

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, MAY 16, 2016 TIME: 7:00PM

## AGENDA

- 6:00PM – NON-MEETING WITH COUNSEL RE: PROPERTY NEGOTIATIONS & NEGOTIATION OF 1 YEAR EMPLOYMENT AGREEMENT FOR POLICE CHIEF MARA IN ACCORDANCE WITH RSA 91-A:2, I (b)

- I. CALL TO ORDER
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE

### PRESENTATIONS

1. Justice John Broderick Re: Change Direction Campaign
2. Update Re: Mosquito Control Program
3. MapGeo Parcel Viewer Application

### V. ACCEPTANCE OF MINUTES – MAY 2, 2016

### VI. PUBLIC COMMENT SESSION

### VII. PUBLIC HEARINGS

- A. FOR THE PURPOSE OF DISCONTINUING ANY RIGHTS OF THE CITY OR THE PUBLIC IN THE FOLLOWING TWO PARCELS OF PROPERTY:

A CERTAIN TRIANGULAR TRACT OF LAND BEING LOCATED AT THE NORTHWESTERLY CORNER OF AND WITHIN THE INTERSECTION OF THE DEER STREET AND BRIDGE STREET RIGHTS OF WAY, AND BEING APPROXIMATELY 1,717 SQUARE FEET IN SIZE; AND

A CERTAIN TRAPEZOIDAL TRACT OF LAND BEING LOCATED ALONG THE NORTHERLY BOUNDARY OF SAID TRIANGULAR TRACT OF LAND, BEING APPROXIMATELY FOUR (4) FEET WIDE AND BEING APPROXIMATELY 269 SQUARE FEET IN SIZE

- B. CHAPTER 10 – ZONING ORDINANCE BE AMENDED AS FOLLOWS:

- (1) DELETE THE EXISTING ARTICLE 5A – CHARACTER DISTRICTS IN ITS ENTIRETY AND INSERT IN ITS PLACE THE NEW ARTICLE 5A – CHARACTER DISTRICTS DATED 5/2/2016

- (2) AMEND ARTICLES 4, 5, 11, 12 & 15 OF THE ZONING ORDINANCE AS SET FORTH IN THE DOCUMENT TITLED "CONFORMING AMENDMENTS TO ZONING ORDINANCE" DATED 5/2/2016
- (3) AMEND THE ZONING MAP AS SET FORTH IN THE FOLLOWING MAPS DATED MAY 2, 2016:
  - (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
- (4) AMEND THE ZONING MAP BY CHANGING THE ZONING DESIGNATION OF 52 PARCELS AS SET FORTH IN THE DOCUMENT TITLED "PROPOSED ADDITIONAL WEST END ZONING CHANGES" DATED 5/2/2016 AND AS SHOWN ON THE MAP TITLED "ADDITIONAL WEST END ZONING CHANGES – SECOND READING – MAY 2, 2016"

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

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

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

- A. First reading proposed Ordinance to amend Chapter 10 – Zoning Ordinance – Article 4 – Zoning Districts and Use Regulations, Section 10.410 – Establishment and Purpose of Districts, Transportation Corridor – To provide for future transportation uses and related facilities as well as recreational trail use
- B. Second reading of proposed Ordinance amending Chapter 10 – Zoning Ordinance as follows:
  - (1) Delete the existing Article 5A – Character Districts in its entirety and insert in its place the new Article 5A – Character Districts dated 5/2/2016
  - (2) Amend Articles 4, 5, 11, 12 & 15 of the Zoning Ordinance as set forth in the document titled "Conforming Amendments to Zoning Ordinance" dated 5/2/2015
  - (3) Amend the Zoning Map as set forth in the following maps dated May 2, 2016:
    - (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

- (4) Amend the Zoning Map by changing the zoning designation of 52 parcels as set forth in the document titled "Proposed Additional West End Zoning Changes" dated 5/2/2016 and as shown on the map titled "Additional West End Zoning Changes – Second Reading – May 2, 2016"

