

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, AUGUST 22, 2022 TIME: 5:30PM

Members of the public also have the option to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser:

https://us06web.zoom.us/webinar/register/WN_uTrhmdmtRqOemlpXA7sHIA

5:30 PM – ANTICIPATED NON-PUBLIC SESSION:

1. FIRE CHIEF'S CONTRACT – RSA 91-A:3, II (a)
2. COLLECTIVE BARGAINING RE: CUSTODIAL SUPERVISORS' – RSA 91-A:3, II (a)
3. CITY MANAGER'S EVALUATION – RSA 91-A:3, II (a)
4. DEPARTMENT OF HOME LAND SECURITY (PDA) LAW ENFORCEMENT SECURITY AGREEMENT – RSA 91-A:3, II (i)
5. CONSIDERATION OF LEGAL ADVICE – RSA 91-A:3, II (l)

AGENDA

**Regular portion of City Council meeting to begin at 7:00 p.m.*

- I. WORK SESSION – THERE IS NO WORK SESSION THIS EVENING
- II. PUBLIC DIALOGUE SESSION [when applicable – every other regularly scheduled meeting] – **N/A**
- III. CALL TO ORDER [7:00 p.m. or thereafter]
- IV. ROLL CALL
- V. INVOCATION
- VI. PLEDGE OF ALLEGIANCE

- VII. ACCEPTANCE OF MINUTES – JUNE 21, 2022 AND JULY 11, 2022

- VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

- IX. PUBLIC COMMENT SESSION (*This session shall not exceed 45 minutes*) – (*participation may be in person or via Zoom*)

- X. PUBLIC HEARINGS AND VOTE ON ORDINANCE AND/OR RESOLUTION

Public Hearing/Second Reading of Ordinances and Resolutions:

- A. Public Hearing/Second reading of Ordinance amending Chapter 1, Article III - Boards (*Sample motion – move to pass second reading and hold third and final reading at the September 19, 2022 City Council meeting*)
 - PRESENTATION
 - CITY COUNCIL QUESTIONS
 - PUBLIC HEARING SPEAKERS
 - ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS

- B. Public Hearing/Second reading of Ordinance amending Chapter 1, Article IV – Commissions and Authorities (***Sample motion – move to pass second reading and hold third and final reading at the September 19, 2022 City Council meeting***)
- **PRESENTATION**
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Public Hearing/Adoption of Resolution:

- C. Public Hearing/Adoption of Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or participation in the State Revolving Fund (SRF) Loan of up to One Million Two Hundred Thousand Dollars (\$1,200,000.00) for costs related to Sewer Service Connections related to the Sagamore Avenue Area Sewer Extension Project (***Sample motion – move to adopt the Resolution as presented***)
- **PRESENTATION**
 - **CITY COUNCIL QUESTIONS**
 - **PUBLIC HEARING SPEAKERS**
 - **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

Third and Final Reading of Ordinance:

- D. Third and final reading of Ordinance amending Chapter 1, Article VIII – Code of Ethics (***Sample motion – move to pass third and final reading as presented***)

XI. CITY MANAGER’S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager’s Items Which Require Action:

1. Approval of Deputy Fire Chief Contract
2. Approval of Welfare Guidelines
3. *Request to Schedule ARPA Work Session
4. Neighborhood Pilot Parking Program
5. Wayfinding Easement for City Property Located at 93 Pleasant Street
6. Renewal of Coalition Communities 2.0 Membership Agreement
7. Monitoring Well License Request for 60 Penhallow Street

XII. CONSENT AGENDA

(Proper Motion for Adoption of Consent Agenda - move to adopt the Consent Agenda)

- A. Letter from Marcia Leach, North Church, requesting permission to hold the Seacoast Area Crop Walk on Sunday, October 16, 2022 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- A. Email Correspondence ***(Sample motion – move to accept and place on file)***
- B. Capital Improvement Plan FY2024-2029
- C. *Status Update on Seacoast Greenway/Railtrail Project
- D. Letter from Barbara McMillan, Chair and on behalf of the Conservation Commission requesting reconsideration by the Council before proceeding with the plan to rehabilitate the entire Peirce Island Pool and associated systems ***(Sample motion – move to accept and place the letter on file)***

XIV. MAYOR McEACHERN

1. *Appointment of Assistant Mayor Kelley as City Council Representative to the Trees and Public Greenery Committee
2. Appointments to be Considered:
 - Appointment of Luis Rodriguez to the Cable Television & Communications Commission
 - Appointment of Torey L. Brooks to the Sustainable Practices Blue Ribbon Committee
 - Reappointment of Patricia Bagley to the Trees and Public Greenery Committee
 - Appointment of Jeffrey Mattson as an Alternate to the Zoning Board of Adjustment
3. Resignations:
 - Henry Mellynychuk from the Conservation Commission
 - Andrea Ardito from the COVID Response Task Force Committee

XV. CITY COUNCIL MEMBERS

A. COUNCILOR DENTON

1. InvestNH Grant Program ***(Sample motion – move for a report back on how entities that want to address our housing shortage can apply to partner with the City of Portsmouth for funding through the NH Department of Business and Economic Affairs' InvestNH Grant Program)***

