate within its budget, as set forth by the City Charter as amended. Effective August, 1983, permanent, part-time Library employees working a regular work week of at least 18.25 hours are included in this Section.
- 3.6 The City agrees for itself and any of its authorized agents that it will not bargain with any individual employee on matters pertaining to wages, hours of work, working conditions, transfers or promotions covered by this contract.
- 3.7 The Union agrees for itself and its members that no member will bargain with the City or any of its authorized agents on matters pertaining to wages, hours of work, working conditions, transfers or promotions covered by this contract.

**Article 4A  
MANAGEMENT RIGHTS**

- 4A. Management Rights: It is understood that the City shall have the exclusive control of the operation of the City. Nothing in this agreement shall be deemed to limit the City in any way in the exercise of the regular and customary functions of management, including those protected by the NH Public Employee Labor Relations Act, the direction of the working forces, the establishment or methods of operation, the establishment of plans for efficiency, the adoption and maintenance of engineering standards, and the right to select or employ supervisory employees and their assistants, except as specifically and expressly limited by any of the provisions of this agreement.

**Article 4B  
PROBATIONARY PERIOD AND CLASSIFICATION**

- 4B.1 Probationary Period: All new employees shall serve a probationary period of six (6) months, and during this period shall be classified as probationary employees.

Probationary Period and Extension of: All appointments will be made for a working test period subject to close review as to his/her competency to carry out work assignments. The City Manager may, upon request of the Department Head, extend this working test period to a maximum of an additional three (3) months if, in their opinion, it is necessary. This period supplements the formal examination, etc., and is the final determination of whether a person should be given permanent status. Probationary employees are considered at will and may be terminated with or without cause.

- 4B.2 Classification: Each employee shall be assigned a distinct classification (probationary, permanent part-time library employees or permanent):

- A. Probationary: Probationary employees are those employees hired to fill regular positions, but who are serving their probationary period of six (6) months. Probationary employees shall be allowed to earn sick leave and vacation during their probationary period, but shall not be entitled to be paid for or to take such leave unless and until they successfully complete the probationary period. Probationary employees shall be entitled to holiday pay in the same manner as other employees. Probationary employees shall not be entitled to other benefits of permanent employees. Specifically, probationary employees shall not be entitled to dental insurance coverage until they have completed six (6) months of employment. Health insurance will become

effective the first of the month following 60 days of employment. Probationary employees shall be allowed to purchase insurance coverage from the City at group rates. A probationary employee who wishes to purchase health insurance coverage during his or her probationary period shall have the opportunity to make this decision at the start of employment. Failure to choose to take coverage at that time will foreclose the employee until he or she has completed 60 days of service.

- B. Permanent Part-time Library Employees: Library employees working a regular work week of at least ~~18.25~~ 20 hours.
- C. Permanent: Permanent employees are those employees hired to fill regular full-time positions who have completed their six (6) month probationary period.

## Article 5 EMPLOYMENT AND TERMINATION

- 5.1 Union Dues: Upon an individually written authorization card signed by the employee and approved by the Union, the City agrees to deduct from each employee's wages a sum for the Union dues to be collected from the first paycheck of each month.
- 5.2 Posting Jobs and Vacancies: All new jobs and vacancies within the bargaining unit shall be posted on the Union Bulletin Boards within ten (10) working days after the vacancy occurs, for Local #1386 members to bid only for a period of seven (7) working days prior to the filling of the position. The name of the successful candidate for the position shall be posted for five (5) days after the filling of the position.
- 5.3 Trial Period: When bidding a new job, via promotion or transfer, the permanent employee shall have a trial period of three (3) months in which he/she may request to be reinstated to his/her previous position, and if there is no disruption in the productivity of the department, the department head may grant the request.
- 5.4 Bidding Restriction: No employee who has successfully bid a job shall be allowed to exercise the right to bid another job within twelve (12) months of being assigned to a newly bid job unless bidding for a higher rate of pay in another job.
- 5.5 Anti-discrimination: The City agrees that it will not discriminate against, intimidate, or coerce any employee in the exercise of his/her rights to bargain collectively through the Union because of his/her membership herein or his/her activities on behalf of the Union. The City and union reaffirm and maintain the policy not to discriminate against any person because of race, creed, color, national origin, sex, age, marital status, Vietnam era veteran status, sexual orientation, and persons with disabilities as defined by the Americans with Disabilities Act.



- 5.6 Competitive Examination: The relative fitness of the applicants for appointment, or promotion within the employment of the City will be determined by competitive examination, which will include the consideration and rating of any or all of the following qualification factors: education, experience, general adaptability, special aptitudes, physical fitness, knowledge, skills, personality, character, and such other qualifications as may be deemed necessary for the satisfactory performance of the duties of the respective position. All factors being equal, seniority shall determine appointment.
- 5.7 Absenteeism Without Notification: An absence of three (3) consecutive working days without notifying the immediate supervisor concerned shall serve as basis for immediate dismissal.
- 5.8 Working Days: For the purposes of this Article, working days are Monday through Friday, not including holidays.

## **Article 6 SENIORITY**

- 6.1 Definition: An employee's seniority shall commence with his/her hiring day provided the employee is not discharged and is in the City's continuous employ beyond the probationary period. All employees who are not permanent shall be deemed to have no seniority status and may be discharged. Seniority for part-time Library Employees shall be dated from August 11, 1983.
- 6.2 Forfeiture: Seniority is forfeited only by discharge for just cause, resignation or retirement. In no case will seniority be interrupted or forfeited by illness, layoff, military duty, or approved leave of absence.
- 6.3 Layoffs: When it is necessary to reduce the number of employees on the City payroll because of the lack of work or funds the City Manager shall decide which employees shall be laid off in accordance with the following provisions:
- A. Layoffs shall be by job classification within each department, and;
  - B. All temporary employees within the job classification in which the layoff is to occur shall be laid off before any other employees in the job classification.
  - C. Probationary part-time employees shall be laid off before [any other] permanent part-time employees, and;
  - D. Part-time employees shall be laid off before any full -time employees are laid off, and;

- E. Probationary full-time employees shall be laid off before any non-probationary full-time employees are laid off, and;
  - F. Among each group of employees eligible to be laid off, the City Manager shall select the least senior employee to be laid off.
- 6.4 A. Re-employment List: Employees separated from the service of the City through no fault of their own shall be placed on a re-employment list.
- B. The City agrees to maintain employees on this re-employment list for twenty-four (24) months following the employee's date of lay-off. This list will be kept for each job classification within each department.
  - C. An employee re-hired under these circumstances shall be credited with full seniority.
- 6.5 Reduction in Classification: When an employee is involuntarily transferred (demoted) to a lower class position or the employee's position is reduced in pay classification, if the employee's present salary is higher than the maximum for the new class, his/her present salary shall be frozen until general pay increases bring the salary within the range for the new position. When an employee voluntarily seeks a transfer (demotion) to a lower class position, the employee's salary shall not exceed the maximum salary for the position in the employee's new class.

## Article 7 WAGES

- 7.1 Employees shall be paid in accordance with the following schedule, the rate of pay to be established in accordance with the position classifications and rates which are attached to this Agreement and marked Appendix A ~~{September 18, 2004 - June 30, 2005 Salary Schedule}~~.
- 7.2 The rate of pay for bargaining unit members shall be increased as follows:

Effective date of City Council approval ~~or April 16, 2012, whichever occurs first~~, employees wages will be adjusted by 2.43%. ~~Effective July 1, 2012 the employees wages will be adjusted by 2.44% and on July 1, 2013~~ a COLA adjustment percentage increase shall be computed which shall not be less than 2% nor more than 5%. ~~There will be no COLA adjustments for contract years 2008-09, 2009-10, or 2010-11.~~

Effective July 1, 2005, a new 2.75% step for 10 years of service (step F) shall be established for all classifications.

Effective July 1, 2006, a new 2.75% step for 20 years of service (Step G) shall be established for all classifications.

## COLA Adjustments

Effective July 1, of each year from July 1, 201~~26~~<sup>47</sup> through June 30, 201~~47~~<sup>47</sup> a COLA adjustment percentage increase shall be computed which shall not be less than 2% nor more than 5%.

The COLA Adjustment percentage shall be determined by the rolling ten (10) year average in the CPI-U for the Boston-Brockton-Nashua--MA-NH-ME-CT all items index as computed by the Bureau of Labor Statistics of the U.S. Department of Labor for the most recent calendar year preceding the July 1 adjustment. BLS's calendar year for this index is November- through November, it is not published on a December to December basis. The reference base is 1982 -1984 equals 100 until BLS updates the reference base at which time the parties agree to adopt the official reference based as used by BLS.

*Thus if the rolling ten (10) average of the CPI-U for the Boston SMSA (Nov. -Nov.) is 1.5% the applicable COLA adjustment would be 2%; if it is 3.5% the applicable COLA adjustment would be 3.5%; if it is 5.5% the applicable COLA adjustment would be 5.0%.*

Applicability After Contract Expires: It is clearly understood that in the event that the ~~six-three~~ year Working Agreement expires without a successor Working Agreement being settled prior to July 1, 201~~36~~<sup>47</sup> that no further COLA adjustments after July 1, 201~~36~~<sup>47</sup> will be generated under the Working Agreement even if the Working Agreement has an evergreen clause. It is further agreed that continuation of COLA adjustments are not to be deemed "status quo" as the term has been used by the PELRB in the event that a successor agreement has not been settled by July 1, 201~~47~~<sup>47</sup>.

- 7.3 The wage rate for part-time Library Employees shall be based on Grade ~~23~~, Step A of the current Local Union #1386 Salary Schedule figured on an hourly basis, ~~with the exception of the part-time Library Custodian. That wage rate shall be based on Grade 1, Step C of the current Local Union #1386 Salary Schedule for hourly employees.~~ Effective September 28, 2004, Permanent part-time library employees with five years or more consecutive employment in the library shall be eligible to move on the step schedule annually, but shall not advance more than one (1) step in any year.

~~7.4 Hourly Three (3) Step Employees (except Laborers):~~

<del>First six (6) months</del>	<del>Step C</del>
<del>After six (6) months</del>	<del>Step D</del>
<del>After fifteen (15) months</del>	<del>Step E</del>
<del>After ten (10) years</del>	<del>Step F (eff. 7/1/05)</del>
<del>After twenty (20) years</del>	<del>Step G (eff. 7/1/06)</del>

~~The Three Step Employees subject to Section 7.4 wage progression are:~~

~~Parking Garage Attendant, Custodian, Plant Operator Trainee, Dispatcher, Meter Reader, Sanitary Laborer, Truck Driver I, Truck Driver II, Utility Mechanic, Equipment Operator I, Plant Operator I, Equipment Mechanic, and Equipment Operator II, Pool/Spa Tech.~~

~~7.5 Laborers:~~

<del>First six (6) months</del>	<del>Step A</del>
<del>Six (6) to nine (9) months</del>	<del>Step B</del>
<del>Nine (9) to twelve (12) months</del>	<del>Step C</del>
<del>Twelve (12) to fifteen (15) months</del>	<del>Step D</del>
<del>After fifteen (15) months</del>	<del>Step E</del>
<del>After ten (10) years</del>	<del>Step F (eff. 7/1/05)</del>
<del>After twenty (20) years</del>	<del>Step G (eff. 7/1/06)</del>

7.6 Salaried Five (5) Step Employees:

First six (6) months	Step A
After six (6) months	Step B
After eighteen (18) months	Step C
After thirty (30) months	Step D
After forty-two (42) months	Step E
After ten (10) years	Step F (eff. 7/1/05)
After twenty (20) years	Step G (eff. 7/1/06)

~~7.7 It is agreed that the general Salary Ordinance for any year shall be presented to the President of the Union at least fourteen (14) working days prior to its presentation to the City Council.~~

- 7.8 A. An employee promoted or acting in a position which has a higher maximum hourly rate shall receive a pay raise of one step over his/her present rate upon promotion or to the minimum of the new position, whichever is greater, and such increases as are set forth in the Salary Plan thereafter, based upon date of promotion. Employees promoted with ten (10) or more years of service must wait eighteen (18) months between Steps E and F. Employees promoted with twenty (20) or more years of service must wait eighteen months between Steps E and F and another eighteen (18) between Steps F and G.
- B. Temporary "plus rate assignments" shall be made on the basis of Department seniority among qualified employees who bid on the assignment. Qualifications shall be determined by the City.
- C. In no case shall an employee be paid less than his/her regular rate of pay.

- 7.9 The City shall: (1) Provide an equal opportunity for training and (2) any employee who has trained on any equipment may request and the City shall provide a written evaluation of the employees' performance on said piece of equipment.
- 7.10 All cost of living increases shall be in addition to the step increases to which the employees are entitled.
- 7.11 The City shall, upon written request and authorization from the employee, forward said employee's paycheck as a direct deposit to the banks or credit unions with direct deposit compatible with the computer programs utilized by the City. The City shall not be held responsible for any delay experienced by employee due to the transfer of funds to the bank or credit union.

~~7.12 Effective date of City Council approval, the Recycling Truck Driver position will be upgraded from Grade 6 to Grade 7.~~

7.12 Effective October 1, 2015, the Library Assistant II will be upgraded from a Grade 3 to a Grade 4 and the Library Assistant III will be upgraded form a Grade 5 to Grade 6.