**X. CONSENT AGENDA**

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

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

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

- A. Letter from William Moriarty, The Salvation Army requesting to place 1 or 2 donation bins on municipal property ***(Sample motion – move to refer to the City Manager for report back)***
- B. Letter from Kate Loughlin regarding the littering of cigarettes in the downtown area ***(Sample motion – move to refer to the City Manager for report back)***

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

**A. CITY MANAGER**

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

1. Proposed Discontinuing any Rights of the City or the Public in the following Two Parcels of Property Re: 165 Deer Street
2. Renewal of Pool Lease Agreement SIPP
3. Proposed Lease Agreement with Pontine Theatre Re: Plains Schoolhouse
4. Solar Power Agreements
5. Reconsideration of Action of April 18, 2016 City Council Meeting Re: Disposition of the Fire Boat *(Two-thirds vote required)*
6. License Request Re: 64 Market Street

**Informational items**

1. Events Listing
2. African Burying Ground Anniversary of Reburial Ceremony

## **B. MAYOR BLALOCK**

1. Appointments to be Considered:
  - Reappointment of Reagan Ruedig to the Historic District Commission
  - Reappointment of Jonathan Wyckoff to the Historic District Commission
  - Reappointment to John Mayer as an Alternate to the Historic District Commission
2. \*Appointment of Deer Street Garage Building Committee
  - John O’Leary, Public Representative
  - Mark McNabb, Public Representative
  - Everett Eaton, Economic Development Commission Representative
  - Brad Lown, City Council Representative
  - Eric Spear, City Council Representative
3. \*Proposed Stewardship Committee for African Burying Ground

### Proposed Charge

*The charge of the Mayor’s Blue Ribbon Committee is to advise the City Council and City Manager on all matters pertaining to the African Burying Ground and Memorial Park. This Committee will sunset on December 31, 2017. In addition, the Committee is charged with the following:*

- *Provide guidance on requests for expenditures from the African Burying Ground Trust Fund;*
- *Provide guidance on requests for events and other activities proposed to take place at the African Burying Ground and Memorial Park;*
- *Work to ensure the ongoing interpretation and promotion of the African Burying Ground and Memorial Park*

### Members:

- Chris Dwyer, City Council Representative
- Vernis Jackson, Chair Emeritus of African Burying Ground Committee
- *(To be Appointed)*, Community Volunteers Representative
- *(To be Appointed)*, Portsmouth Black Heritage Trail/Portsmouth Historical Society Representative
- *(To be Appointed)*, Seacoast African American Cultural Center Representative
- School Department Ex-officio
- Portsmouth Public Library, Ex-officio
- Community Development Department, Ex-officio

## **C. COUNCILOR DWYER**

1. Prescott Park Master Plan Update

**D. COUNCILOR SPEAR**

1. Report Back Re: Affordable Housing at Parrott Avenue Parking Lot (*See attached memorandum from City Manager*) (**Sample motion – 1) moved endorsement of concept, and 2) If the concept is endorsed, establish a City Council Work Session**)

**E. COUNCILOR CYR**

1. \*Clarification of May 2<sup>nd</sup> vote on Maplewood Avenue Zone Change

**F. COUNCILOR DENTON**

1. \*Veterans of Foreign Wars Post 168 (**Sample motion – move to direct the City Manager to report back if City property exists for a potential future location for the Veterans of Foreign Wars Post 168**)

**XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

**XIV. ADJOURNMENT**

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

*\*Indicates Verbal Report*


**INFORMATIONAL ITEMS**

1. Notification that the minutes of the April 5, 2016 meeting of the Site 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 OF PORTSMOUTH  
PORTSMOUTH, NH 03801**

**Office of the City Manager**

**Date:** May 12, 2016  
**To:** Honorable Mayor Jack Blalock and City Council Members  
**From:** John P. Bohenko, City Manager   
**Re:** City Manager's Comments on May 16, 2016 City Council Agenda

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**6:00 p.m. Non-meeting with counsel regarding negotiations for a one-year Employment Agreement for Chief David J. Mara in accordance with RSA 91-A:2,I (b)**

**Non-meeting with counsel regarding property negotiations 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.

***Presentations:***

1. **Justice John Broderick Re: Change Direction Campaign.** On Monday evening, Justice John Broderick will make a presentation to the City Council regarding the Change Direction Campaign and its goal to make the five most common signs of mental illness well known.
  