B. COUNCILOR MOREAU

1. Land Use Committee Update | Regulatory Amendments Pending Attached is a Memorandum updating the City Council on the work of the Land Use Committee and the progress of the various zoning ordinance amendments under consideration. In summary, the Planning Board is anticipated to act on August 18, 2022 on the Phase 1 amendments and the Land Use Committee is expected to finish its consideration of proposed Phase 2 amendments concerning Accessory Dwelling Units (ADUs) by early September. In anticipation of action by the Planning Board on August 18, 2022 to complete its review of the Phase 1 amendments

<T:\2022 City Council Digital Packets\August 22, 2022\Moreau -Land Use Committee.pdf>

<T:\2022 City Council Digital Packets\August 22, 2022\Moreau - Phase I Amendments.pdf>

(Sample motion – move to bring forward to first reading on September 19, 2022 the Phase I Zoning Amendments)

C. COUNCILOR BAGLEY

1. Parking and Traffic Safety Committee Action Sheet and Minutes of August 4, 2022 ***(Sample motion – move to accept and approve the action sheet and minutes of the August 4, 2022 Parking and Traffic Safety Committee meeting)***

Action Item Needing Approval by City Council:

- Request for 15-minute spaces at 22 Daniel Street by owner ***(Sample motions – (1) move to approve two 15-minute spaces in front of 22 Daniel Street. (2) move to change three existing 15-minute spaces on south side of Daniel Street to regular Zone A spaces)***

D. COUNCILOR COOK

1. *Arts & Nonprofits Cultural Plan Subcommittee – Request for Volunteers

XVI. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant to the Public Works Department from the Department of Environmental Services – Household Hazardous Waste of up to \$4,238.00 ***(Sample motion – move to accept and expend a \$4,238 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)***
- B. Acceptance of Various Police Department Grants:
 - Department of Justice through the ARPA for the NH Internet Crimes Against Children Task Force - \$700,000.00
 - USPCA AKC Reunite K9 Organization - \$7,500.00***(Sample motion – move to accept and approve the Grants to the Police Department as presented)***

XVII. CITY MANAGER’S INFORMATIONAL ITEMS

1. Prescott Park Public Forum Area

XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

XIX. ADJOURNMENT [at 10:30 p.m. or earlier]

**Indicates verbal report*

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

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: TUESDAY, JUNE 21, 2022

PORTSMOUTH, NH
TIME: 6:00PM

Assistant Mayor Kelley moved to adjourn the Non-Public Session until the end of the City Council meeting. Seconded by Councilor Tabor and voted.

III. CALL TO ORDER

Mayor McEachern called the meeting to order at 7:00 p.m.

IV. ROLL CALL

PRESENT: Mayor McEachern, Assistant Mayor Kelley, Councilors Tabor, Denton, Moreau, Bagley, Lombardi, Blalock (7:40 p.m.) and Cook

V. INVOCATION

Mayor McEachern asked for a moment of silent prayer.

VI. PLEDGE OF ALLEGINANCE

Mayor McEachern led in the Pledge of Allegiance to the Flag.

PROCLAMATIONS:

1. United States Constitution Day

Mayor McEachern read the Proclamation declaring June 21, 2022 as United States Constitution Day marking the 234th birthday of the US Constitution.

Sue Polidura portraying John Langdon's sister Elizabeth, accepted the Proclamation with thanks and appreciation.

2. Juneteenth 2022 in Portsmouth

Assistant Mayor Kelley read the Proclamation declaring Juneteenth 2022 in Portsmouth and urged all members of the community to learn more about the Emancipation Proclamation and history behind this holiday. Further, to join in celebrations, commemorations and other programs and tributes organized by community members such as the Black Heritage Trail of NH, the Seacoast African American Cultural Center and Black Lives Matter Seacoast.

VII. ACCEPTANCE OF MINUTES – MAY 2, 2022 & MAY 9, 2022

Assistant Mayor Kelley moved to accept and approve the minutes of the May 2, 2022 and May 9, 2022 City Council meetings. Seconded by Councilor Blalock and voted.

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

1. Portsmouth High School Boys Track Team Division 1 State Champions

Mayor McEachern recognized the Boys Track Team for their Division I State Championship. Athletic Director Koz read the names of each student while Mayor McEachern presented each student with a plaque in recognition of their achievements and winning the Division I State Championship.

2. Portsmouth High School Girls Lacrosse Team Division II State Champions

Mayor McEachern recognized the Girls Lacrosse Team for their Division II State Championship and noted that they are all honor students. He further stated that this is the Girls 5th Consecutive Win. Athletic Director Koz read the names of each student while Mayor McEachern presented each student with a plaque in recognition of their achievements and winning the Division II State Championship.

3. Portsmouth High School Boys Lacrosse Team Division II State Champions

Mayor McEachern recognized the Boys Lacrosse Team for their Division II State Championship. Athletic Director Koz read the names of each student while Mayor McEachern presented each student with a plaque in recognition of their achievements and winning the Division II State Championship.