#### Article 8 LONGEVITY

- 8.1 All bargaining unit employees shall receive longevity compensation. Longevity compensation shall commence on the first week in December following said five (5) years of service. Longevity compensation shall be distributed to the employees before the fifteenth of December in a separate check.
- 8.2 Longevity compensation shall be distributed according to the following schedule.

<u>Length of Service</u>	<u>12/1/20<u>04</u>15</u>
5 years	\$ 15 <u>03</u> .00
10 years	\$ 30 <u>06</u> .00
15 years	\$ 45 <u>09</u> .00
20 years	\$ 60 <u>12</u> .00
25 years	\$ 75 <u>05</u> .00
30 years	\$ 90 <u>18</u> .00
35 years	\$105 <u>07</u> 1.00

- 8.3 Longevity shall begin to accrue upon date of hire or no earlier than August 11, 1983 for permanent part-time Library Employees.
- 8.4 Effective December 1, 2004, part-time Library employees shall receive this benefit on a pro-rated basis as follows:

	30 Hours	25 Hours	20 Hours	<del>18.5 Hours</del>
5 years	\$112.50	\$93.75	\$75.00	\$69.38
10 years	\$225.00	\$187.50	\$150.00	\$138.75
15 years	\$337.50	\$281.25	\$225.00	\$208.13
20 years	\$450.00	\$375.00	\$300.00	\$277.50
25 years	\$562.50	\$468.75	\$375.00	\$346.88
30 years	\$675.00	\$562.50	\$450.00	\$416.25
35 years	\$787.50	\$656.25	\$525.00	\$485.63

## Article 9 INSURANCE

- 9.1 Medical Insurance: Effective August 1, 1996 the City agrees to provide ~~Blue Choice or equal and comparable coverage Health Insurance~~ to full -time permanent employees and part-time Library employees working thirty (30) hours or more each week. ~~Each 60 days after this agreement is approved, the City agrees to provide Comp 100.~~ Effective date of City Council approval or April 16, 2012, whichever occurs first, the employee's cost will be twenty percent (20%) of the premium and the City will pay eighty percent (80%). Within sixty (60) days after this Agreement is approved, the City will provide employees with a choice of Matthew Thornton.

Co-Pay Applicable to Matthew Thornton Plan Only:

The employee shall pay the following percentage of the cost of premiums so long as Matthew Thornton's cost remains at least 5% below the Blue Choice premium. If the premium for Matthew Thornton is not at least 5% below the Blue Choice premiums the employee and employer's percentage cost of the premiums shall be the same as those for ~~Comp 100-MC and~~ Blue Choice as set forth below:

Employee Percentage	Employer Percentage
---------------------	---------------------

Effective date of City Council approval or April 16, 2012, whichever occurs first, the employee's cost will be 15.5% of the premium and the city will pay eighty four and one half percent (84.5%).

If the parties agree to change to School Care the employees will pay 14% of the cost of the coverage provided to him or her through payroll deduction. The 14% co-pay will be effective the first of the month of the change.

Should the parties agree in writing to establish a cafeteria style plan dealing in insurance issues during the course of the six(6) year agreement -such plan would only become effective if

ratified by the Union, approved by the City Manager and approved by the City Council.

~~Effective as soon as possible after City Council approval, the City may offer two (2) additional optional plans based upon the Comp 100-MC and Blue Choice One plans with premium share as described above. Co-pay shall be five dollars (\$5.00) for office visits, twenty-five dollars (\$25.00) for emergency room visits, and \$10/\$20/\$45 for 30-day retail or 90-day mail order prescriptions.~~

No later than 60 days after the execution of the CBA, Union members will be able to select coverage under only the BlueChoice 10/20/45 plan (at an 80%/20% premium split) or the Matthew Thornton 10/20/45 plan (at and 84.5%/15.5% premium split). If, no June 30, 2016, the total premium cost for any of the plans offered by the City to Union members exceeds the current threshold level for assessment of the Affordable Care Act's ("the ACEs") Cadillac Tax (\$10,200 for single coverage and \$27,500 for 2-person/family coverage), the parties will consider alternative plans which may include SchoolCare's Consumer Driven Health Plan. If the parties are not able to agree on a plan that does not exceed the threshold levels for assessment of the ACA's Cadillac Tax, the Union and the City will each immediately select a plan that does not exceed the threshold levels for assessment of the ACA's Cadillac Tax and submit each plan to a mutually agreed upon arbitrator who will then select which plan the City will adopt."

The Union agrees to participate in a City-wide committee exploring health insurance options.

- 9.2 The City agrees to implement an IRS Section 125 Plan so employees may take advantage of the IRS code provision allowing payment of insurance premiums with pre-tax dollars.
- 9.3 The City will continue to offer the lens and frame discounts offered by EyeMed which from time to time may be unilaterally changed by EyeMed. It is understood that EyeMed may withdraw, modify or amend the program and the City will not be under an obligation to provide any additional program. The City will also continue to offer the generic maintenance prescription drug rider which has been issued by Blue Cross/Blue Shield and is currently in effect. The City will include explanations of these programs once a year with the employee's paychecks.
- 9.4 The parties agree that employees shall receive a waiver stipend in lieu of health insurance coverage in the amount equal to fifty percent (50.0%) of the City's lowest cost of a single person premium ~~Blue Choice~~ plan. The stipends shall be paid quarterly. No additional employees shall receive such stipends when both spouses work for the City. Further the City will not provide Health and/or Dental Coverage if an employee is already covered by the same or similar health and/or dental plan. If the employee is found to have dual coverage, the employee must pay back to the City an amount equal to the premiums paid by the City during the time of dual coverage.
- 9.5 Dental Insurance: The City agrees to pay for single, two-person or family membership in the Delta Dental Plan as required.

Dental Insurance shall be paid for part-time Library Employees working thirty (30) hours or more each week.

If AFSCME chooses to change to SchoolCare, the employees will be eligible for the Cigna Dental plan with an annual limit of \$1,500.

- 9.6 Short-term Disability: The City shall make available through payroll deduction Disability Income insurance for members of the bargaining unit.
- 9.7 Long Term Disability: Within sixty (60) days after this Agreement is approved the City shall obtain Disability Income Insurance for members of the Association equal to two-thirds (2/3) of the monthly base salary not to exceed ~~five-ten~~ thousand (\$~~510~~,000) dollars per month. Said insurance shall be effective after the 61<sup>st</sup> day of disability with benefits payable to ~~age 65~~ normal retirement age and shall be coordinated with Social Security benefits. Only regular full-time employees working 25 hours or more a week shall be eligible for Disability Income Insurance.
- 9.8 Workman's Compensation Insurance: In case of accidental personal injury to any employee arising out of any accident in the course of his employment, the City shall pay to the employee the difference between the amount received from the insurance company or Workman's Compensation carrier and the employee's regular pay check. Said payments to be made by the City until the employee is able to return to work, but in no event shall such payments by the City exceed twenty-six (26) weeks.
- 9.9 Life Insurance: The City shall provide a group life insurance policy for eligible members of the Association in the amount of the current annual salary of the individual employee (rounded up to the nearest one thousand dollar), in accordance with the conditions set forth in the insurance policy. Only regular full-time employees working 25 hours or more a week shall be eligible for Life Insurance.
- 9.10 NHRS Death Benefit: The following is an explanation of death benefits employees will receive under the New Hampshire Retirement System. These benefits are governed by NHRS and may be subject to change by NHRS

If you die while you are in service, and your death is not job-related, a death benefit will be payable to your designated beneficiary(ies). You must be in service when you die in order for the ordinary death benefit to be payable; otherwise, only a refund of your accumulated contributions will be payable to your designated beneficiary(ies).

If you are eligible for service retirement when you die and your spouse is your only designated beneficiary, your spouse will be eligible for a pension earned to the date of your death. This pension will continue until your spouse remarries or dies. Or,



if your spouse prefers, he/she can receive a lump sum payment equal to your annual earnable compensation plus a refund of your accumulated contributions.

Accidental Death Benefit: If you die while you are in service and your death is the natural and proximate result of an on -the-job accident, an accidental death benefit will be payable. You must be in service when you die in order for the accidental death benefit to be payable; otherwise, only a refund of your accumulated contributions will be payable to your designated beneficiary(ies).

If you are married, your spouse will be entitled to an annual pension until he/she remarries or dies, equal to 50% of your AFC.

If you leave no surviving spouse, or if your surviving spouse remarries or dies, any of your dependent children under age 18 will be entitled to an annual pension equal to 50% of your AFC. If you leave no dependent children under age 18, your dependent mother or dependent father will be entitled to an annual pension for life equal to 50% of your AFC.

If you leave no surviving spouse, no dependent children, or no dependent parents who are eligible for the pension described above, a lump sum payment equal to your base salary, any of your accrued benefits not paid at the time of death, and your accumulated contributions will be payable to your designated beneficiary(ies).

Note: In addition to an accidental death pension a refund of your accumulated contributions is also payable to your designated beneficiary(ies).

#### Article 10 SICK LEAVE

- 10.1 All employees except part-time Library employees shall be entitled to thirteen (13) days sick leave per year or ninety seven and one half hours (97.5).
- 10.2 Permanent part-time library employees will be eligible for pro-rated sick leave accrual for all hours actually worked. This calculation shall occur no less frequently than quarterly. Part-time Library employees' sick leave shall be based upon the following schedule:
- |                  |                        |              |   |   |
|------------------|------------------------|--------------|---|---|
| 100% =           | 37.25 hours            | =            | <del>13</del> <u>97.5</u> days per year | <del>8.125</del> <u>(1.083)</u> /month) |
| 80% =            | 30 hours               | =            | <del>10</del> <u>75</u> days per year   | <del>6.25</del> <u>(.883)</u> /month)   |
| 67% =            | 25 hours               | =            | <del>9</del> <u>67.5</u> days per year  | <del>5.625</del> <u>(.750)</u> /month)  |
| 53% =            | 20 hours               | =            | <del>7</del> <u>52.5</u> days per year  | <del>4.375</del> <u>(.583)</u> /month)  |
| <del>50% =</del> | <del>18.25 hours</del> | <del>=</del> | <del>6.5</del> <u>days per year</u>     | <del>(.542)</del> <u>/month)</u>        |
- 10.3 Accumulation of sick leave shall be unlimited.

- 10.4 Employees hired after January 1, 1990 shall have a maximum accumulation of 150 days or 1125 hours.
- 10.5 Upon death of an employee while in the employment of the City, the City shall pay to his/her estate an amount equal to one hundred percent (100%) of his accumulated sick leave.
- 10.6 Upon retirement from employment, or upon termination of his/her employment, voluntary or involuntary, the City shall pay to the employee an amount equal to seventy-five percent (75%) of his/her accumulated sick leave at the date of the termination of his/her employment.
- 10.7 Employees hired after July 1, 1996 shall earn and accumulate sick days as set forth in Section 10.1, 10.2, 10.3, and 10.4 but shall receive no payout for accumulated sick leave upon termination, retirement or death.
- ~~10.8 To be entitled to payment as set forth above, the employee must give the City notice by February prior to the fiscal year in which payment is to be made. If such notice is not given and the employee retires or voluntarily terminates employment, the employee will not be entitled to be paid for his or her accumulated sick leave until the first pay period of July following his or her retirement or termination or 120 days after his or her retirement or termination which ever is later. If the employee is involuntarily terminated by the City or leaves under one of the following exceptions notice will be waived and then the employee will be paid for his or her accumulated sick leave within seventy-five (75) days of termination.~~
- ~~1. Resignation at the request of the City Manager.~~
  - ~~2. Disability retirement.~~
  - ~~3. Retirement caused by serious illness or injury which otherwise does not qualify for disability retirement.~~
  - ~~4. Retirement caused by a serious family illness where the employee is needed to attend to the family member in need.~~
  - ~~5. Other circumstances which arise precipitously which make it impossible for an employee to meet the notice requirements of this section, only if the City Manager approves in advance of the payment without the required notice.~~

#### Article 11 MEDICAL APPOINTMENTS

- 11.1 The City shall allow each full-time permanent employee time off with pay for a doctor, dentist, hospital or other medical related

appointments not lasting over two (2) hours per appointment. Employees may take time off in half hour increments but will not exceed a total of 6 hours per contract year. Permanent part-time Library employees shall make medical appointments on personal time.

- 11.2 Employees shall request such time off at least seventy -two (72) hours in advance, unless in cases of emergency.

## **Article 12 MATERNITY/ADOPTION LEAVE**

- 12.1 Upon application of the employee and approval by the City Manager, a maternity leave of absence shall be granted to permanent full-time employees who have been employed at least one (1) year before said application. Leave for six (6) months is granted after two (2) years of permanent part -time Library employment.
- 12.2 It will be the responsibility of the employee to notify the City Manager one (1) month prior to her returning to work.
- 12.3 An employee shall use her accumulated sick leave benefits during the disability period as determined by her physician before being eligible for maternity benefits, except leave without pay may be granted before all such leave is expended based on approval by the City Manager. It is understood that employees on approved unpaid leave must pay their own health and welfare and dental premiums.
- 12.4 An employee shall not forfeit seniority during this leave of absence.
- 12.5 Adoption: Any bargaining unit employee adopting an infant shall be granted a leave of absence not to exceed three (3) months without pay.
- 12.6 Such leave shall commence upon her receiving defacto custody of said infant, or up to two (2) months earlier if necessary to fulfill the requirements of adoption.
- 12.7 Said employee may keep benefits in force while on said leave by paying group rate premiums to the City.
- 12.8 Family Medical Leave Act Policy: The union and the employer agree that the Interim Policy as implemented by the City of Portsmouth regarding the Family Medical Leave Act shall be applicable to the employees covered by this agreement. It is further agreed that should management initiate a change to said policy that it will be negotiated with the union and subject to all appropriate approvals. Regular part-time Library employees who have worked at least 952 hours in the twelve (12) months prior to requesting FMLA Leave will also be eligible.