2. **Update Re: Mosquito Control Program.** The City of Portsmouth has an on-going mosquito control program that monitors and applies various strategies for mosquito control in the City. On Monday evening, Michael Morrison from Municipal Pest Management Services and Kim McNamara the City's Health Officer will present a summary of City's on-going mosquito control program and discuss emerging mosquito borne illnesses. Mr. Morrison has over thirty years of experience in mosquito control in New Hampshire. He and his company are licensed through the State of New Hampshire's Division of Pesticide Control. As part of their presentation, Mr. Morrison and Ms. McNamara will talk about best practices utilized for the mosquito control in Portsmouth as well as regulatory requirements that must be complied with under DES regulations.

3. **MapGeo Parcel Viewer Application.** The City Council will receive a brief introduction of the MapGeo Parcel Viewer Application from Jamie McCarty, GIS Coordinator on Monday evening.. The presentation will consist of a brief introduction of the application and a live demonstration. MapGeo is a new, easy-to-use mapping application that allows citizens to select, view and understand important information about their own property. Users can access it through the “Assessor’s Office” on the City website or directly through [portsmouthnh.mapgeo.io](http://portsmouthnh.mapgeo.io).

The tool, whose implementation was managed by the Department of Public Works, will offer a new level of service to citizens who can now find and print current parcel/property data and zoning data for a specific address, as well as providing information about a select set of City services. Other highlights and services include:

- property information and a link to VISION Assessing property data;
- thematic overlays for zoning, polling and ward locations, elementary school districts, and solid waste and recycling routes;
- create a printable map that can be saved to pdf;
- a robust search capability to find addresses or owners; and
- integrated Google Street View and Google Maps;

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

1. **First Reading of Proposed Ordinance Amendments:**

- 1.1 **Request for First Reading of Proposed Zoning Ordinance Amendment - Transportation Corridor District.** Under Section IX of the Agenda, [attached is a memorandum from Rick Taintor, Planning Director](#), regarding the [attached proposed Zoning Ordinance](#) amendment to establish a new Transportation Corridor District. The Planning Board voted on April 21, 2016 to recommend that the City Council amend the Zoning ordinance, as proposed.

The Planning Department has proposed that the railroad rights-of-way within the City (excluding areas for sidings and spurs) be rezoned to a new Transportation Corridor District. The purposes of the proposed district are:

- to preserve these corridors for existing and future transportation uses and utility lines and facilities;
- to allow for the development of multi-use (bicycle/pedestrian) recreational trails along abandoned rail corridors; and
- to restrict any land uses that would conflict with these transportation and recreational uses from being established.

*Therefore, I recommend the City Council move to pass first reading and schedule a public hearing and second reading on the proposed Ordinance at the June 6, 2016 City Council meeting, as recommended by the Planning Board. Action on this matter should take place under Section IX of the Agenda.*

2. **Public Hearing:**

2.1 **Public Hearing for the Purpose of Discontinuing any Rights of the City or the Public in the Following Two Parcels of Property:**

**A certain triangular track of land being located at the northwesterly corner of and within the inner section of the Deer Street and Bridge Street rights of way, and being approximately 1717 square feet in size; and,**

**A certain trapezoidal track of land being located along the northerly boundary of said triangular track of land, being approximately four (4) feet wide and being approximately 269 square feet in size.**

In conjunction with the land acquisition purchase whereby the City is obtaining a parcel of land from Deer Street Associates (DSA) for the construction of a new parking garage, the City will be releasing only the rights of the City or the public to DSA in a piece of land within the Right-of Way at the intersection of Deer Street and Bridge Street. Additionally, the City will need to release its rights in a sidewalk easement that currently encumbers the DSA property. Both of these actions have been part of the anticipated overall public/private agreement that will enable the construction of a new garage and the development of the DSA property.

In accordance with RSA 231:43, the City must hold a public hearing prior to the discontinuance of any rights to public property.