IX. PUBLIC COMMENT SESSION

Andrea Amico spoke regarding PFAS being a part of the turf field and asked where is the accountability on not getting what we asked for, a PFAS free turf field. She said the City is accepting the PFAS because they are considered low levels and she expressed her opposition to this and said the field is not safe.

Roy Helse spoke regarding PFAS testing for the turf fields. He would like to know the standard for testing. He also addressed the number of variances being granted to large developments by the Land Use Boards.

Caroline McCoy said she gathered signatures on a petition to keep the brick sidewalks on State Street. She said the neighborhood is not in support of replacing the brick with concrete. She said the neighborhood wants to maintain the beauty and history of the area.

Trevor Ristow thanked the City Council for opening the discussion regarding brick sidewalks on State Street. He said if safety was a concern there would be no brick sidewalks. He said the neighborhood does not support concrete and asked the Council to preserve the brick sidewalks.

Vicki Fox David said the historic district is along their property line and stated no city money has been spent for the installation of brick sidewalks and granite curbing. She said she understands the value that brick sidewalks bring to a neighborhood.

Amy Mae Court said the Council will be accepting funds for lighting up the skateboard park this evening and thanked those Councilors that attended and supported the recent Skateboard Park fundraiser.

Dave Cosgrove thanked the City Councilors that contributed to the skateboard park and those that donated time and skills at the fundraiser. He announced the success of the fundraiser and reported \$15,000.00 was raised.

Olivia Annunziata Blaisdell & Emily Stoke thanked the City Council for supporting their letter regarding Indigenous Peoples' Day. She urged the City Council to vote in favor of replacing Columbus Day with Indigenous Peoples' Day.

Petra Huda spoke opposed to the approval of the Memorandum of Agreement with 1386A because it is monies over and above the FY22 budget. She said that this item should have a public hearing before a vote is taken.

Bill Carmada asked that brick sidewalks remain on State Street because it is part of the charm of the City. He spoke in support of the City maintaining the brick sidewalks for the residents of the area.

X. PUBLIC HEARING AND VOTE ON ORDINANCE AND/OR RESOLUTION

First Reading of Ordinances:

- A. First reading of Ordinance amending Chapter 1, Article IV, Section 1.413: Trees and Public Greenery Committee

Assistant Mayor Kelley moved to pass first reading and hold a public hearing and second reading at the July 11, 2022 City Council meeting. Seconded by Councilor Bagley.

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

- B. First reading of Ordinance amending Chapter 1, Article VIII – Code of Ethics

Councilor Cook moved to pass first reading and hold a public hearing and second reading at the July 11, 2022 City Council meeting. Seconded by Councilor Lombardi.

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

XI. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

- 1. Approval of Local 1386A Memorandum of Agreement

City Manager Conard said this would allow the City more flexibility in hiring and take effect upon approval. She said \$13,000.00 would come from the water side and \$72,000.00 from the Sewer side.

Councilor Bagley spoke to the complexities of these positions and the operation of equipment.

Deputy Public Works Director Goetz spoke to the Peirce Island Wastewater Treatment Facility and the complexities of running the facility. He said these are 24/7 operations with required skills and certification.

Councilor Cook asked if we are having challenges hiring and keeping staff in these positions. Deputy Public Works Director Goetz reported that there are currently 4 openings and the MOA Portsmouth will be more competitive.

Councilor Moreau said the increases for this are already in our budget and therefore we did not need to have a public hearing.

Councilor Tabor said we need to pay for the skills needed and all operators are trained.

Councilor Tabor moved to approve the proposed Memorandum of Agreement with Local 1386A as presented. Seconded by Councilor Lombardi and voted.

Assistant Mayor Kelley moved to suspend the rules to bring forward Item XVI. D. – Acceptance of Memorial Bench Donation in Memory of Vernon Boardman - \$2,200.00. Seconded by Councilor Tabor and voted.

Mayor McEachern said that this is an honor to accept and highlight this donation.

XVI. APPROVAL OF GRANTS/DONATIONS

D. Acceptance of Memorial Bench Donation in Memory of Vernon Boardman - \$2,200.00

Nancy Pearson came forward to speak on the donation. She stated that Vernon was a fixture in the City. She said the bench would be located in the redesigned area of Commercial Alley which will be accessible to all. She stated the bench will be granite and will match Charlie Howard's bench which will be located in the same area. She spoke to the Go Fund Me page that she is establishing to raise funds for the bench.

Assistant Mayor Kelley moved to accept and approve the Memorial Bench Donation in memory of Vernon Boardman, as presented. Seconded by Councilor Blalock and voted.

Councilor Denton moved to suspend the rules in order to bring forward Item XIII. B. – Letter from We Speak, Portsmouth High School, requesting the City Council permanently approve Indigenous Peoples' Day (not alongside "Columbus Day") and support public recognitions and acknowledgments in honor of Indigenous Peoples' lands in Portsmouth. Seconded by Assistant Mayor Kelley and voted.