## **Article 13**

## VACATIONS

- 13.1 All permanent full-time employees shall be paid for actual time worked, all approved leaves and all approved holidays.
- 13.2 The City shall endeavor to keep the permanent full-time employees continuously at work insofar as practicable during the calendar year.
- 13.3 All full-time permanent employees shall receive a paid vacation as follows:

- A. If he/she has worked one (1) full year, he/she shall be entitled to two (2) weeks vacation or ~~ten (10) seventy five (75) working days-hours~~ with pay. This is to be computed to the nearest half -month period by multiplying the time worked by the factor of ~~.833~~ 6.25 which represents the vacation time earned per month. Once an employee has completed his or her probationary period, he or she may take earned annual leave during the first year of service.
- B. The vacation schedule shall be as follows completing one (1) full year's service for the City of Portsmouth:

<u>Years of Service</u>	<u>DaysHours</u>	<u>Per Month</u>
One to five inclusive	<del>-1075</del> 6.25	<del>.833</del>
six	<del>-1182.5</del> 6.875	
<del>.917</del>		
seven	<del>-1290</del> 7.5	1.000
eight	<del>-1397.5</del> 8.125	
<del>1.083</del>		
nine	<del>-14105</del> 8.75	
<del>1.167</del>		
ten	<del>-15112.5</del> 9.375	
<del>1.250</del>		
eleven	<del>-16</del> <u>120 10</u>	1.333
twelve	<del>-16</del> <u>120 10</u>	1.333
thirteen	<del>-17</del> <u>127.5 10.625</u>	
<del>1.417</del>		
fourteen	<del>-17</del> <u>127.35 10.625</u>	
<del>1.417</del>		
fifteen	<del>-18</del> <u>135 11.25</u>	1.500
sixteen	<del>-18</del>	1.500
seventeen	<del>-19</del> <u>135 11.25</u>	
<del>1.583</del>		
eighteen	<del>-19</del> <u>142.5 11.875</u>	
<del>1.583</del>		
nineteen	<del>-20</del> <u>150 12.5</u>	1.667
twenty	<del>-20</del> <u>150 12.5</u>	1.667

- 13.4 Employees on a five (5) day work week shall be allowed to accumulate no more than ~~forty-five (45) days as of December 31 for the purpose of carrying over to the next year.~~ Effective the date of City Council approval, employees shall be allowed to accumulate no more than fifty (50) days 375 hours as of December 31 for the purposes of carrying over the next year.

13.5 Permanent part-time library employees will be eligible for pro-rated vacation accrual for all hours actually worked. This calculation shall occur no less frequently than quarterly. All permanent part-time Library employees working ~~18.25~~ 20 hours per week or more receive vacation as follows:

	30 hrs week	25 hrs week	20 hrs week	<del>18.25 hrs</del> week
1-5 yrs	8 days	6.5 days	5 days	5 days
6 years	9 days	7 days	6 days	5.5 days
7 years	10 days	8 days	6 days	6 days
8 years	10 days	9 days	7 days	6.5 days
9 years	11 days	9 days	7 days	7 days
10 years	12 days	10 days	8 days	7.5 days
11 years	13 days	11 days	8 days	7.5 days
12 years	14 days	11 days	8 days	8 days
13 years	14 days	11 days	9 days	8.5 days
14 years	14 days	11 days	9 days	8.5 days
15 years	14 days	12 days	9.5 days	9 days
16 years	14 days	12 days	9.5 days	9 days
17 years	15 days	13 days	10 days	9.5 days
18 years	15 days	13 days	10 days	9.5 days
19 years	16 days	13 days	10.5 days	10 days
20 years	16 days	13 days	10.5 days	10 days

13.6 Accumulated days: The number of days allowed for permanent part-time Library employees to accumulate within one calendar year is as follows:

Hours per week	Accumulation of <u>days</u> <u>hours</u>
30	<del>28</del> 210
25	<del>23</del>
20	<del>18.5</del>
<del>18.25</del>	<del>17.5</del>

13.7 All leave time shall be applied for in advance, if possible, to the immediate Supervisor or Department Head.

13.8 All employees, upon termination whether voluntary or involuntary, shall be paid for one hundred percent (100%) for all earned, unused vacation leave at the present rate of pay.

13.9 A. Personal Days: Each full-time permanent employee shall be allotted ~~two (2)~~ fifteen personal days hours each year to tend to matters which cannot be taken care of during the employee's regular time off. Part-time permanent Library Employees are not entitled to personal days. Upon death of an employee while in the employment of the City, the City shall pay to his/her estate an amount equal to one hundred percent (100%) of any unused personal days.

~~B. The employee can take such personal day as a whole day or one-half day at a time.~~

C. The employee shall be required to give a twenty -four (24) hour verbal notice to his/her Supervisor prior to the requested leave. In the event of an emergency, making such notice impractical, such notice shall be waived. In such cases, the Department Head may require the employee to submit a written explanation of the circumstances for not providing the twenty-four (24) notice.

#### **Article 14 LEAVE OF ABSENCE WITHOUT PAY**

- 14.1 Written leaves of absence without pay may be granted by the City Manager in writing specifying the commencement and expiration date for the leave. Such leave may be for a period not to exceed twelve (12) months when medically necessary. Non-medical leaves may be for a period not to exceed six (6) months.
- 14.2 Upon expiration of the leave, the employee shall be reinstated to the position held before the leave was granted.
- 14.3 Failure of the employee to report promptly at the expiration of the leave shall be cause for disciplinary action up to and including discharge.

#### **Article 15 BEREAVEMENT LEAVE**

- 15.1 All employees shall be entitled to Bereavement leave up to three (3) days with pay for a death in the immediate family.
- 15.2 An additional two (2) days may be granted by the Department Head, at his discretion, for a death in the immediate family.
- 15.3 Immediate family shall be defined as follows: Spouse, Child, Adopted Child, Parent, Parent by adoption, Brother, Sister, Aunt, Uncle, Grandparent, Grandchild, Mother-in-law, Father-in-law, Brother-in-law, Sister-in-law, Grandparent-in-law, Niece, and Nephew.
- 15.4 Extensions may be granted by application to the Department Head.
- ~~15.5 Permanent part-time Library employees may be granted up to three (3) days for death of an immediate relative with no extensions. Immediate family is defined for permanent part-time Library employees as spouse, parent, and child.~~

#### **Article 16 HOLIDAYS**

- 16.1 All permanent full-time employees shall be paid at their regular rate for the following named legal holidays:

New Year's Day  
Dr. Martin Luther King, Jr. Day  
Presidents Day  
1/2 day Good Friday  
Memorial Day  
Independence Day  
Labor Day  
Columbus Day  
Veteran's Day  
Thanksgiving Day  
Friday after Thanksgiving  
Christmas Day  
The preceding Monday if Christmas is on a Tuesday  
The following Friday if Christmas is on a Thursday

~~16.2 In addition to above paid holidays, all permanent full-time employees shall be paid at their regular rate for any holiday designated as such by the laws of the State of New Hampshire.~~

- 16.3 Holiday pay shall be granted if an employee reports for work on the last regularly scheduled work day prior to the holiday and the first regularly scheduled work day after the holiday, except in the case of an approved annual day, personal day, compensatory day or a sick day supported by a doctor's note.
- 16.4 When a holiday falls on a Saturday, the preceding day shall be considered a holiday for City employees. If a holiday falls on a Sunday, the following Monday shall be considered a holiday.
- 16.5 Any holiday shall be considered part of the regular work week.
- 16.6 Permanent part-time Library employees are paid only for scheduled hours of work. On days when the building is normally scheduled to be opened, but is "closed" permanent, part-time employees receive pay only for their scheduled hours of work.

#### Article 17 UNION CONVENTION LEAVE

- 17.1 The City shall allow one (1) union member five (5) days leave of absence with pay, to attend the A.F.S.C.M.E. International Convention once every two years.
- 17.2 The City shall allow two (2) Union members one and one-half (1-1/2) days leave of absence with pay, to attend either the New Hampshire State Labor Council Convention or the A.F.S.C.M.E. Council #93 Convention each year.
- 17.3 Such leave must be requested at least one week in advance.

#### Article 18 MILITARY LEAVE OF ABSENCE

Any member who is ordered for active military service as a member of the Armed Forces of the United States of America, or who is engaged in activities in the Reserve Forces of the United States of America, or State National Guard, shall be granted a leave of absence to perform such military duties with the City paying the difference in salary between the employee's base pay and his/her military base pay for said duty and without loss of leave time. Such leave shall be considered Military Leave and shall not exceed fifteen (15) working days in a calendar year.

#### Article 19 SAFETY

- 19.1 The City and the Union shall cooperate fully in matters of safety, health and sanitation affecting the employees.
- 19.2 The City shall have the right to make regulations for the safety and health of its employees during their hours of employment. Representatives of the City and the Unions shall meet one every 30 days at the request of either party to discuss safety or such relations. The Union will appoint their representatives to the Safety and Health Committee.
- 19.3 Employees cooperation in detecting hazards and eliminating or controlling them is a condition of their employment. Employees shall inform their supervisors immediately of a situation beyond their authority to correct on an appropriate form to be supplied by the City.
- ~~19.4 Protective equipment shall be furnished to all employees performing work which requires the use of such protective equipment.~~
- ~~The employees agree to exercise due care in the use and storage of such items.~~
- ~~19.6 All replacements of previous issue shall be made only when an article is turned in or exchanged for one issued.~~
- 19.7 The Union agrees that its members who are employees of the City shall comply with the City's rules and regulations relating to safety, economy, continuity and efficiency of the service to the City and the Public.

#### Article 20 GRIEVANCES

- 20.1 In recognition of the fact that the City and its employees, represented by the Union, have a mutual responsibility to the Public which requires that substantial disagreements arising between the employees and the management be settled in an orderly way without undue delay, it is agreed that fundamental differences which may arise between the employee and the management of the nature mentioned in the following paragraphs



shall be adjusted in accordance with the provisions herein set out.

- 20.2 Should any substantial difference arise between the City and the Union, or its members, as to the meaning and interpretation of this Agreement, including wages or changes in wage rates, procedure of a settlement shall be by private conference in the following manner and order:
- A. An employee who has a grievance shall discuss the grievance with his/her Union Steward or an officer of the Union.
  - B. If the employee is dissatisfied then the grievance shall be submitted to the Department Head within seven (7) working days of the meeting in (A) for further review and possible solution. This shall be known as Step 1.
  - C. The Department Head shall submit his/her written decision to the Union within seven (7) working days after receipt of the notice of grievance or of the hearing to discuss said grievance whichever is later.
  - D. If no agreement has been reached, then the Union may submit the grievance to the City Manager within ten (10) working days after the decision from the Department Head. The City Manager shall render his/her written decision within ten (10) working days after receipt of the grievance. This shall be known as Step 2.
  - E. Should the City Manager's decision be unsatisfactory, any dispute, claim or grievance arising out of or relating to the interpretation or the application of this Agreement may be submitted to arbitration under the voluntary labor arbitration rules of the American Arbitration Association. The parties further agree to accept the arbitrator's award as final and binding upon them. This shall be known as Step 3.
  - F. All demands for arbitration shall be submitted to the PELRB within thirty (30) work days of the Union's receipt of the City's Step 2 answer. Any grievance for which a demand for arbitration is not submitted to the PELRB within thirty (30) work days shall be deemed dropped. This section shall be effective on or after the date of signing.
  - G. Notwithstanding the foregoing or any other section of this contract, a grievance must be filed in writing with management within ten (10) working days of the event giving rise to the grievance or within ten (10) working days of when the employee knew or should have known of the occurrence of said event. If the grievance is not filed in writing within the aforementioned time limit, it shall be untimely and therefore shall be denied.

- H. The time limits set forth in Items B, C, D, and F may be extended by mutual agreement of the parties. It is understood that if the union wishes expedited treatment of a grievance it should so notify management so that hearings and decisions will be handled quickly.
- 20.3 Cost of said arbitrator shall be shared equally by the City and the Union. Any arbitrator ruling on a cause pursuant to this article shall have no authority to change, alter or amend in any way the provisions of this contract. RSA 542 shall be applicable to appeals of arbitrator's decisions.
- 20.4 Working Days: For the purposes of this article, working days shall be defined as Monday through Friday, not including holidays.