Both of these land releases of public interest were included in the preliminary and final subdivision approval that was granted by the Planning Board on August 20, 2015. At that meeting, after a public hearing on the application, the Board voted unanimously in favor of the application to “grant Preliminary and final Subdivision approval to realign the roadway and transfer 1,717 +/- s.f. of land so that the property shown on Assessor Map 125 as lot 17 increases in area from 108,359+/- to 110,076+/-“. Also included in this application was the discontinuance of a sidewalk easement.

On September 21, 2015 the City Council approved the land transfers for the proposed municipal parking structure at 165 Deer Street. At that meeting, the City Council 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 sc.)”.



Under Section VII of the Agenda, attached are the Disposition Plans C1 and C2 both dated July 2015 (amended 9/15/15), showing the subject land parcels, as well as the other properties that the City will be acquiring. Also attached is a plan titled “PROPOSED ROADWAY ALIGNMENT & TRANSFER PLAN TAX MAP 125, LOT 17” dated July 2015 (amended 8/7/15), showing in more detail, the Deer Street/Bridge Street parcel, as well as the area of the sidewalk easement.

*Following the Public Hearing the City Council will be asked to vote on the two motions under the City Manager’s Action Items on the Agenda.*

3. **Public Hearing/Second Reading of Proposed Ordinance Amendments:**

3.1 **Public Hearing/Second Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance – West End Zoning Amendment Ordinance.** As a result of the May 2<sup>nd</sup> City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the [attached proposed Ordinance amending Chapter 10 – Zoning Ordinance](#) addressing character-based zoning to the West End, additional revisions to Article 5A affecting other character districts, and related amendments to the Zoning Ordinance and the Zoning Map (see attachments below):

- [A one-page ordinance incorporating all the proposed zoning amendments;](#)
- [A proposed revision to Article 5A — Character Districts \(39 pages\);](#)
- [A set of "conforming amendments" to other sections of the Zoning Ordinance \(8 pages\);](#)
- [A list of additional proposed zoning changes for 52 lots adjacent to the proposed Character districts in the Islington Street corridor and West End \(1 page\); and](#)
- [A set of four maps showing proposed amendments to the Zoning Map. The first three maps are revisions to the existing Regulating Plan for the Character districts, extending character-based zoning down Islington Street to the West End, while the fourth map shows the 52 additional lots proposed for rezoning.](#)

At its meeting on January 11, 2016, the Council passed first reading on a draft of these amendments and voted to refer them to the Planning Board for a report and recommendations. The Planning Board considered these proposed amendments at its January meeting and in a public hearing at its February, March and April meetings. During this review period, the Planning Department developed a number of proposed revisions to the draft ordinance in response to recommendations from the Study Circles groups, comments from residents at the public hearing, and consideration by Planning Board members. As a result, the version that the Planning Board voted to recommend contains significant differences from the version initially accepted by the Council and referred to the Board in January. Therefore, the Council voted at its May

2<sup>nd</sup> meeting to substitute the Planning Board's recommended ordinance for the version that had been passed at first reading in January.

The proposed amendments to Article 5A incorporate the following substantive revisions:

1. A new Character District 4-West End (CD4-W) is established. In terms of building and site design, the CD4-W district is modeled on the CD4 district in the downtown; but in its use regulations the new district is similar to the Business (B) district that currently applies in the West End. The development standards for this district are set forth in Figure 10.5A41.108 on pages 5A-11 through 5A-13. In addition, similar to the Downtown Overlay District, Section 10.5A30 prohibits ground floor residential uses in the CD4-W district except for row houses.

The primary differences between the CD4-W district in the West End and the CD-4 district in the downtown pertain to the requirements for off-street parking, density, lot coverage and open space. In particular, the lack of public off-street parking facilities in the West End means that the standards for density, lot coverage and open space must reflect the need to provide private off-street parking.