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- B. Letter from We Speak, Portsmouth High School, requesting the City Council permanently approve Indigenous Peoples' Day (not alongside "Columbus Day") and support public recognitions and acknowledgements in honor of Indigenous Peoples' lands in Portsmouth

Councilor Denton moved to refer this request for a vote at the July 11, 2022 City Council meeting. Seconded by Councilor Bagley and voted.

XII. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

2. Approval of Extension to Fire Chief Todd Germain's Employment Agreement

City Manager Conard said that this is to acknowledge the retirement of Fire Chief Germain.

Assistant Mayor Kelley moved to approve the proposed extension with Fire Chief Germain as presented. Seconded by Councilor Tabor and voted.

3. Urbanized Shoreland Exemption for 57 Salter Street
- XIII.D. Letter from Attorney Sherilyn Burnett Young, regarding application for Urbanized Shoreland Exemption – 57 Salter Street

City Manager Conard said this was before you at the May 2, 2022 City Council meeting. She reported that at the May 19th Planning Board meeting they voted to recommend the City Council approve the exemption for 57 Salter Street.

Councilor Moreau moved that the City Council find that the 57 Salter Street property meets the criteria for an Urbanized Shoreland exemption pursuant to RSA 483-B:12 as outlined in the April 25, 2022 and June 10, 2022 letters and attachments submitted by the Thompson's legal counsel and included in the City Council packet; and further to authorize the City Manager to submit an exemption application consistent with this finding. Seconded by Assistant Mayor Kelley.

Councilor Cook said the request to look at broader policies is critical because there are properties that abutt the water and we will be seeing more property that no longer meets NH requirements. She said she could see this being a problem in other areas.

Motion passed.

4. City Council Policy 2010-02 – Sidewalk Materials

City Manager Conard said this is a conversation on sidewalk materials and spoke to the current policy. She spoke to the bidding process for brick or brick accent and the costs involved.

Public Works Director Rice spoke regarding the labor intensive costs which are a major portion of this project. He said Public Works is recommending the use of brick accent.

Councilor Bagley said in speaking with people with accessibility issues, they prefer concrete but we can make a safe sidewalk out of brick. Public Works Director Rice said the older style brick freezes quicker and the brick accent is safer if maintained.

Assistant Mayor Kelley asked if there are projects we would need to delay to install the brick. Public Works Director Rice said it would delay other sidewalk installations.

Councilor Denton asked because we need to spend additional funds will it require a public hearing. Public Works Director Rice said the funds were appropriated for sidewalks in the budget. He stated the change in material happens and the CIP allows for this flexibility.

Councilor Tabor said it is hard to go from brick sidewalks to concrete, but we need to think of what is best for the City and he will support keeping brick sidewalks and the charm of the neighborhood.

Assistant Mayor Kelley said additional costs are paid by benefiting parties. Public Works Director Rice said on a consistent manner it has. He said this is a difficult policy and often times it is not received well. Assistant Mayor Kelley said this is a sensitive subject and other neighborhoods don't have sidewalks. She said overall we need to be mindful of all neighborhoods.

Councilor Cook said the south end typically have brick sidewalks. She asked if there is a process to review neighborhoods and their designation to the historic district. Public Works Director Rice said the policy allows for sections outside the historic district.

Deputy City Manager/Deputy City Attorney Woodland said the City Council could end the current policy in place and look at redrafting it. Public Works Director Rice said we need an answer this evening to move the project forward.

Councilor Bagley moved to revisit the brick sidewalk policy and refer the policy to the Governance Committee to report back with more equitable solutions and recommendations. Seconded by Councilor Moreau.

Mayor McEachern said it is a policy that gives no mechanism for the City to repeal it if the Council wanted to.

Motion passed.

Councilor Bagley moved to approve without residential payment for brick on the section identified by the City Manager. Seconded by Councilor Lombardi.

Councilor Tabor said if you look at areas with brick sidewalks they tend to get higher values and this may pay for itself.

Councilor Blalock said we need to be fair to all neighborhoods. He said the Historic District area have brick sidewalks but they get more challenges for improvements to their home. He said we need to think about every neighborhood.

Discussion followed among the City Council on this matter.

Mayor McEachern said he does not like the policy because it sets a bad precedent. He said we need to find a way to fund this more equitably and he will support the motion.

On a roll call vote 8-1, motion passed. Councilors Tabor, Denton, Moreau, Lombardi, Blalock, Cook and Mayor McEachern voted in favor. Assistant Mayor Kelley voted opposed.

5. Request for Public Hearing Regarding Various Bonding Resolutions for Projects to begin in FY23

City Manager Conard said the request is to set public hearings for improvements and projects in the CIP. She said staff will be on hand to answer any questions at the July 11th City Council meeting.

Councilor Lombardi moved to authorize the City Manager to bring back for public hearing and adoption, the various proposed CIP projects, as presented, for the July 11, 2022 City Council meeting. Seconded by Councilor Tabor.

Councilor Bagley said it is structured to keep the skate park moving forward as quickly as we can.