### **Article 21 DISCIPLINARY PROCEDURES**

- 21.1 All disciplinary action shall be in a fair manner and shall be consistent with the infraction for which disciplinary action is being taken.
- 21.2 All suspensions and discharges must be stated in writing and the reasons stated and a copy given to the employee(s) and the Union at the time of suspension or discharge.
- 21.3 A. Disciplinary action will normally be taken in the following order:
- (1) Verbal warning;
  - (2) Written warning;
  - (3) Suspension without pay;
  - (4) Discharge.
- 21.3 B. An employee may be suspended or discharged for the following reasons:
- (1) Misconduct during employment;
  - (2) Incompetency or inefficiency;
  - (3) Failure to perform assigned duties;
  - (4) Disobedience of his superior;
  - (5) Intoxication while on duty;
  - (6) Conviction of a felony;
  - (7) Failure to observe rules and regulations;
  - (8) Unauthorized absence from duty;
  - (9) Incompatibility with other employees.
- 21.4 No employee shall be penalized, disciplined, suspended or discharged without just cause.
- 21.5 The length of time between disciplinary actions shall be considered in determining the appropriate level of discipline or in considering an employee for a promotion.

- 21.6 A. In the event an employee receives a written or verbal discipline, the warning shall remain in the employee's personnel file. However, said discipline will not be considered after one (1) year provided no subsequent infraction of the same type as classified in Section 21.3 B. occurs. .
- B. In the event an employee is suspended, the suspension shall remain in the employee's personnel file. However, said discipline will not be considered after two (2) years provided no subsequent infraction of the same type as classified in Section 21.3 B. occurs.
- C. Disciplinary action, taken by the City, against an employee due to illegal or criminal offenses shall be exempt from the provision of A. and B. of this Section.
- 21.7 The City shall not engage in random drug testing unless required to do so under Federal or State Law or Regulation.

#### **Article 22 JURY/WITNESS DUTY PAY**

An employee called as a juror or witness for the City shall be paid the difference between the fee received for such service and the amount of straight time earnings lost by the employee by reason of such service. Satisfactory evidence must be submitted to the employee's immediate supervisor. Payment of meals and/or mileage shall not be considered as part of the fee for the purpose of this Agreement. This section applies to scheduled work hours of permanent part -time Library employees.

#### **Article 23 EMPLOYEE INDEMNIFICATION**

The City shall defend all employees against any claims made against them arising out of an act or omission by the employee while acting in good faith within the scope of his/her employment. The City shall indemnify all employees for any judgments entered against them arising out of an act or omission by the employee acting in good faith within the scope of his/her employment, to the extent that the claim is within the scope of coverage of any insurance policy maintained by the City.

#### **Article 24 EDUCATIONAL EXPENSES**

- 24.1 The following educational reimbursement policy will apply to members of the bargaining unit covered by this policy.
- 24.2 The City agrees to provide reimbursement to employees who complete approved courses relating to their current responsibilities or as part of an approved career development program based upon the following standards: payment up to one hundred percent (100.0%) of the cost of such courses, but not to

exceed Fifteen hundred dollars (\$1500.00) per employee in a calendar year and not to exceed the total budgeted amount.

- 24.3 Courses must be approved in advance by the Department Head concerned as meeting the requirement that the course is related to the employee's job or is part of a career development program. Approval must be obtained through the Personnel Department for payment of the course. A procedure will be established to effectuate payment.
- 24.4 Once a course has been approved as meeting the requirements, up to one hundred percent (100.0%) will be paid to the employee upon presentation of a certificate of satisfactory completion of the course.
- 24.5 Approval for courses will be considered on the basis of relevancy of the course, number of employees applying and funds available.
- 24.6 If a course is paid for in whole or in part through Federal or State Program(s), then the City will not reimburse for such course, it being the intent of this Section to eliminate double payment for any course.
- 24.7 A. The City shall pay for required certification of minimum education required by the Federal, State, Local or City governments.
- B. Education expenses shall include, but not be limited to the following: tuition, registration, books, supplies, course material, travel and meals.
- C. If the employee has to attend any school or course during the regular work day, the employee shall be compensated at his regular rate of pay for all time related to the education including but not limited to: travel and actual classroom time, up to eight (8) hours in any one day.

#### **Article 25 BULLETIN BOARDS**

The City shall provide a space for a Union bulletin board in each building where space is available, that a Union member is employed. Only notices that are approved by the Union Executive Board or President shall be posted on said bulletin board.

#### **Article 26 EQUIPMENT**

~~26.1 The City agrees to furnish raincoats and boots for all employees for whom such issue is necessary.~~

~~26.2 The City shall furnish rubber and/or leather gloves for all work on existing sewer lines.~~

- ~~26.3 The City shall furnish all necessary tools and equipment for the employees to carry out their jobs or assignments including, but not limited to, leather gloves.~~
- ~~26.4 The employees shall exercise due care in the use and storage of all tools and equipment assigned to them.~~
- ~~26.5 All replacement of previous issue shall be made only when an article is turned in and exchanged for one issued.~~
- ~~26.6 The City shall continue to provide uniforms for those employees currently receiving them, as well as to the laborers and truck drivers on the refuse crew.~~
- 26.7 The Union and its members agree to exercise proper care and to be responsible for all City property issued or entrusted to them.
- ~~26.8 Section 26.8: All Public Works non-office employees will be required to wear steel-enforced leather work boots while working. The City agrees to pay said employee up to seventy-five dollars (\$75.00) once a year for work boots. Effective July 1, 2012 the city agrees to pay said employee up to one hundred dollars (\$100) once a year for work boots. Receipts will be required. The City reserves the right to establish the specification for boots for jobs to ensure safety.~~
- ~~26.9 Effective January 1, 2005, the City shall provide an annual tool allowance for mechanics payable thereafter on July 1<sup>st</sup> annually in the following amounts:~~

~~Effective July 1, 2005 — \$350.00~~

~~Effective July 1, 2012, the City agrees to reimburse mechanics up to \$350.00 a year for the purchase of tools. Receipts will be required.~~

#### Article 27 CALL OUTS

- 27.1 Employees within the bargaining unit called in for emergency work shall be paid a minimum of four (4) hours at the time and one - half rate.
- 27.2 Any employee recalled during his original call-out minimum shall not be entitled to additional compensation.
- ~~27.3 Any member of the bargaining unit who is required to be on call for a week at a time, will receive 4 hours of pay, at time and one half in addition to any callout pay. If the member is called in but is unable to be reached, they will forfeit the minimum 4 hour payment. This call out time will not apply to Madbury, Pierce Island or Pease employees.~~

#### Article 28

## MILEAGE

28.1 Employees required or requested to use their personal vehicles in the course of their duty for City business shall be reimbursed at the current applicable IRS allowable rate.

~~28.2 Madbury Water Treatment Plant Employees: All employees employed at the water treatment plant on July 1, 1982 shall receive a commuter fee of two dollars (\$2.00) per day. This section shall not apply to Madbury Water Treatment Plant employees who start work at the plant after July 1, 1982.~~

## Article 29A COMP-TIME IN LIEU OF OVERTIME

The parties agree that in lieu of overtime, a department head (totally within his or her discretion) may grant comp-time if the employee agrees to accept it, subject to City Manager approval. Comp-time, if granted, must be granted in accordance with FLSA requirements.

## Article 29 HOURS OF WORK AND OVERTIME

29.1 Current work schedules shall remain unchanged until Management provides any affected employee/positions and the union with a minimum of ~~sixty (60)~~ fourteen-twelve (142) calendar day notice of the intent to change including the rationale for the change and afford the Union the opportunity to impact bargain and present alternatives. The current work schedules as of the signing of this agreement shall be listed in Appendix B and considered as part of this agreement.

29.2 Schedule changes: Daily and weekly scheduled work hours may be changed by mutual consent between the employees and the department head. The parties understand employees are needed to work the hours when services to the citizens and community can most efficiently be performed.

~~New positions or vacancies in the Recycling Area only may have hours and/or days of work that vary from the provisions below. Hours of work shall be forty (40) hours in a week. The daily and weekly schedule shall be established by management. This provision will remain in place until a successor agreement is effective.~~

29.3 Lunch: Lunch time will be considered non-work time except where specifically stated otherwise.

- 29.4 Pay Period: The normal pay period shall begin Sunday at 12:01 a.m. and end Saturday at midnight.
- 29.5 Overtime: Overtime assignments shall be made on a rotating basis by classification seniority within the division in which the overtime occurs. Overtime shall be offered to employees within a division prior to out of division employees within the same classification. If there are not enough employees available for overtime work, the supervisor needing to fill such assignment shall, at his/her discretion, determine to go outside the division within the same classification to seek employees within the same division but of another classification to fill such overtime work requirements. Any employee performing such overtime assignments shall be placed at the bottom of the rotation list and not called again until proper rotation has been followed. Any employee refusing overtime shall be placed at the bottom of the rotation list. The purpose of this section is to divide overtime as equitable as possible. Overtime work required to complete a job in progress shall be handled as per current practice. If in the judgment of the foreman a true emergency situation exists, the above procedure may be waived.

~~[See Agreement dated December 20, 1993 attached hereto as it relates to rotation of certain overtime assignments regarding the oversight of rentals in the Recreation Department.]~~

- 29.6 Daily Overtime Waivers: It is understood where mutually agreed between the employee and the department head, daily overtime requirements may be waived, however the time off must be given off within the same week.
- 29.7 Holidays: All holidays for which an employee receives pay shall be considered part of his/her basic work week, as specified in the sections on hours of work, for overtime purposes and employees shall be paid for all time worked over this basic work week as specified in the sections on hours of work. [Settlement Agreement dated September 24, 1994 continues in effect].
- 29.8 Employees will be eligible for overtime after they have worked 40 hours in any given week. Holidays, bereavement, military leave and 6 hours for medical appointments will be considered hours worked for the purpose of calculating overtime. Vacation, sick leave, personal leave, ~~bereavement, and military leave~~ will not count as hours worked for overtime calculation purposes.

The only exceptions to the above are as follows:

- Employees who use comp time or annual time during the next scheduled day of work following a night event (working beyond midnight) will be used in the overtime calculation. Any

available comp time must be used prior to the use of annual time.

- ~~Hours paid/worked for being on call (required to carry the city's electronic notification device) will be counted as hours worked for overtime purposes.~~

#### PUBLIC WORKS

~~29.9 Public Works: The following provisions apply to employees of the Public Works Departments. However, if a new subdivision is formed, then the hours of work and overtime shall be an item subject to negotiations.~~

~~29.10 City Yard, and Other Non-Specified Public Works Employees:~~

~~A Employees will receive two fifteen minute breaks -- one in the morning and one in the afternoon in accordance with Public Works Policy #6. There will be no break from work for lunch. Lunch may be eaten "on the fly"; work in progress will not stop while lunch is eaten.~~

~~B. The work week shall consist of forty (40) hours per week.~~

~~29.11 Custodial Personnel: Hours of work shall be forty (40) hours in a week. The daily and weekly schedules shall be established by management. Employees will receive two fifteen minute breaks -- one in the first half of the shift and one in the second half of the shift in accordance with Public Works Policy #6. There will be no break from work for lunch. Lunch may be eaten "on the fly"; work in progress will not stop while lunch is eaten.~~

~~29.12 Public Works Office Personnel: Hours of work shall be thirty-seven and one-half (37 1/2) per week.~~

~~29.12 B All work performed over forty (40) hours in any one (1) week shall be at the rate of time and one-half (1 1/2).~~

~~29.13 Madbury Water Treatment Plant:~~

~~A. The Madbury Plant Operations shall be seven days a week rotating schedule. Plant operating employees shall work forty hours a week.~~

~~B. Employees will receive two fifteen minute breaks -- one in the morning and one in the afternoon in accordance with Public Works Policy #6. There will be no break from work for lunch. Lunch may be eaten "on the fly"; work in progress will not stop while lunch is eaten.~~



- C. ~~Employees who are scheduled off on a holiday as observed by other Public Works employees will receive the next schedule work day as the holiday or the day prior to their regular days off as the holiday as appropriate. Management shall have the discretion in determining the number of employees it requires to work on a holiday.~~

29.14 Waste Water Treatment Plant:

- A. ~~The work week shall consist of forty (40) hours per week. Employees will receive two fifteen minute breaks -- one in the morning and one in the afternoon in accordance with Public Works Policy #6. There will be no break from work for lunch. Lunch may be eaten "on the fly"; work in progress will not stop while lunch is eaten.~~

29.15 Municipal Parking Garage Employees:

- A. ~~Employees are required to work an average of not more than forty (40) hours in any week over a month period.~~
- B. ~~Management specifically can utilize a 4-on/4-off schedule of ten (10) hour days, in which case lunch will be eaten on the job during paid time. SAID employees shall be paid overtime at time and one-half (1-1/2) for hours worked in excess of forty (40) hours in a week.~~
- C. ~~The Parking Garage Utility Mechanic shall work forty hours in a week.~~

CITY HALL AND FIRE DEPARTMENT

29.16 City Hall:

- A. The work week for City hall employees shall be thirty-seven and one-half (37 1/2) hours per week.
- B. All work performed over ~~thirty-seven and one-half (37 1/2)~~ forty (40) hours in any one (1) week shall be at the rate of time and one-half (1 1/2).

LIBRARY

29.17 Library:

- A. The Library full-time permanent employees shall work thirty-seven and one-half (37 1/2) hours in one (1) week. All work performed over ~~thirty-seven and one-half (37 1/2)~~ forty (40) hours in any one (1) week shall be the rate of time and one-half (1 1/2). Full-time Library employees whose regular

day off falls on a designated holiday shall have said holiday added to their annual leave.