2. The proposed amendment recognizes a new "recessed entry" facade type (see Figure 10.5A43, page 5A-27). This is an existing building facade type found in Portsmouth's older neighborhoods, and it has been added as a permitted facade type along Islington Street, in the West End, and in other areas outside the Downtown Overlay District.
3. The proposed amendment increases the maximum building footprints in the CD4 and CD5 districts to reflect the historic land use patterns and building footprints in these areas of the downtown, as well as the concepts illustrated in the Vision Plans that TPUDC developed based on the Community Design Charrettes for both the North End and the West End. It is proposed to increase the baseline maximum building footprint from 10,000 sq. ft. to 15,000 sq. ft. in the CD4 district and from 15,000 sq. ft. to 20,000 sq. ft. in the CD5 district.
4. The proposed amendment allows ground-level building footprints to be increased to 30,000 sq. ft. in the CD4 and CD4-W districts, and to 40,000 sq. ft. in the CD5 district, where necessary to accommodate parking on a ground floor or underground level (see Sections 10.5A43.42 and 10.5A43.43). In such cases, any above-ground parking requires a liner building along each street frontage, and all stories of the building above ground floor or underground parking levels (including the liner building) shall meet the baseline maximum building footprint required for the Character district.

5. An exemption has been added to allow off-street parking to be located in front of single-and two-family structures (Section 10.5A44.31).
6. Incentives to the development standards have been added for the West End and for large parcels in other character districts in order to encourage property owners to provide workforce housing or community spaces such as pocket parks or plazas (Section 10.5A47).

In addition to these substantive revisions, the proposed zoning amendments implement a number of minor housekeeping amendments intended to clarify existing provisions or correct inconsistencies in the Zoning Ordinance. In keeping with the changes enacted in August 2015, a number of definitions are moved from Article 5A to the general definitions chapter in Article 15.

A marked-up copy of the proposed Article 5A, showing changes from the existing ordinance (as adopted in August 2015), is available for review in the Planning Department, as well as online at:

<http://planportsmouth.com/characterbasedzoning-isc.html>.

Concurrent with the Planning Board review, Portsmouth Listens held a series of Study Circle meetings to review the proposed zoning changes. At the March 17<sup>th</sup> Planning Board meeting the Study Circles groups presented recommendations that included regulatory changes, non-regulatory items such as capital improvements, and suggestions pertaining to architectural design review, traffic patterns, streetscape design, building code requirements, and city parking policies.

Following is a summary of the Study Circles' principal zoning-related recommendations and how they were incorporated in the revised draft.

<b>Topic of Study Circle Input</b>	<b>Summary of Input</b>	<b>Amendments Incorporated</b>
<b>Building Heights</b>	<ul style="list-style-type: none"> <li>• Too tall in some areas</li> <li>• Increased only to create more affordable housing</li> </ul>	<ul style="list-style-type: none"> <li>• Lowered by 10 feet to 50 feet for the properties located near the Frank Jones Brewery buildings</li> <li>• Increased by up to 20 feet for workforce housing and community space</li> </ul>
<b>Building Footprints</b>	<ul style="list-style-type: none"> <li>• Too large</li> <li>• Lower the footprint allowance for buildings with at-grade or underground parking</li> </ul>	<ul style="list-style-type: none"> <li>• Lowered to 15,000 SF (from 20,000 SF) in CD4 and CD4-W</li> <li>• Lowered to 20,000 SF (from 30,000 SF) in CD5</li> </ul>