Councilor Cook said in the first resolution there is funding for replacement of turf field. City Manager Conard said it would have funding in place for when the project will move forward.

Deputy City Manager/Deputy City Attorney Woodland said that the School Board and Recreation Board are supportive of turf field rather than a grass field.

Councilor Denton said he tried in the past to have a grass field but we put a bid out for an organic field. He would like the City to do a bid alternate for the replacement of the field. City Manager Conard said that is what we did in the past.

Mayor McEachern said we will have an opportunity to find bid alternates. He said we will have a broader conversation.

Motion passed.

6. License Extension for 60 Penhallow Street

City Manager Conard said this is an extension for 60 Penhallow Street. She spoke to the Building Inspector working with the contractors on this project. She stated we will be prohibiting contractors from parking in the spaces along the sidewalk area.

Councilor Bagley moved to authorize the City Manager to finalize and execute a new license for 60 days as presented, waving the license fee due to the public's access to sidewalks along Penhallow Street and Daniel Street due to the pass through staging. Seconded by Councilor Tabor.

Councilor Cook said that last time McNabb Properties came before the Council we were told it was the last time requesting an extension. She has many questions surrounding the request and project. She said abutters have been told one thing and another is done.

Mayor McEachern said this is not an extension of the current license because of the pass through. He said we are getting sidewalks back and parking spots but we need to create the staging.

City Manager Conard said that this is a new request and the terms will change.

Building Inspector Wolph reported that scope of this request is limited with no encumbrance of sidewalks will take place and all parking will be returned. He said his experience with the McNabb team is they have been quick to work with us and do what we request. He said they need to remind their workers of the complaints coming in. He said by July 3rd all brick will be down and parking will be back and big changes will be coming forward in the months ahead.

Councilor Cook said she has spoken with abutters and they're concerned to come before the City Council and speak because of fear of retaliation. She said there needs to be improved communication.

Building Inspector Wolph said he was not aware that abutters were not on the email listing and feels they should be in order to plan their week and weekend. He stated the McNabb team would provide that outreach and add the list of names that are not part of the listing currently.

Mayor McEachern said we need a better line of communication and the City needs to have involvement. He said it is important to recognize Building Inspector Wolph and his staff for their work on this matter. He stated the City has pushed back and received the sidewalks back which is a better outcome for the City and businesses.

Councilor Cook said we have many retailers downtown that have suffered and continue to suffer. She said it benefits us to get parking revenue but does not benefit the retailers. She said it is critical to find alternatives for people to park in the general area. She said she remembers clearly that it was said to the Council that the project would be completed by July 4th.

Discussion continued regarding the project.

On a roll call vote 8-1, main motion passed. Assistant Mayor Kelley, Councilors Tabor, Denton, Moreau, Bagley, Lombardi, Blalock and Mayor McEachern voted in favor. Councilor Cook voted opposed.

Councilor Bagley moved to enhance communication by the creation of a QR Code for individuals to sign up and learn more about the project with a report back to the City Council regarding improvement communications. Seconded by Councilor Blalock and voted.

At 9:35 p.m., Mayor McEachern declared a brief recess. At 9:40 p.m., Mayor McEachern called the meeting back to order.

7. Parson Woods Easements at 83 Peverly Hill Road

City Manager Conard said this is a request to accept a Conditional Use Permit for which 10 easements are being presented this evening.

Councilor Tabor moved to authorize the City Manager to accept and record the ten (10) easement deeds and a Declaration of Restrictions in substantially similar form to the easement deeds from Parson Woods Investments, LLC contained in the agenda packet. Seconded by Councilor Moreau.

Councilor Moreau said that this went before the Planning Board and there will be 80 acres open to the public to use and public ways to get you on the trails.

Motion passed.

XII. CONSENT AGENDA

Eversource Petitions and Pole License Requests:

- Installation of 1 pole on Pierce Island Road #63-0648
- Installation of 1 pole on Rockland Street #63-0656
- Installation of 1 pole on Union Street #63-0682
- Installation of 4 poles on Commerce Way #63-0693
- Installation of 1 pole on Gates Street #63-0715
- Installation of 1 pole on Pleasant Street #63-0716
- Installation of 1 pole on Lang Road #63-0718
- Installation of 1 pole on Cottage Street #63-0719
- Installation of 1 pole on Junkins Avenue #63-0660
- Installation of 1 pole on Borthwick Avenue #63-0722

(Anticipated action – move to refer to the City Manager with Authority to Act)

Assistant Mayor Kelley moved to adopt the Consent Agenda. Seconded by Councilor Lombardi and voted.

XIII. PRESENTATION AND WRITTEN COMMUNICATIONS

- A. Email Correspondence

Assistant Mayor Kelley moved to accept and place on file. Seconded by Councilor Cook and voted.

- C. Letter from Steve Miller requesting the city release the paper street between 38 and 28 Thornton Street (Ruth Street)

Councilor Moreau moved to refer to the Planning Board for report back to the City Council. Seconded by Assistant Mayor Kelley and voted.