~~B. The City of Portsmouth agrees that it will not change the current practices regarding hours of work and/or scheduling of permanent full-time Library employees. Current practices of scheduling permit the Library to adjust individual schedules to enable the Library to meet its obligation of serving the public in an effective and cost efficient manner. Individual employees requests for schedule adjustments which are reasonable and do not impair the Library's operation will continue to be made. Current practices of scheduling that do not impair the Library's operation will continue to be made. In order to facilitate special events, work may be scheduled outside the specific contract hours upon mutual agreement of the employer and employee(s) involved. This Article shall be silent on the hours of work for part-time permanent Library employees covered by this Agreement.~~

#### RECREATION

~~29.18 Recreation: The work week for the Recreation Department employees shall be forty (40) hours per week.~~

#### **Article 30 LIBRARY PARKING**

~~The City will provide up to twelve (12) parking spaces for Library employees during their respective working hours at the High Hanover Garage.~~

The parties shall establish a joint labor management committee composed of two library employees from the bargaining unit and two representatives for the City to discuss parking options for library employees.

#### **Article 31 UNIFORMS**

~~31.1 Uniforms will continue to be provided to Mechanics, Sanitary Laborers, Truck Driver II, Waste Water Plant Personnel and Sewer Division Personnel in accordance with policies set by the Public Works Department.~~

~~A. Highway Department employees will be provided uniforms in accordance with the policies set by the Public Works Department effective July 1, 1990.~~

- ~~B. Water Distribution employees will be provided uniforms in accordance with the policies set by the Public Works Department effective July 1, 1991.~~
- ~~C. Employees who are provided uniforms shall wear the uniforms during all working hours. Uniforms shall not be worn during non-working hours, except when an employee is engaged in reasonable travel to and from work and shall not be worn in bars, restaurants, saloons, or other drinking establishments.~~
- ~~31.2 The Fire Department will provide its clerical and administrative staff \$250 annual uniform allowance. This allowance will be provided to employees who have completed their probationary period.~~

### Article 32 SUBCONTRACTING

- 32.1 The City and the Union agree that in any subcontracting proposal where the City anticipates eliminating the jobs for any members of the Union, the City shall give notice to the Union in anticipation of such action.
- 32.2 Any bargaining unit employee, whose job is eliminated because of subcontracting, shall be given due consideration for transfer to any vacancies which exist.

### Article 33 AMENDMENT

- 33.1 The signing of this Agreement by the authorized representatives of the Union and the City shall constitute the effective date of this Agreement. No cost item will be retroactive unless specifically described as such and approved as a retroactive cost by the City Council.
- 33.2 This Agreement will remain in effect until June 30, 20147.
- 33.3 Should neither party to this Agreement initiate negotiations as required by State Law, this Agreement shall be considered to have been automatically renewed for another year.
- 33.4 In no case shall a termination notice be sent less than thirty (30) days prior to the notice day for intent to bargain as set forth by State Law. Such notice shall be in writing.
- 33.5 To promote peace and harmony, meetings between the Union and the City shall be conducted in accordance with New Hampshire RSA 273-A.

**Article 34  
LIMITATIONS**

Nothing in this Agreement, either by inclusion or exclusion, shall be so interpreted as to limit any benefit now enjoyed by City employees.

**Article 35  
CONFLICT**

In the event of a conflict between the provisions of this Agreement and existing policies and procedures of the City of Portsmouth regarding wages, hours of work, and working conditions, it is agreed that this Agreement shall govern the relationship between the parties.

**Article 36  
COPIES**

All employees, including new employees upon successful completion of their probation, shall be provided with a copy of this Agreement and all appendices at the expense of the City of Portsmouth. The Union Steward shall comply with the provision not later than thirty (30) calendar days after the signing of this Agreement for the contract year.

**Article 37  
BARGAINING AGREEMENT**

The Union and the City agree that the issue of the effective date of the contract including the issue of retroactivity is a negotiable subject of bargaining. The City and the Union recognize that the timely negotiation of future collective bargaining agreements is an important matter of great concern to the City in order for it to complete its budgeting process within the legal time limits. Toward this end, the City and the Union agree that every effort will be made to negotiate all future agreements prior to the expiration date of such agreements including this Agreement. The retroactivity of future agreements shall be specifically bargaining and shall not be automatic.

**Article 38**

The City will provide #1386 with copies of the job descriptions for their members, as well as job descriptions as they are revised.

~~**ARTICLE 39**~~

~~**STAND-BY PAY FOR OFF-SITE MONITORING OF PORTSMOUTH WATER & WASTE WATER TREATMENT SYSTEM DURING NON-WORKING HOURS**~~

- ~~1. These provisions are applicable only to the Water Treatment Plant (Madbury) and Wastewater Treatment Plants (Pease and Pierce Island).~~
- ~~2. All Operator Is and Operator IIs shall be trained on the use of the stand-by monitoring equipment.~~

- ~~3. Operator Is and Operator IIs desiring to work on the stand-by monitoring rotation shall sign up with the Chief Plant Operator. Management shall use the sign up list for stand-by monitoring except in cases of emergency. If the number of people on the list falls below 4, the union and management will meet to work out details for providing appropriate coverage for stand-by monitoring. It is understood that the Chief Plant Operator may be included in the stand-by monitoring rotation.~~
- ~~4. The sign-up list set forth in item #3 above shall be effective for six months at a time. The list will open each January 1, and each July 1. Employees choosing to come off the list shall give management notice by December 1 or June 1 as appropriate. Swaps will be allowed, with notice to the Chief Plant Operator and subject to his/her approval. The employee who performs the monitoring will be the employee who gets paid.~~
- ~~5. An employee required to be on stand-by to monitor and control the water and waste water systems during non-working hours will be compensated as follows:
  - ~~A. \$2.25 per hour while on stand-by to monitor and control including responses to beeper alarms, computer trouble shooting, etc. and payable whether or not any alarms go off. Stand by pay will increase to \$2.30 on June 30, 2014.~~
  - ~~B. When an employee who is on stand-by to monitor the system must come in to correct the problem, the employee will receive a three hour minimum at overtime rate. [As opposed to a 4 hour emergency call in set forth in the AFSCME Local #1386 Contracts, Article 27.] Employees who are called in due to a fire will receive a 4 hour minimum at overtime rate.~~
  - ~~C. It is understood that an employee who is on standby to monitor the system will not be paid for mileage or travel time if he/she must return to the plant to correct a problem.~~
  - ~~D. It is understood the City will pay for the long distance phone calls to Water or Waste Water Treatment Plant computer when an employee is on stand-by monitoring.~~~~

~~The compensation system set forth in Section 5, #A, #B, #C and #D above shall be subject to revision if necessary to~~

~~efficiently deal with operating conditions. Such revisions would have to be negotiated although interim adjustments could be put into effect pending negotiations.~~

SIGNATURES

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 200\_.

City of Portsmouth  
New Hampshire

American Federation of State,  
County, Municipal Employees,  
Local #1386

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
President

\_\_\_\_\_  
City Negotiator

\_\_\_\_\_  
Vice President

\_\_\_\_\_  
NEGOTIATING COMMITTEE

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

PORTSMOUTH RECREATION DEPARTMENT  
OVERTIME ROTATION AGREEMENT  
FOR FACILITY RENTALS  
BETWEEN THE CITY, AFSCME LOCAL #1386, AND  
THE SUPERVISORY MANAGEMENT ALLIANCE

In view of the desire to provide the greatest flexibility for the public to rent and use Recreation Department facilities; and

In view of the past practice involving facility rental from the Recreation Department and payment by the renter for recreation oversight services; and

In view of the rotation of assignments to oversight duties between employees within the AFSCME bargaining unit and the Supervisory Management Alliance bargaining unit;

NOW THEREFORE the parties agree as follows:

1. When oversight services cannot be provided by an employee during regularly scheduled hours at straight-time rates, rental oversight assignments will be rotated among employees who work at a facility both AFSCME Local #1386 and Supervisory Management Alliance so long as they are qualified to perform the available work.
2. Employees providing oversight services for renters will be paid at time and one-half their regular rate for actual hours worked while performing oversight services unless said employee is working his regular scheduled hours. All other premiums and call out provision of the labor agreements are waived by all parties.

This agreement shall not become effective until approved by both Unions, the City Manager, and has received final approval of the City Council to the extent that it amends the existing collective bargaining agreements.

\_\_\_\_\_  
Thomas E. Cayten                      Date

\_\_\_\_\_  
Kenneth Fanjoy                      Date

\_\_\_\_\_  
Melvin L. Wilson, Jr.              Date  
Recreation Department Head

\_\_\_\_\_  
Don Freddette, President              Date  
Supervisory Management Alliance

|

---

James A. McSweeney      Date

This agreement was approved by the City Council on the \_\_\_\_ day of \_\_\_\_\_, 1993.

DRAFT



INDEX

AMENDMENT ..... 32

BARGAINING AGREEMENT ..... 32

BULLETIN BOARDS ..... 25

CALL OUTS ..... 26

COMP-TIME IN LIEU OF OVERTIME ..... 26

CONFLICT ..... 32

COPIES ..... 32

DISCIPLINARY PROCEDURES ..... 22

EDUCATIONAL EXPENSES ..... 24

EMPLOYEE INDEMNIFICATION ..... 24

EMPLOYMENT AND TERMINATION ..... 5

    Absenteeism Without Notification ..... 6

    Anti-discrimination ..... 5

    Bidding Restriction ..... 5

    Competitive Examination ..... 6

    Posting Jobs and Vacancies ..... 5

    Trial Period ..... 5

    Union Dues ..... 5

    Working Days ..... 6

EQUIPMENT ..... 25

GRIEVANCES ..... 21

HOLIDAYS ..... 19

HOURS OF WORK AND OVERTIME ..... 27

    City Hall and Fire Department Employees ..... 30

    Library Employees ..... 30

    Madbury Water Treatment Plant ..... 29

    Municipal Parking Garage Employees ..... 29

Public Works.....	28
Recreation Department Employees .....	30
Waste Water Treatment Plant.....	29
INSURANCE	
Dental Insurance .....	12
Life Insurance .....	12
Long Term Disability .....	12
Medical Insurance.....	11
NHRS Death Benefit .....	13
Short-term Disability .....	12
Workman's Compensation Insurance .....	13
JURY/WITNESS DUTY PAY .....	23
LEAVES	
Bereavement Leave .....	19
Leave Of Absence Without Pay .....	18
Maternity/Adoption Leave .....	15
Medical Appointments .....	15
Military Leave Of Absence .....	20
Personal Days .....	18
Sick Leave .....	14
Union Convention Leave .....	20
Vacations .....	16
LIBRARY PARKING .....	31
LIMITATIONS .....	32
LONGEVITY.....	10
MANAGEMENT RIGHTS.....	4
MILEAGE .....	26
NON-GENDER CLAUSE .....	2

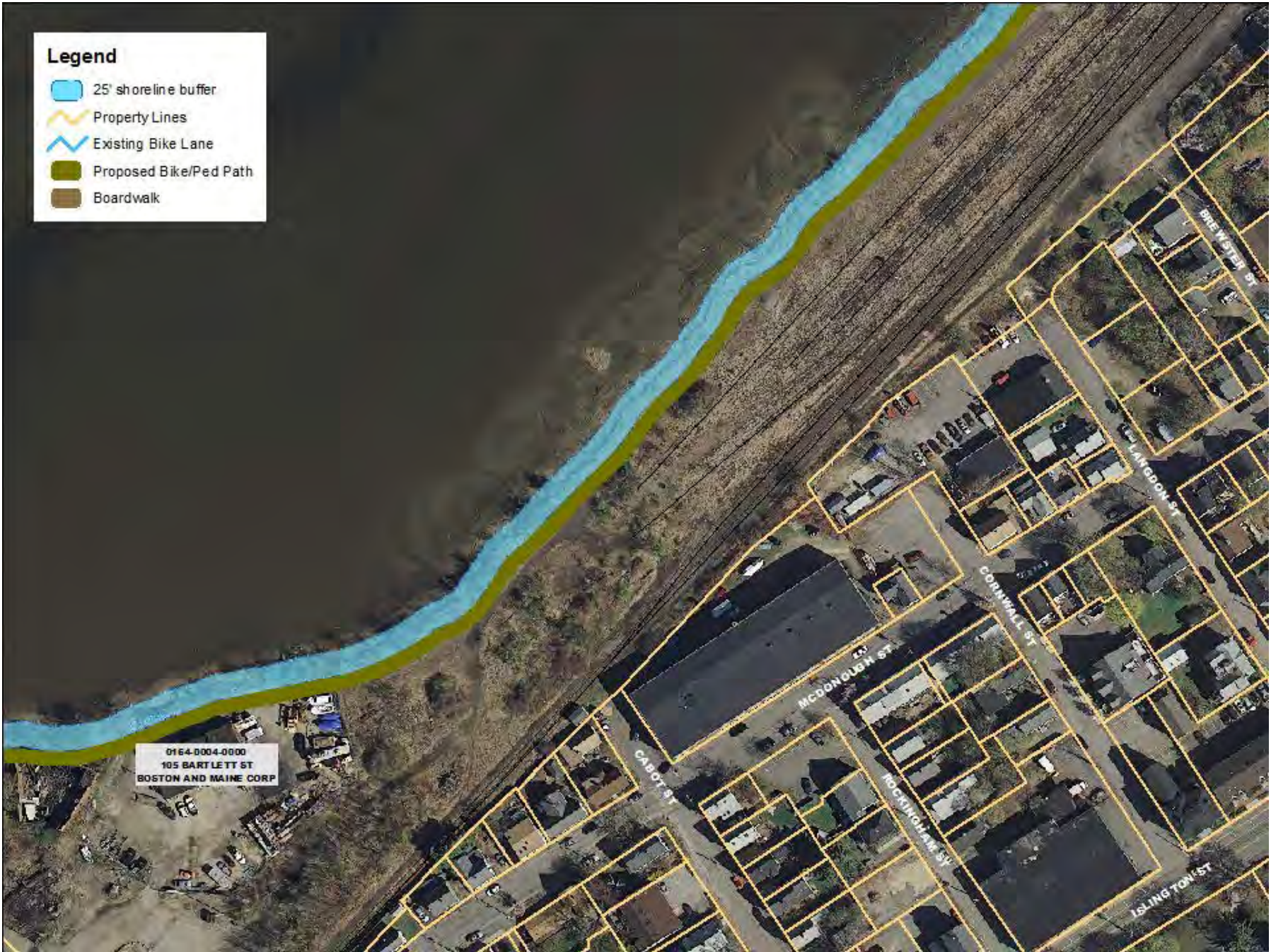
OVERTIME ROTATION AGREEMENT .....	35
PROBATIONARY PERIOD AND CLASSIFICATION	
Classification .....	4
Permanent Part-time Library Employees .....	5
Permanent .....	5
Probationary Period .....	4
RECOGNITION .....	2
SAFETY .....	20
SENIORITY .....	6
Definition .....	6
Forfeiture .....	6
Layoffs .....	6
Re-Employment List .....	7
Reduction in Classification .....	7
STANDBY PAY FOR OFF-SITE MONITORING OF PORTSMOUTH WATER TREATMENT SYSTEM DURING NON-WORKING HOURS.....	33
SIGNATURES .....	34
SUBCONTRACTING .....	31
UNIFORMS .....	31
WAGES .....	7
COLA Adjustment .....	8
WORKING AGREEMENT .....	2