<b>Topic of Study Circle Input</b>	<b>Summary of Input</b>	<b>Amendments Incorporated</b>
<b>Architectural Design Review</b>	<ul style="list-style-type: none"> <li>• Should not be required outside the Historic District</li> <li>• Encourage contemporary architectural styles</li> <li>• All buildings to be modulated along facade</li> </ul>	<ul style="list-style-type: none"> <li>• Clarified that no design review required outside the Historic District</li> <li>• Façade modulation requirements clarified to allow for contemporary architectural expressions</li> </ul>
<b>Universal Design</b>	<ul style="list-style-type: none"> <li>• Allow for universal design – especially along Islington Street</li> </ul>	<ul style="list-style-type: none"> <li>• Added recessed entryways as a façade type along Islington Street – allows for at-grade entrances</li> </ul>
<b>Land Use</b>	<ul style="list-style-type: none"> <li>• Inappropriate uses (hotels, conference centers, large performance centers, restaurants, nightclubs) in CD4-W</li> <li>• Consider an art and performance district</li> <li>• Permit restaurant and retail uses along Islington</li> </ul>	<ul style="list-style-type: none"> <li>• CD4-W use regulations now based on the Business (B) district, with more limited uses</li> <li>• Artist and small-scale performance space uses permitted in CD4-W</li> <li>• Small-scale retail and restaurant permitted along Islington (now changed to CD4-L2)</li> </ul>
<b>Workforce Housing</b>	<ul style="list-style-type: none"> <li>• Provide stronger incentives for workforce housing</li> </ul>	<ul style="list-style-type: none"> <li>• Increased height incentives for workforce housing on large lots in CD4-W south of Islington Street</li> </ul>
<b>Parking</b>	<ul style="list-style-type: none"> <li>• Encourage reduced off-street parking requirements and shared parking</li> <li>• Do not require units to be assigned specific spaces</li> <li>• Encourage off-site leases or easements</li> </ul>	<ul style="list-style-type: none"> <li>• Market-rate housing and commercial parking requirements reduced if workforce housing or community space is provided</li> <li>• Assigned spacing is not required</li> <li>• Public use of any off-street parking added</li> </ul>
<b>Density</b>	<ul style="list-style-type: none"> <li>• Lower minimum lot area per unit to encourage affordable housing</li> </ul>	<ul style="list-style-type: none"> <li>• Eliminated minimum lot area in the overlay district when workforce housing or community space is provided</li> </ul>

<b>Topic of Study Circle Input</b>	<b>Summary of Input</b>	<b>Amendments Incorporated</b>
<b>Ground Floor Residential Use</b>	<ul style="list-style-type: none"> <li>• Allow ground-floor residential uses in CD4-W</li> </ul>	<ul style="list-style-type: none"> <li>• Modified to allow in rowhouse buildings</li> </ul>
<b>Decouple West End Zoning from the Downtown and North End</b>	<ul style="list-style-type: none"> <li>• Separate the proposed amendments that apply more directly to the West End from those that apply to existing Character Districts</li> </ul>	<ul style="list-style-type: none"> <li>• The presentation of the amendments has been modified to separate the provisions that are unique to the Downtown or North End</li> </ul>
<b>Community Space</b>	<ul style="list-style-type: none"> <li>• Use incentives to create more green space</li> </ul>	<ul style="list-style-type: none"> <li>• The increased building height incentive encourages parks, plazas, squares, or playgrounds</li> </ul>

The above summary does not include all suggestions presented by the Portsmouth Listens Study Circle groups. In addition, several members of the public participated in the public hearing process and several changes presented in the revised draft are in response to their comments. A full and complete copy of their reports and the proposed zoning amendment for the West End Character District Zoning is available for review at the Planning Department.

*I recommend the City Council move to pass second reading and schedule a third and final reading of the proposed Ordinance, as presented, at the City Council meeting of June 6, 2016. Action on this matter should take place under Section IX of the Agenda.*

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

- 1) **Proposed Discontinuing of any Rights of the City or the Public in the following Two Parcels of Property Re: 165 Deer Street.** Subsequent to the public hearing, I am requesting that the City Council move the following motions:
  - 1) *Discontinue any rights of the City or the Public in a certain triangular tract of land being located at the northwesterly corner of and within the intersection of the Deer Street and Bridge Street Rights of Way, Being approximately 1,717 square feet in size.*
  - 2) *Discontinue any rights of the City or the Public in a certain trapezoidal tract of land being located along the northerly boundary of said triangular tract of land, being approximately four (4) feet wide and being approximately 269 square feet in size.*

2. **Renewal of Pool Lease Agreement Re: Save the Portsmouth Indoor Pool, Inc. (SIPP).**

For the City Council’s consideration is a proposed renewal of the Consolidated Lease and Operations Agreement (“Lease”) between the City of Portsmouth and the non-profit Save the Portsmouth Indoor Pool, Inc. (“SIPP”). In 2011, the City Council entered into a novel, five-year agreement with SIPP in order to prevent the closure of the Portsmouth Indoor Pool. At the time, the Portsmouth Indoor Pool required significant capital improvements and the programming was in need of revitalization.