Councilor Cook moved to suspend the rules to bring forward Items XV. B.1. – Lister Academy and B.2. – Update on Portsmouth NH 400th Signature Events. Seconded by Assistant Mayor Kelley and voted.

XV. CITY COUNCIL MEMBERS

B. COUNCILOR MOREAU

1. Lister Academy Property

Councilor Moreau moved to request that the City Manager, investigate obtaining an engineer to do feasibility study on possible future uses of the current Lister Academy property which is owned by the City located at 35 Sherburne Road, in preparation for supporting the 2022-2023 goals of the City Council, and if there would be ARPA funds available to complete this work. Seconded by Councilor Denton.

Councilor Denton said residents are asking if there is a committee regarding the Community Campus that it be an opened process and allows residents to give their opinions. Mayor McEachern said that he has not created a Blue Ribbon Committee but it is in the collection of projects. He said we would use that more as a place for our priorities but if City Councilors wants to create a Blue Ribbon Committee around that we could look at that.

Councilor Bagley thanked Councilor Moreau for bringing this matter forward.

Motion passed.

2. Update on the Portsmouth NH 400th Signature Events

Councilor Moreau announced the Three Signature Events for the Portsmouth NH 400th:

- *June 3rd – Portsmouth NH 400 Parade*
- *August 28th – Community Street.life! Dinner on Congress Street*
- *September 9th – 10th – Air Show at Pease*

She said further information may be obtained at www.PortsmouthNH400.org.

XIV. MAYOR McEACHERN

1. Appointments to the COVID Response Task Force Blue Ribbon Committee

- Andrea Ardito
- Will Arvelo
- Kathy Beebe
- Linda Briolat
- Whitney Brown
- Amber Buttermore
- Abbie Frank
- Janet Laatsch
- Tania Marino
- Laurie McIntosh
- Lori Waltz
- Meme Wheeler
- Molly Wilson

Mayor McEachern announced the above listed individuals are appointed to the COVID Response Task Force Blue Ribbon Committee.

2. Appointment to be Voted

- Reappointment of Martin Ryan to the Historic District Commission

Assistant Mayor Kelley moved to reappoint Martin Ryan to the Historic District Commission until June 1, 2025. Seconded by Councilor Lombardi and voted.

XV. CITY COUNCIL MEMBERS

A. COUNCILOR DENTON

1. Anthropogenic Climate Change

Councilor Denton moved for a report back from the City Manager consisting of an initial estimate on the amount to date, that the City of Portsmouth has spent and is currently planning to spend on infrastructure to mitigate the impacts of anthropogenic climate change; to include but not limited to, improvements to our wastewater treatment plants, sewers, and seawalls. Seconded by Councilor Cook and voted.

C. COUNCILOR BAGLEY

1. Parking and Traffic Safety Committee Action Sheet and Minutes of June 2, 2022

Councilor Bagley moved to accept and approve the action sheet and minutes of the June 2, 2022 Parking and Traffic Safety Committee meeting. Seconded by Assistant Mayor Kelley and voted.

D. COUNCILOR BLALOCK

1. Student Government Day

Councilor Blalock said he participated in Student Government Day at Portsmouth High School in his junior and senior years and he feels it is important to engage youth that can learn from participating.

Councilor Blalock moved to refer to the City Manager for report back regarding the re-establishment of Student Government Day. Seconded by Assistant Mayor Kelley and voted.

XVI. APPROVAL OF GRANTS/DONATIONS

A. Acceptance of Donation from John Chagnon to the Cemeteries - \$1,500.00

Assistant Mayor Kelley moved to approve and accept to donation for use by historic cemeteries. Seconded by Councilor Moreau and voted.

B. Acceptance of Donation from Barbara Malandri to the Portsmouth NH 400th - \$100.00

Councilor Bagley moved to approve and accept the donation as presented. Seconded by Councilor Blalock and voted.

C. Acceptance of Donation from Johanna Jackson to the Skateboard Park - \$51.50

Councilor Blalock moved to approve and accept the donation as presented. Seconded by Assistant Mayor Kelley and voted.

E. Acceptance of Community Development Block Grant Funds - \$523,706.00

Assistant Mayor Kelley moved to authorize the City Manager to apply for, accept and expend Community Development Block Grant in the amount of \$523,706.00 from the U.S. Department of Housing and Urban Development. Seconded by Councilor Moreau and voted.

F. Acceptance of Various Donations from the Skateboard Park Fundraiser

Assistant Mayor Kelley moved to accept and approve the donations as presented. Seconded by Councilor Bagley

Mayor McEachern said he would like individuals listed that have donated and to have a policy developed to work with staff to accept donations.

Councilor Cook advised the Council that the Governance Committee will look into developing a policy for donations and report back to the City Council.

Motion passed.

XVII. CITY MANAGER'S INFORMATIONAL ITEMS

1. Update on the Sagamore Avenue Sewer Extension Project

City Manager Conard reported there will be a report back on public interest at the August 1, 2022 City Council meeting.

2. Pannaway Manor and Maple Haven Sidewalk Status

City Manager Conard advised the Council that staff will schedule additional public meetings with the neighborhoods to gauge the support for bidding the sidewalk work this fall for spring of 2023 construction.