# North Mill Pond Multi-Use Path Conceptual Plan













## Event Listing by Date

Starting Date: 9/21/2015

Ending Date: 7/31/2016

Start End	Type Description	Location	Requestor	Vote Date
9/26/2015 9/27/2015	BIKE TOUR Donna Hepp is the contact for this event. dhepp3@gmail.com or 414-258-3287	Rte. 1B over Memorial Bridge	Granite State Wheelmen	11/17/2014
9/26/2015 9/27/2015	FESTIVAL David Hallowell is the contact for this event.	Pleasant Street	Portsmouth Maritime Folk Festi	12/ 8/2014
9/26/2015 9/27/2015	TOUR This event is for two days. Caroline Amport Piper is the contact. Tel. (603) 686-4338	South End	Fairy House Tours - FOSE	11/17/2014
10/10/2015 10/10/2015	RACE This is part of the Run Portsmouth Road Race Series 5K Races for 2015. Catherine Edison of Community Child Care Center of Portsmouth is one of the contacts. CEdison@communitycampus.org and Ben Anderson or Angela Greene of Prescott Park Arts Festival Tel. 436-2848	Start Memorial Bridge Portsmouth - Finish Prescott	Memorial Bridge Road Race	12/22/2014
10/17/2015 10/17/2015	FUND Mary-Jo Monusky, Executive Director is the contact for this event. This event is a 5k walk/fundraiser. Starts and ends at 11 Jewell Court from 9:00 a.m. to 11:00 a.m.	11 Jewell Court - start and finish	Arts in Reach	4/ 6/2015
10/24/2015 10/24/2015	WALK Martha Netsch is the contact for this event. This event gathers at the parking lot area of Prescott Park and walk on the sidewalk across the Memorial Briege to Kittery and back.	Prescott Park Parking Lot	Seacoast Rotary Club	7/20/2015
11/ 8/2015 11/ 8/2015	ROAD RACE Jay Diener is the contact for this event. This event begins at 8:00 a.m.	Portsmouth, New Castle and Rye	Seacoast Half Marathon	4/20/2015
11/26/2015 11/27/2015	RACE Matt Junkin of Seacoast Rotary Club is the contact for this event. mrjunkin@gmail.com; Tel. 591-0083	Strawbery Banke	Seacoast Rotary Club - Turkey	12/ 8/2014
12/31/2015 12/31/2015	FIRST NIGH Barbara Massar, Executive Director is the contact for this event. This event begins at 4:00 p.m. until Midnight www.proportsmouth.org	Throught Downtown	Pro Portsmouth	8/ 4/2015
5/ 1/2016 5/ 1/2016	FAIR Barbara Massar, Executive Director is the contact for this event. This event is Pleasant Street - State Street o Market Square; no parking on Market Street - Bow Street to Isle Shoals Steam Co. entrance. This event is from Noon to 4:00 p.m.	Downtown	Children's Day	8/ 3/2015
5/ 1/2016 5/ 1/2016	RIDE Contact: Melissa Walden, Associate of Development 207-624-0306 Cycle the Seacoast - First riders leaving Redhook Brewery at 7:00 a.m. and the last rider will be in around 3:00 p.m.		American Lung Association	8/17/2015
6/11/2016 6/11/2016	FESTIVAL Barbara Massar is the contact for this event. This event begins at 9:00 a.m. to 4:00 p.m.	Market Square Day - 39th	Pro Portsmouth	8/ 3/2015

## Event Listing by Date

Starting Date: 9/21/2015

Ending Date: 7/31/2016

Start End	Type Description	Location	Requestor	Vote Date
6/11/2016 6/11/2016	RACE Barbara Massar, Executive Director is the contact for this event. This is 5K Road Race that begins in Market Square.	Market Square Road Race	Pro Portsmouth	8/ 3/2015
6/25/2016 6/25/2016	MUSIC Barbara Massar, Executive Director is the contact for this event. This event begins at 5:00 p.m. to 9:30 p.m.	Pleasant Street - Street Music Series	Pro Portsmouth	8/ 3/2015
7/ 2/2016 7/ 2/2016	MUSIC Barbara Massar, Executive Director is the contact for this event. This event begins at 5:00 p.m. to 9:30 p.m.	Pleasant Street - Summer in the Street Music Serie	Pro Portsmouth	8/ 3/2015
7/16/2016 7/16/2016	MUSIC Barbara Massar is the contact for this event. This event begins at 5:00 to 9:30 p.m.	Pleasant Street - Summer in the Street Music Serie	Pro Portsmouth	8/ 3/2015
7/23/2016 7/23/2016	MUSIC Barbara Massar is the contact for this event. This event begins at 5:00 p.m. to 9:30 p.m.	Pleasant Street - Summer in the Street Music Serie	Pro Portsmouth	8/ 3/2015
7/30/2016 7/30/2016	MUSIC Barbara Massar, Executive Director This event is from 5:00 to 9:30 p.m.	Pleasant Street - Summer in the Street Music Serie	Pro Portsmouth	8/ 3/2015

# SEPARATION AGREEMENT

**Stephen J. DuBois and the Portsmouth Board of Police Commissioners**

**September 28, 2015 to March 28, 2016**

1. Parties

This Separation Agreement (“the Agreement”) is entered into by and between the Board of Police Commissioners for the City of Portsmouth, New Hampshire (“the Commission”) and Portsmouth Police Chief Stephen J. DuBois (“the Employee”).

2. Term And Duties

By this Agreement, and as consideration for the other promises and commitments contained in this Agreement, the Employee hereby gives the Commission irrevocable notice of his intent to retire voluntarily from all employment with the Portsmouth Police Department (“the Department”) effective on March 28, 2016.

The Commission agrees to continue to employ the Employee as the Chief of Police of the Department until March 28, 2016. During this period, the Employee will continue to fulfill all of the duties of Chief of Police. Additionally, the Employee will, as requested, assist the Commission in the transition of his duties to his replacement.

3. Compensation

Provided this Agreement is not terminated earlier for cause (as per paragraph 6 below) or for mutual consent/voluntarily resignation (as per paragraph 7 below), the Employee will continue to receive his current salary and benefits, payable in accordance with the Department’s regular payroll practices and subject to such deductions as may be authorized or as may be required by law, through March 28, 2016.

4. Effect On Prior Agreements

This Agreement is intended to replace and supersede all prior agreements between the Commission and the Employee, including specifically the “Employment Agreement” that is attached hereto as Exhibit A (“the Prior Employment Agreement”). Specifically, by this Agreement, the Employee is relinquishing and forever waiving any claim(s) for compensation, employment benefits, notice, process, and/or severance that he may have been entitled to under the terms of the Prior Employment Agreement.

5. Certification

The Employee is required to remain a New Hampshire Certified Police Officer throughout the Term of this Agreement.

6. Termination For Cause

This Agreement may be terminated for cause by the Commission at any time prior to March 28, 2016 only upon the occurrence of one of the following events, which shall constitute "cause": (a) failure on the part of the Employee to comply with any term or condition of this Agreement; (b) commission and conviction of a misdemeanor or felony; (c) violation of the laws, rules and regulations of the State of New Hampshire that constitutes malfeasance; or (d) violation of the Municipal Charter of the City of Portsmouth that constitutes malfeasance.

Termination for Cause shall take place only following written notification specifying the reasons for termination. Unless the Employee submits to the Commission, within twenty (20) days of receipt of such notification, a written request for a hearing before the Commission, the Agreement shall be considered terminated as of the date which falls thirty (30) days after the Employee's receipt of notification. If the Employee requests a hearing, the Commission shall hold this hearing within twenty (20) days after receipt of such request. The Commission shall render a written decision to the Employee within ten (10) days of the hearing. In the event of a Termination for Cause, the Employee shall receive no severance and no further compensation beyond the last day worked. Nothing in this section is intended to diminish the Employee's rights under RSA 105:2-a. In the event that the Employee is terminated for cause, he challenges the termination, the Commission upholds the termination, the Employee challenges the termination in superior court pursuant to RSA 105:2-a or the terms of this Agreement, and the Employee prevails in superior court, the Employee shall be entitled to twelve months' severance pay from the date that falls thirty (30) days after the Employee's receipt of notification of the termination, as well as his attorney's fees incurred for the successful challenge.

7. Termination By Mutual Consent/Voluntary Resignation

This Agreement may be terminated at any time prior to March 28, 2016 by mutual consent of the Commission and the Employee or by voluntary resignation of the Employee. In the event the Employee voluntarily resigns before the expiration of the Term of this Agreement, the Employee shall give the Commission thirty (30) days written notice in advance of such resignation and his compensation and benefits will continue until the date of his voluntary resignation.

8. Benefits

Except as otherwise provided herein, the Employee's fringe benefits shall continue to be established by the collective bargaining agreement between the City of Portsmouth and the Professional Management Association through March 28, 2016. The exception shall be described in detail in Section 9 below.

9. Exception To Benefits In Section 8

In addition to the compensation enumerated above, the Employee shall also be entitled to the following:

- a. During the Term of this Agreement, the Employee shall continue to be provided with a suitable automobile for use in the performance of his duties under this Agreement. Recognizing that the Chief of Police is on-call at all times, it is understood that the automobile may also be used for personal business.

10. General Release

In consideration of the promises, covenants, agreements, and representations contained herein, the Employee, on behalf of himself, his heirs, representatives, and assigns, fully and finally releases the Commission and the City of Portsmouth (including their respective current and past elected officials, employees, attorneys and agents) from all claims, causes of action, suits, litigation, demands, and obligations of every kind, including claims for damages, wages, bonuses, attorneys' fees and any other form of relief available at law or in equity, which the Employee has or may have by means of any matter, cause, or thing whatsoever, from the beginning of time to the date of this Agreement. Without limiting the generality of the foregoing, this release includes all matters arising out of or in connection with Employee's employment with the Department, including his separation from employment, and including, but not limited to, any rights or claims under New Hampshire RSA Chapter 275, New Hampshire RSA Chapter 275-E, New Hampshire RSA Chapter 354-A, Title VII of the Civil Rights Act of 1964, as amended, the Family and Medical Leave Act, the Americans with Disabilities Act, the Age Discrimination in Employment Act, the Older Workers Benefit Protection Act, the Employee Retirement Income Security Act, and the Health Insurance Portability and Accountability Act, as well as any and all claims for the intentional infliction of emotional distress, negligent infliction of emotional distress, interference with contractual relations, wrongful discharge, breach of contract, negligent supervision, retaliation, defamation, libel, slander, invasion of privacy, assault, battery, failure to pay wages and/or employment benefits, and any and all other claims that may be asserted under state or federal statute or common law. By this release, the parties do not intend to release any claims that cannot be released as a matter of law. Additionally, by this release the parties do not wish to release any claims based on events occurring after the date of this Agreement.