The agreement entered into in 2011 has been a success. SIPP has performed its obligations under the current agreement, achieving the funding benchmarks in the original lease and implementing over \$750,000 in capital improvements. Among the completed capital improvements: a new roof on the main building, upgraded locker rooms and new mechanical systems. [A complete list of capital improvements is attached.](#)

With the assistance of SIPP, City staff has improved membership and programming. The pool serves approximately 900 swimmers each week, not including the estimated 1,500 children and adults each year who attend swim lessons. The pool is the training facility for the Portsmouth High School swim team and is host to Special Olympics events. Programming includes water aerobics, water yoga and Red Cross life guard training. A summary of programs is provided.

Deputy City Attorney Suzanne Woodland will provide a summary of the renewal terms and answer questions. By way of summary, the proposed renewal keeps in place the structure of the Lease, but modifies SIPP’s fundraising and capital improvements obligations from the original \$750,000 over the five-year term to \$250,000 over the renewal period. A summary of the key provisions and the changes are set forth in the table below; [the proposed Renewal Agreement is attached.](#)

<b>Existing</b>	<b>Renewal</b>
5 year term	same
SIPP obligation to complete at least \$750,000.00 in capital improvements.	Change to \$250,000
City annual appropriation of \$150,000 as operating subsidy.	same
City operational support such as janitorial service and technology support.	same
SIPP responsible for emergency repairs.	same

City continues with employment of its part-time pool staff same including lifeguards, instructors and Pool Director.

City maintains property and liability insurance. same

City separately accounts for revenues generated by, and same expenses arising from, the Indoor Pool.

Anticipated future capital projects include: installing a rubber/flat roof over lobby and locker rooms (currently a ballasted roof); construction of a filtration room; deck paint/resurfacing; improved bathroom toilet partitions; and maintenance to the gable end wall. The City approves and inspects all work.

*I recommend the City Council move to authorize the City Manager to enter into a renewal of the Consolidated Lease and Operations Agreement consistent with the terms described.*

3. **Proposed Lease Agreement with Pontine Theatre Re: Plains Schoolhouse.** As you are aware, the City and the Sons of Italy have had a lease agreement for use of the city-owned 1845 Plains Schoolhouse at 1 Plains Avenue for many years. During that time, the group has used the building for meetings and for charitable events such as the annual fall festival that generate revenue for activities that benefit Portsmouth residents and the group has made several improvements to the building. Although there remains a core group of active members, their use of the building is currently reduced to one evening per month for their regular meeting. Staff recently met with representatives of the Sons of Italy to discuss the possibility of them coordinating with Operation Blessing to move their monthly meeting to the Greenleaf Recreation Center which has better accessibility, meeting space and parking. Following a site visit to the Recreation Center, all parties were amenable to this new arrangement and the group will vacate the Plains Schoolhouse effective June 30, 2016.

Coincidentally, representatives of Pontine Theatre approached the City to inquire if there might be any City space the Theatre group could rent because they are moving out of the West Theatre this summer so that the NH Theatre Project can occupy the entire space. The 1845 Schoolhouse was suggested as a potential site. The Theatre Co-Directors toured the building and feel that the building would meet their needs. They have submitted the [attached request to use the building](#) for program development, administration work, rehearsal space, meetings and educational programs. I have also [attached their Mission Statement](#) for your information. If the City Council approves this request, I would recommend entering into a five-year lease similar to that of the Creek Athletic Club for use of the Bartlett Street Firehouse and the PPMTV for use of the South Meeting House in which the non-profit would make annual building improvements equal to the property tax value for the building which in this case would be \$2,800. Any year that the value of the documented improvements are less than the tax value, a net cash payment would be

required. In addition, the building would be accessible to the public for programs at no charge from time to time.