3. Update on Status of Police Station Facility

City Manager Conard advised the Council that the Public Works Department will have the RFQ advertised for July 1st, and then proceed with the Request for Proposal phase.

4. Report Back on PFAS Sampling of New Athletic Field

Elizabeth Denly, TRC Vice President, PFAS Initiative Leader & Chemistry Director and Dr. Karen Vetrano, TRC Risk Assessment and Toxicology Manager were present via zoom to speak regarding PFAS Sampling. Dr. Vetrano reported that the new health advisories from the EPA are for drinking water and are interim values. Ms. Denly informed the Council that the health advisories were for PFOA and PFOS and these two chemicals were not present in the samples. She went on to explain how the samples were tested. Dr. Vetrano explained possible scenarios which could have led to the PFAS getting into the walnut infill.

Councilor Cook moved to suspend the rules to continue the meeting beyond 10:30 p.m. Seconded by Assistant Mayor Kelley and voted.

5. McIntyre Update

City Manager Conard reported that the Project Committee meets every Tuesday at 10:00 a.m. regarding the McIntyre.

XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

Councilor Bagley advised the City Council that Parking and Traffic Safety Committee will review federal holiday's from a parking perspective.

XIX. ADJOURNMENT

At 10:40 p.m., Councilor Blalock moved to adjourn. Seconded by Assistant Mayor Kelley 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/CNHMC
CITY CLERK

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, JULY 11, 2022

PORTSMOUTH, NH
TIME: 7:00PM

III. CALL TO ORDER

Mayor McEachern called the meeting to order at 7:00 p.m.

IV. ROLL CALL

PRESENT: Mayor McEachern, Assistant Mayor Kelley, Councilors Tabor, Denton, Moreau, Bagley, Lombardi, Blalock, and Cook

V. INVOCATION

Mayor McEachern asked for a moment of silent prayer in memory of Ray Goulet who recently passed away.

VI. PLEDGE OF ALLEGINANCE

Mayor McEachern led in the Pledge of Allegiance to the Flag.

VII. ACCEPTANCE OF MINUTES – MAY 16, 2022

Councilor Blalock moved to accept and approve the minutes of the May 16, 2022 City Council meeting. Seconded by Assistant Mayor Kelley and voted.

VIII. RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS

1. Portsmouth High School Career Technical Education Center (CTE) – 45th Annual SkillsUSA NH Leadership and Skills Competition & Nationals Competition

Mayor McEachern announced that the presentation will take place at the August 1, 2022 City Council meeting.

2. Keller Williams Volunteers for their work with the Recreation Department

Mayor McEachern acknowledge and thanked the volunteers from Keller Williams for their work with the Recreation Department at Community Campus.

3. Presentation of the Sustainability Committee's Climate Action Plan Subcommittee

John Carty spoke regarding the key points of the CAP Subcommittee and broad goals for maximum impact. Mr. Carty also addressed the timing and next steps on the review and recommendations to strengthen sustainability aspects of zoning regulations. He indicated they expected to select a consultant with completion and rollout of Portsmouth CAP in the summer or fall of this year.

IX. PUBLIC COMMENT SESSION

Roy Helse spoke regarding his frustration with the cancellation of meetings at the last minute. He said it often makes the public feel like staff is cancelling city committee meetings to prevent the public from attending.

Olivia Annunziata Blaisdell spoke in support of holding Indigenous Peoples' Day rather than Columbus Day. She advised the City Council that she has a petition with over 1,200 signatures opposing Columbus Day and supporting Indigenous Peoples' Day.

Emily Stokel spoke in support of holding Indigenous Peoples' Day in place of Columbus Day. She said we need to become aware of how we treat and honor others.

Sophia Dmytruck urged the holiday to be changed from Columbus Day to Indigenous Peoples' Day. She said we need to correctly educate and acknowledge Indigenous children.

Sue Polidura spoke opposed to not recognizing Columbus Day and encouraged that the City celebrate both Columbus Day and Indigenous Peoples' Day.

Christina Gallmeyer spoke to the area near her property where a clear cutting of trees was done by Eversource. She said there are safety and security concerns now in the area. She asked the City Council to support her request to install fencing along the front and back of the property.

Arthur Clough spoke regarding a letter from the Mayor regarding his ethics complaint. He also spoke in opposition of the approval of a driveway installation at Strawberry Banke.

Esther Kennedy said she agrees with the Climate Action Plan and stated that buffer zones need to be left in place. She also spoke to many establishments that are not utilizing the outdoor areas allowed by the City for their restaurants, which prohibits parking for these areas. She asked what the expectations for these areas are.

Petra Huda spoke on the use of ARPA funds by the city. She stated concerns regarding the Islington Phase II project and funding eliminated.

Paige Trace spoke regarding the Town of New Castle beaches being closed. She expressed concerns regarding this matter. She also spoke to the importance of the Islington Phase II project.

Bill Downy spoke regarding the McIntyre and three meetings that have been held and have not been announced. He asked if those meetings are open to the public and who serves on the city team. He said there is a lack of information and it concerns him.