11. OWBPA Acknowledgment

The Employee knowingly, voluntarily, and specifically waives all claims for age discrimination under the Older Workers Benefits Protection Act ("OWBPA"), the Age Discrimination in Employment Act ("ADEA") and NH RSA 354-A arising out of or in connection with his employment with the Department, including his separation from employment. The parties

acknowledge that this Agreement does not apply to any claim for events arising after the execution of this Agreement. The Employee acknowledges that he has read and understands this Agreement. The Employee further acknowledges that this Agreement provides him with consideration to which he is not otherwise entitled. In addition, the Employee acknowledges that this Agreement is not induced by any representation or promise made by any party hereby released or their representatives other than the terms specifically recited in this document. The Employee certifies that the Commission has suggested and encouraged him to consult with an attorney of his choosing before executing this Agreement. The Employee acknowledges that he has had up to twenty-one (21) days within which to consider this Agreement and that he has decided to accept the terms of this Agreement. The parties agree that this Agreement will not become effective or enforceable until the expiration of a period of seven (7) days following the execution of the Agreement by the Employee, during which period the Employee may revoke his consent to the Agreement by delivering a letter to the Employer's legal counsel, Thomas M. Closson, Jackson Lewis P.C., 100 International Drive, Suite 363, Portsmouth, New Hampshire 03801, advising of her revocation, said letter to be delivered on or before midnight of the seventh day following execution. If the Agreement is not revoked during this seven (7) day period, this Agreement shall be irrevocable. It is further agreed and understood by the Employee that in the event that he revokes the Agreement, the Employer shall have no obligations hereunder.

12. Release By City And Commission

In consideration of the promises, covenants, agreements, and representations contained herein, the City of Portsmouth and the Commission (including their respective current and past elected officials, employees, attorneys and agents), knowingly and voluntarily release and forever discharge the Employee and his heirs, representatives, and assigns, from all claims, causes of action, suits, litigation, demands, and obligations of every kind, including claims, attorneys' fees and any other form of relief available at law or in equity, which the Commission or the City has or may have by means of any matter, cause, or thing whatsoever, from the beginning of time to the date of this Agreement. Without limiting the generality of the foregoing, this release includes all matters arising out of or in connection with Employee's employment with the Department, including his separation from employment, and any and all other claims that may be asserted under state or federal statute or common law. By this release, the parties do not intend to release any claims that cannot be released as a matter of law. Additionally, by this release the parties do not wish to release any claims based on events occurring after the date of this Agreement.

13. Defense And Indemnification

If any claim is made or any civil action is commenced against the Employee seeking equitable relief or claiming damages for the negligent or wrongful acts of or by him and the Employee requests the City to provide representation for

him and the City Manager determines that the acts complained of are alleged to have been, or were, committed by the Employee while acting within the scope of official duty for the City and that said acts were not wanton or reckless, in the absence of other legal representation, the City Attorney shall represent and defend the Employee with respect to such claim or civil action throughout such action or shall, with the consent of the City Council, retain outside counsel so to represent or defend the Employee; and the City shall defray all costs of such representation or defense, to be paid from funds not otherwise appropriated. In such case the City shall also protect, indemnify, and hold harmless the Employee from any costs, damages, awards, judgments, or settlements arising from said claim or suit. The City shall not be required to consider the Employee's request unless within 10 days of the time he is served with any summons, complaint, process, notice, demand, or pleading, he shall deliver the original or a copy thereof to the City Manager.

14. Effective Date

The parties agree that this Agreement will not become effective or enforceable until seven (7) days following the execution of the Agreement by the Employee, during which seven (7) day period the Employee may revoke his consent to the Agreement as described in Section 11 above.

15. Joint Press Release And Anti-disparagement


The Employee and the Commission will issue the Joint Press Release attached as Exhibit B. If asked about the Agreement or the Employee's resignation, the Employee and the Commission shall only reiterate the information in the Joint Press Release. If contacted by a prospective future employer of the Employee, the Commission shall only reiterate the information in the Joint Press Release. During the term of this Agreement, the Commission and the Employee will not make any negative or disparaging public comments about each other.

16. Miscellaneous

This Agreement shall be governed by and interpreted pursuant to New Hampshire law. In the event of a dispute related to the Agreement: (a) exclusive jurisdiction and venue shall be in the Rockingham County Superior Court; and (b) the prevailing party in the dispute shall be entitled to the attorney's fees incurred during the dispute.


**The parties acknowledge that this Agreement is also subject to the approval of the Portsmouth City Council, without which approval this Agreement is without force and effect.**

Stephen DuBois

  
\_\_\_\_\_

Dated: 09/28/15

Portsmouth Police Commission:

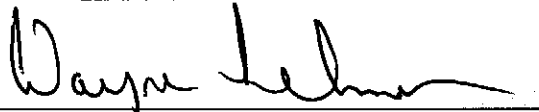
  
\_\_\_\_\_

Commissioner John Golumb

Dated: 9/28/15

\_\_\_\_\_  
Commissioner Brenna Cavanaugh

Dated: \_\_\_\_\_

  
\_\_\_\_\_

Commissioner Wayne Lehman

Dated: 9/28/2015

Approved by the Portsmouth City Council:

\_\_\_\_\_

4851-5874-9225, v. 1



**EXHIBIT A**

# EMPLOYMENT AGREEMENT

**Stephen J. DuBois and the Portsmouth Board of Police Commissioners  
September 1, 2012 to August 31, 2017**

## 1. Preamble

This Agreement is entered into between the Board of Police Commissioners, City of Portsmouth, New Hampshire (hereinafter called "Commission/Board") and Stephen J. DuBois (hereinafter called "Employee"). This Agreement is null and void unless approved by the Portsmouth City Council.

## 2. Employment and Term

The Commission/Board agrees to employ the Employee and the Employee agrees to accept employment in the position of Police Chief for a 5-year term commencing on September 1, 2012 and ending on the August 31, 2017. The Commission/Board and the Employee acknowledge that this is a full-time, year-round position including extensive obligations in the evenings and on week-ends. The Employee agrees to devote all of his professional efforts to the successful fulfillment of his responsibilities to the Commission/Board and the City as Police Chief.

## 3. Salary

Effective September 1, 2012, the Employee shall receive a salary of one hundred six thousand three hundred and eight dollars (\$106,308.00) per annum, payable in no fewer than twenty-four installments and subject to such deductions as may be authorized or as may be required by law. See grade 28, step B of City's Wage/Salary Schedule for Non-Union Employees. The Employee shall not be entitled to any salary enhancements except as specifically provided herein.

**COLA ADJUSTMENTS.** On July 1, 2013 and on each July 1<sup>st</sup> thereafter during the term of the Agreement, a COLA adjustment percentage increase shall be computed which shall not be less than 2% nor more than 5%. The COLA Adjustment percentage shall be determined by taking the 10 year average of the CPI-U for the Boston-Brockton-Nashua—MA-NH-ME-CT all items index as computed by the Bureau of Labor Statistics of the US Department of Labor for the most recent 10 calendar years preceding the July 1 adjustment. BLS's calendar year for this index is November through November (it is not published on a December to December basis). The reference base is 1982-1983 equals 100 until BLS updates the reference base at which time the parties agree to adopt the official reference base as used by BLS.

**STEP INCREMENTS.** On July 1, 2013 and on each July 1<sup>st</sup> thereafter during the term of the Agreement (unless the Employee has already reached the top step of the Wage/Salary Schedule), the Employee is eligible to move up one (1) step on the Schedule.

4. Certification

The Employee shall be required to hold for the life of this Agreement a valid certificate, properly registered and issued by the State of New Hampshire, as follows: New Hampshire Certified Police Officer.

5. Termination for Cause

This Agreement may be terminated by the Commission/Board at any time for cause, i.e., failure on the part of the Employee to comply with any term or condition of this Agreement, the laws, rules and regulations of the State of New Hampshire, or the rules and regulations of the Commission/Board, or the City of Portsmouth; or malfeasance, misfeasance, nonfeasance, or insubordination in carrying out the responsibilities of the position as specified in the Municipal Charter of the City of Portsmouth or as directed by the Commission/Board.

Termination for Cause shall take place only following written notification specifying the reasons for termination. Unless the Employee submits to the Commission/Board, within twenty (20) days of receipt of such notification, a written request for a hearing before the Commission/Board, the Agreement shall be considered terminated as of the date which falls thirty (30) days after the Employee's receipt of notification. If the Employee requests a hearing, the Commission/Board shall hold this hearing within twenty (20) days after receipt of such request. The Commission/Board shall render a written decision to the Employee within ten (10) days of the hearing. In the event of a Termination for Cause, the Employee shall receive no severance and no further compensation beyond the last day worked. Nothing in this section is intended to diminish the Employee's rights under RSA 105-2a.

6. Termination with Severance Payment

If at any time the Commission/Board in its discretion shall so determine, the Commission/Board may, without cause and with or without prior notice, relieve the Employee of his duties under this Agreement. In such event, the Employee shall be entitled to severance benefits. Such severance benefits shall be twelve (12) month's salary or the balance of the contract, whichever is less. As is set forth above in Section 5, if the termination is for cause, the Employee shall not be entitled to severance benefits. Severance benefits shall not be paid upon the voluntary resignation of the Employee. Nothing in this section is intended to diminish the Employee's rights under RSA 105-2a.

7. Termination by Mutual Consent/Voluntary Resignation

This Agreement may be terminated at any time by mutual consent of the Commission/Board and the Employee or by voluntary resignation of the Employee. In the event the Employee voluntarily resigns before the expiration of the term of this Agreement or any renewal thereof, the Employee shall give the Commission/Board sixty (60) days written notice in advance of such resignation. In the event of voluntary resignation, the Employee shall not be eligible for severance benefits

pursuant to Section 6 of this Agreement.

8. **Severance Constitutes Release**

The acceptance by the Employee of the severance benefits provided under this Agreement shall constitute a full and complete release of any other rights, claims, or causes of action whether in law, equity or otherwise, that the Employee may have against the Commission/Board, the City of Portsmouth, and the employees, elected or appointed officials, officers, agents, representatives and attorneys of such entities.

9. **Benefits**

Except as otherwise provided herein, the Employee's fringe benefits shall be established by the collective bargaining agreement between the City of Portsmouth and the Professional Management Association. The exceptions shall be described in detail in Section 10 below.

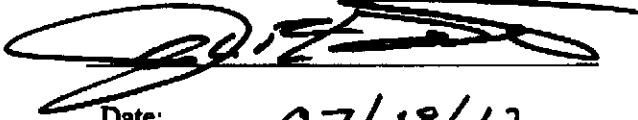
10. **Exception to Benefits in Section 9**

In addition to the compensation enumerated above, the Employee shall also be entitled to the following:

- a. The Police Chief shall be provided with a suitable automobile for use in the performance of his duties under this Agreement. Recognizing that the Police Chief is on-call at all times, it is understood that the automobile may also be used for personal business.
- b. As a result of an administrative error, during his tenure as Deputy Police Chief the Employee was inadvertently not provided with fourteen (14) days of paid leave that he was otherwise entitled. In an effort to rectify this administrative error, the Employee has been provided with fourteen (14) days of supplemental paid leave. As of September 1, 2012, the Employee will have used up at least four (4) days of this supplemental paid leave. As part of this Agreement, any remaining days of this supplemental paid leave, not to exceed ten (10) days, will be cashed out at the Employee's regular base rate of compensation as Deputy Police Chief, and will be paid to the Employee, less ordinary and regular withholdings, in the Employee's first full paycheck in September 2012. This is a one-time accommodation, to correct an administrative error.

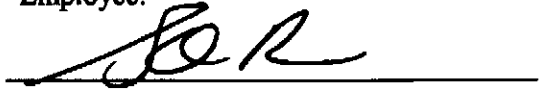
**The parties below acknowledge that this Agreement is subject to the approval of the Portsmouth City Council without which approval this Agreement is without force and effect.**

For the Commission/Board:



Date: 07/18/12

Employee:

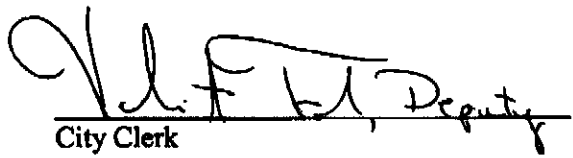


Date: 07/18/12

Approved by the Portsmouth City Council:

July 16, 2012  
Date

Certified by the City Clerk:

  
City Clerk

**EXHIBIT B**

## **JOINT PRESS RELEASE**

### **PORTSMOUTH POLICE COMMISSION AND PORTSMOUTH POLICE CHIEF STEPHEN DUBOIS**

After 22 years of service to the Portsmouth community, Chief Stephen DuBois is announcing his retirement effective March 28, 2016. Chief DuBois began his law enforcement career with the Hampton, NH Police Department as a part-time officer before being hired by the University of New Hampshire as a part-time officer and as an Auxiliary Officer with Portsmouth Police Department. In 1993 he was hired as a full-time Portsmouth Police Patrol Officer. He was promoted to detective, where in addition to investigating many of the City's more serious crimes at the time, he focused on the department's continued efforts to solve the City's unsolved homicides. He rose up through the ranks in the various divisions within the department and served many roles on the Seacoast Emergency Response team to include Commander.

Chief DuBois will be cooperating with the Portsmouth Police Commission to begin a nationwide search for his replacement. The Chief and the Police Commission are in agreement that the Chief's successor should be the best candidate the City can find to lead the 110 person department.

Chief DuBois wishes to thank the men and woman of the Police Department for the many years of shared experiences making the City of Portsmouth a safe place for our residents and visitors. He looks forward to moving on to the next chapter in his life with his family and friends and the adventures that lay ahead.