*I recommend that the City Council move to authorize the City Manager to enter a five year lease with Pontine for use of the Plains Schoolhouse effective July 1, 2016.*

4. **Solar Power Agreements.** Before the City Council are agreements to implement the installation of two solar arrays; a 265 kilowatt roof mounted system at the Portsmouth High School and a 330 kilowatt ground mounted system at the Madbury Water Treatment Plant in Madbury, NH. In December of 2015, the Portsmouth City Council approved the acceptance of up to \$450,000 in grant funds from the New Hampshire Public Utility Commission. The grant funding will pay for only a portion of the project, the balance of the funding to install the systems will require an additional approximately \$1.3 million which will be repaid through a solar power purchase agreement for each array and associated lease.

[Attached is a summary of the solar power purchase agreement and lease terms for the arrays as well as the draft documents.](#) School Business Administrator Steve Bartlett and Deputy City Attorney Suzanne Woodland will be available to respond to questions as well as a representative from Sunraise Investment.

*I recommend the City Council move to authorize the City Manager to execute all necessary leases, power purchase agreements, collateral documents and minor amendments to implement the installation of the two solar array systems on substantially the terms as represented in the leases and power purchase agreements presented.*

5. **Reconsideration of Action of April 18, 2016 City Council Meeting Re: Disposition of the Fire Boat.** As you are aware, at the April 18, 2016 City Council meeting, the Council voted to approve of the disposal of the Fire Department's 2006 Fire Boat to the Town of Gilford, New Hampshire. Subsequent to the City Council meeting, the City was contacted by a member of the Town of New Castle Board of Selectmen requesting that the City of Portsmouth transfer the Fire Boat to the Town of New Castle ([see attached letter](#)).

[Attached is a memorandum from Fire Chief Steven Achilles, as well as letters from the Town of New Castle Firewards Select Board and a letter from the Gilford Fire-Rescue regarding this matter.](#)

As Fire Chief Achilles' memorandum indicates, the Portsmouth Fire Commission made the following motion to 1) deny the request of the New Castle Select Board, 2) reaffirm the Commission's previous vote to transfer the vessel to the Town of Gilford, 3) notify the Town of New Castle of their decision, and 4) notify the Portsmouth City Council of the same as you may have final decision on the disposition of the boat.

I am bringing back this matter to the City Council for your reconsideration of the City Council's action of the April 18, 2016 City Council meeting regarding the disposition of



the Fire Boat to the Town of Gilford, New Hampshire. A City Council Member on the prevailing side would need to make the motion.

*The City Council may move one of the following motions:*

- 1) *Move to reconsider the vote of April 18, 2016 and dispose of the Fire Boat to the Town of New Castle, or,*
- 2) *Move to reaffirm the vote of April 18, 2016 to dispose of the Fire Boat to the Town of Gilford.*

*(This requires two-thirds vote.)*

6. **License Request Re: 64 Market Street.** Careno Construction Company requests a license through July 29, 2016 to encumber a certain portion of the public parking lot and alley adjacent to 64 Market Street (the Gaslight Restaurant) to facilitate the reconstruction and repair of the fire-damaged restaurant. The reconstruction work is currently underway pursuant to an encumbrance permit issued in March. The proposed license area is shown [on the attached](#).

Careno Construction has been coordinating its work and use of the parking spaces and alley with Eversource and the Department of Public Works who have been working in that area as well. Staff has no objection to the granting of a license with continued coordination requirements. Careno has been paying for the parking spaces impacted by their activities and would continue to pay for impacted parking under the proposed license.

*I recommend the City Council move to authorize the City Manager to negotiate and enter into a license with Careno Construction to facilitate reconstruction activities of the Gaslight Restaurant.*

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

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on May 2, 2016. In addition, this can be found on the City's website.
2. **African Burying Ground Anniversary of Reburial Ceremony.** For your information, [attached is a News Release](#) regarding a community commemoration for the African Burying Ground Anniversary on Monday, May 23, 2016 at 8:45 a.m. at the African Burying Ground. For more information on this project and related events, please visit [www.africanburyinggroundnh.org](http://www.africanburyinggroundnh.org).