Mayor Robert Lister, City Manager John Bohenko and Police Commission Chairman John Golumb want to thank him for his years of dedicated service to the people of Portsmouth.



# 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 of the CDAG Program Initial applicant

Name: Jonathan Sandberg Telephone: Hi 430 5566  
C: 822 9583

Could you be contacted at work? YES/NO If so, telephone # 822 9583

Street address: 160 Bartlett Street

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): jfsandberg@yahoo.com

How long have you been a resident of Portsmouth? 15 years

Occupational background:

Recap professional - Portsmouth High School 2006 - Present

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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: I am very committed to Portsmouth and want to do all that I can to make my community a better place for everybody. I work directly with many students who come from low-income backgrounds and I look forward to helping support innovative ways to help them.

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

Portsmouth Listens Study Group - Winter 2014  
Portsmouth Historical Society - Trustee, Chairman of the Buildings & Grounds Committee 2008 - 2014

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

1) James G. Newcas 500 Market Street, Suite 8 Portsmouth NH 03801 431-71614  
Name, address, telephone number

2) Richard Candee P.O. Box 728, Portsmouth NH 03801 436-8433  
Name, address, telephone number rcandee@maine.net

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: [Signature] Date: 9/30/15

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 Jenkins Avenue, Portsmouth, NH 03801

6/27/2012



# 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: SUSTAINABLE PRACTICES

Name: LAWRENCE T. LARIVIERE Telephone: 603 436 1767

Could you be contacted at work?  YES  NO If so, telephone # 603 433 2084

Street address: 11 LARRY LN

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): LJLCLUTC@AOL.COM

How long have you been a resident of Portsmouth? 76 YRS

### Occupational background:

SELF EMPLOYED INTERIOR DESIGNER SINCE 1970 - TIL PRESENT  
APPRENTICED -> MASTER UPHOLSTERER 1962-1970 @ MODEL UPHOLSTERY  
GROCERY CLERK 1954-1962 @ PIC-N-PAY  
P.T. USHER 1950-1954 COLONIAL THEATER

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

MEMBER + ADMIN SUSTAINABLE PORTSMOUTH - 4 YRS  
ADVISORY BOARD HODDGEN BROOK RESTORATION 2 YRS

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



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: I NEED TO CHALLENGE MYSELF IN ANOTHER CAPACITY TO FEEL A SENSE OF ACCOMPLISHMENT AND THIS COMMITTEE IS A GOOD FIT FOR ME

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

ADVISORY BOARD OF HODGSON BROOK RESTORATION

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

1) ALLEN WHITE, 7 LARRY LN 393 0605  
Name, address, telephone number

2) CANDACE DOLAN, 129 KENSINGTON RD, HAMPTON FALLS 828-4701  
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: Laurence Fawcett Date: 7/29/2015

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

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

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

SEP 03 2015  
Renewing applicant  
By

Committee: PTS parking traffic safety

Name: Shari Donnermeyer Telephone: 603-498-5788

Could you be contacted at work? YES/NO - If so, telephone # yes ↑

Street address: 193 Gosport Rd

Mailing address (if different): same

Email address (for clerk's office communication): shari.donnermeyer@gmail.com

How long have you been a resident of Portsmouth? since 1988

Occupational background:

media  
sales  
sales management

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

Reasons for wishing to continue serving:  
I really enjoy it and am now familiar with how it all works



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

The Chamber - past chair  
Rotary - 7 yr member  
PEEP - started + founded fundraiser Home for the Holidays to fund after school programs for Portsmouth public schools

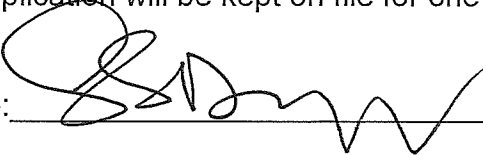
Please list two character references not related to you or city staff members:  
(Portsmouth references preferred)

1) Nancy Clayburgh, FW Hartford Dr, Portsmouth, 603-475-3037  
Name, address, telephone number

2) Margaret O'Brien, Margaret O'Brien Realty, Harbor Place, Portsmouth, 603-828-7245  
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:  Date: 9/3/2015

CITY CLERK INFORMATION ONLY:

New Term Expiration Date: 9-17-2018  
Annual Number of Meetings: 11 Number of Meetings Absent: 2  
Date of Original Appointment: 9-17-2012

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



# 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: Portsmouth Housing Authority  
Board of Commissioners Resident Advisor

SEP 03 2015

Initial applicant  
By \_\_\_\_\_

Name: Jennifer Pike Telephone: (603) 918-4004

Could you be contacted at work?  YES  NO If so, telephone # (603) 430-7835

Street address: 8 Wedgewood Rd Portsmouth NH 03801

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): happyascanbe4@yahoo.com

How long have you been a resident of Portsmouth? 6 years

Occupational background:

I have history in retail services, food service,  
residential cleaning, newspaper carrier, hotel (housekeeping).

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

I just became a resident advisor, otherwise I  
have no experience.



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: I would love to serve  
my community more. Also I think it would be  
a great learning experience.

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

I am a member of 3C church, I am also  
part of the National Society of Collegiate Scholars

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

1) Traci Cabbett <sup>185 Greenleaf Ave. Apt B</sup> Portsmouth, NH (603) 339-7069  
Name, address, telephone number

2) Barbara Grazier Middle St. Portsmouth, NH (603) 340-1837  
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: Jennifer Pyle Date: 9/3/15

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

Wednesday, September 30, 2015

To: The City Council,

I have asked that the following item be placed on the City Council Agenda for our Monday, October 5, 2015 meeting:

**Concepts for an Ethics Ombudsman / Ethics Officer**

I will not offer a long discussion on this item -- my purpose in placing it on the Council Agenda is to provide copies to you of the following two pages:

- (1) A suggestion from citizen Mike Kennedy, about which he wrote as a letter to the editor for The Portsmouth Herald.
- (2) A copy of a bill I sponsored in the 2006 Legislative Session which earned House passage but was sent to study by the Senate. That legislation evolved later into an improved ethics process for state government.

I met with Mike Kennedy about his suggestion, and I think that the concept of having a more formal "pro-active" process for encouraging our employees and residents to speak out when they see ethical problems in our community has much value.

I ask that City Attorney Bob Sullivan and City Manager John Bohenko evaluate Mike Kennedy's suggestion, as well as the concept of a formal Ethics Officer, with related duties specifically purposed for municipal government.

Perhaps they could report back to us with their own advice and suggestions later this Fall. With the right balance of collaboration and discussion among the City Council, our employees, and our residents, we might come up with a meaningful new process to prevent future ethical problems.

Thank You,

*Jim Splaine*  
City Councilor



From Gibson "Mike" Kennedy

9-28-15

### **Take Action on “Whistleblowing”**

There’s been much said about the courage it took Mr. John Connors to speak out on the Webber matter and how difficult it is for a person to speak up – even if they KNOW there’s not supposed to be any retribution.

During my time in the defense industry, I observed a good method for helping the whistleblower feel safe in calling out misbehavior. Individual firms and the DoD (Department of Defense) itself set up “toll-free Ethics Hotlines” for personnel to call-in to report real or suspected instances of fraud, waste, harassment and abuse. The city could do the same thing.

The caller doesn’t give their name or phone number unless they want to. The trained person fielding the call gives the caller a code word to use when calling back for follow up.

In my business we used a senior Human Resources person to field the initial call. That person would determine if the call was actually an ethics related issue or something else that could be dealt with directly by a supervisor. If the issue was sensitive, a panel would be convened to investigate and take action if necessary.

Had we had a system like this in place prior to the Webber matter, we might have addressed the problem sooner.

If the city appoints a neutral Ethics Ombudsman and publishes an 800 number to call, it will enable staff to call out known or suspected ethical problems. The number could even be used to field citizen concerns. I believe the city has an HR firm on retainer that could both advise us on setting this up and might even be hired to staff the call-in number.

Not all calls will be appropriate (e.g. “I deserve a raise” or I’m not happy about the snow removal) but these are easy to screen out and refer to the appropriate party. Calls that require follow up or investigation can be referred to a private panel (e.g. HR, legal, union reps) that will determine how and if to follow up on the assertion.

This is an important capability that is commonplace at the Federal level. We ought look into doing something about it here in Portsmouth. The Council should ask the City Manager, or City Attorney to investigate the options and report back.

*Gibson “Mike” Kennedy*

**HB 1240-FN – AS AMENDED BY THE HOUSE**

15Feb2006... 0795h

2006 SESSION

06-2126 10/03

**HOUSE BILL 1240-FN**

AN ACT establishing the position of state ethics officer.

SPONSORS: Rep. Splaine, Rock 16

COMMITTEE: Executive Departments and Administration

**AMENDED ANALYSIS**

This bill establishes the classified position of state ethics officer for the administration of the state ethics code.

-----  
Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

15Feb2006... 0795h 06-2126 10/03

**STATE OF NEW HAMPSHIRE**

*In the Year of Our Lord Two Thousand Six*

AN ACT establishing the position of state ethics officer.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 New Section; State Agency Code of Ethics; Position Established. Amend RSA 21-G by inserting after section 29 the following new section:

21-G:30 Ethics Officer; Appointment; Duties and Responsibilities.

I. There is established the classified position of state ethics officer who shall be hired by the secretary of state. The state ethics officer shall be administratively attached to the secretary of state.

II. The state ethics officer shall be responsible for the administration of this subdivision. The ethics officer shall:

(a) Review the administrative requirements of this subdivision and the submission of forms pursuant to RSA 21-G:28.

(b) Communicate with all candidates for public office, public officials, and public employees on the administrative requirements of this subdivision and the submission of forms pursuant to RSA 21-G:28.

(c) Respond to any inquiries from candidates for public office, public officials, and public employees on the administrative requirements of this subdivision and the submission of forms pursuant to RSA 21-G:28.

(d) Assist state agencies adopting supplemental ethics codes under RSA 21-G:27.

(e) Make or forward complaints alleging violations of the provisions of the state ethics code to the attorney general or any other committee or commission authorized by statute to investigate ethics complaints for prosecution.

III. The state ethics officer shall not be authorized to render legal advice.

IV. The state ethics officer shall attend meetings of and act as a liaison to the legislative ethics committee, as well as any other ethics committees or commissions established by statute.

V. Any state agency, commission, or committee authorized by statute to issue opinions interpreting a state ethics law shall submit a copy of any written decision or opinion to the state ethics officer and to the secretary of state. Such written decisions or opinions may be redacted prior to submission in order to protect confidential or nonpublic information.

2 Effective Date. This act shall take effect 60 days after its passage.

# MEMO

TO: Honorable Mayor Robert Lister  
Members of the City Council

FROM: Jack Thorsen, City Councilor

DATE: September 30<sup>th</sup>, 2015

SUBJECT: Arts Festival in Prescott Park

---

*In this memo, I suggest that the City Council consider motions to initiate the negotiation process for the use of Prescott Park for a Summer Arts Festival.*

## Reset

The Council voted to reconsider a prior vote that restricted evening performances in Prescott Park during the school year. The Council did not, however, consider any alternative motion, or any other action with regard to festival activities. We merely reset the last vote.

We now have an opportunity to move forward and prepare for the 2016 season.

## Recommendations and Motions:

- 1. Use a negotiator who will take the city's position and create an ironclad contract with festival management.**

The contract is not trivial and requires deft negotiating skills and an understanding of contracts that employ corporations to manage public events. Although our legal department is capable of this, I'm not sure they have the time to do it. The contract should take into account the cost of the negotiator, though not necessarily directly.

**Motion:** To direct the City Manager to find a contract negotiator for the city who will represent the city's interest and who is familiar with the construction of event management contracts.

- 2. Outline a terms sheet**

There is a litany of concerns that come into play when planning for a summer arts festival. The Council, through the Mayor's committee, could compile a list of terms as they relate to community, business, and festival management feedback. I recommend holding community input meetings as a means of soliciting that feedback.

**Motion:** To direct the Mayor's committee to compile a list of potential contract requirements, including penalties for non-compliance, for presentation to the Council, and based on input from the community at-large and the need to preserve the park as the Prescotts originally intended.

### **3. Open bidding for the use of Prescott Park for an Arts Festival**

The PPAF, a not for profit corporation, has run the summer arts festival for decades and is well entrenched – a virtual corporate monopoly with no direct supervision by the city. Since there is no possibility that the festival will shut down if a contract is not reached, the city is in the awkward position of dealing in a weak negotiating position. The only way I know of to strengthen the city's hand is to introduce competition.

It is also possible that there be more than one organization using the park.

**Motion:** To direct the City Manager to solicit organizations capable of managing an arts festival, including the current tenant, as an exclusive manager, or multiple coordinated managers.

### **4. Contract Duration**

It is my opinion that the city should not enter a ten-year contract as is being discussed. My reasoning is that there is still too much uncertainty and flux around the operation of the festival to allow the agreements to be set in stone. I would recommend no longer than three years.

### **Closing**

My hope is that we can create a good working relationship and contract with the festival event manager. Although I believe it is most likely that the festival manager the city chooses will be PPAF, Inc., due to their long history and high level of achievement, I would not want to go into negotiations with only that possibility.

*Thank you for your kind consideration in this matter.*

*Sincerely,*

*Jack Thorsen  
City Councilor  
City of Portsmouth, New Hampshire*