Ann Jennison, *(via zoom)* Lee, NH, spoke in support of the Indigenous Peoples' Day being celebrated in the City of Portsmouth.

Kathleen Blake, (via zoom) spoke in support of Indigenous Peoples' Day versus Columbus Day. She said when educating students trust and honesty is valuable.

Councilor Denton moved to suspend the rules to bring forward Item XIII. D. – Letter from We Speak, Portsmouth High School, requesting the City Council permanently approve Indigenous Peoples' Day (not alongside "Columbus Day") and support public recognitions and acknowledgments in honor of Indigenous Peoples' lands in Portsmouth. Seconded by Councilor Bagley and voted.

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- D. Letter from We Speak, Portsmouth High School, requesting the City Council permanently approve Indigenous Peoples' Day (not alongside "Columbus Day") and support public recognitions and acknowledgments in honor of Indigenous Peoples' lands in Portsmouth

Councilor Denton moved to permanently change Columbus Day/Indigenous Peoples' Day to Indigenous Peoples' Day in Portsmouth. Seconded by Councilor Blalock.

Councilor Bagley asked if we are in violation of state law by making this change. City Attorney Sullivan said Columbus Day will be Columbus Day statewide but in Portsmouth you have stated you wish to have Indigenous Peoples' Day.

Councilor Lombardi stated the students are right on the mark and made their point very clearly.

Councilor Moreau said she has been thinking long and hard on this matter and she does not want to discount Italian heritage.

Councilor Tabor said the City Council was trying to get to this point however, changes like this do not happen all at once. He suggested that individuals read the Indigenous People of the United States and stated there is much to celebrate.

Assistant Mayor Kelley thanked the students for coming and fighting this battle for several years. She spoke to the history that was taught to students. She stated we need to listen to the students and thanked them for their commitment to this cause.

Councilor Cook spoke to the many cultures we have. She said we took indigenous people's land and we are sitting on land. She stated it is important to recognize the traditions and celebrate the fact that we have this wonderful land to live upon.

Mayor McEachern said it is a testament to our country to have this discussion now. He said the students have done a fantastic job. He said we are looking to celebrate our own 400th year anniversary in the City of Portsmouth. He said there was something here before Portsmouth became the City that it is and it is important to remember that.

On a roll call vote 8-1, motion passed. Assistant Mayor Kelley, Councilors Tabor, Denton, Bagley, Lombardi, Blalock, Cook and Mayor McEachern voted in favor. Councilor Moreau voted opposed.

Councilor Denton moved to bring forward Item XV. C.2. – Indigenous NH Collaborative Collective. Seconded by Councilor Moreau and voted.

XV. CITY COUNCIL MEMBERS

C. COUNCILOR MOREAU

2. **Indigenous NH Collaborative Collective* (<https://indigenousoh.com/>)

Wants to use grant funding they have received to have a NHDOT historical highway marker about the 1713 Treaty of Portsmouth placed in Portsmouth. To do this they need a resolution of this council in order to request that the NHDOT allow the marker.

Significance of event to local, state, or national history

The meeting where the Treaty of 1713 was signed by English representatives and members of the Wabanaki confederacy in Portsmouth, NH, on July 11-14, 1713 was important for the First Nations diplomacy employed, the acknowledgement of a New Hampshire governing Council separate from Massachusetts and for the impact it had on opening the Portsmouth door to development as the commercial and military hub on the frontier. The Wabanaki sought respect and recognition of their Tribal sovereignty, equitable trading and limits to English settlement.

Proposed Marker Location

Portsmouth – the treaty negotiations took place on land that is now South Cemetery. The closest intersections are South Street and Richards Avenue, South Street and Miller Avenue (Rte. 1A) and Richards Avenue and Middle Street (Rte. 1).

Councilor Moreau moved to approve the placement of a NH Historical Highway Marker regarding the 1713 Treaty of Portsmouth within City limits on an appropriate NHDOT road. Seconded by Assistant Mayor Kelley.

Councilor Moreau said that this is a significant event.

Motion passed.

Councilor Moreau moved to suspend the rules to bring forward Item XIII. B. – Presentation regarding Prescott Park Master Plan Implementation. Seconded by Councilor Denton and voted.

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

B. Presentation regarding Prescott Park Master Plan Implementation

Tom Watson, Chair of the Prescott Park Master Plan Implementation Committee & Cassie Bethoney, Weston & Sampson, provided a detailed presentation regarding Phase 1A Scope and Target Schedule regarding the Master Plan Implementation of Prescott Park. A review of Phase I A Scope – Demo was reviewed including the demolition of the “garage” and “lean-to” structures back fill the existing foundations, and relocate their functions to the Lacava Wharf Barn. A review of Phase 1 A Scope – New Work was reviewed including the lifting and relocation of the Shaw building onto its new foundation. The goals for the Shaw building were discussed. Proposed Adjustments for the approval of the scope for Phase 1A were outlined:

1. Remove asphalt pavement on Water Street
2. Trench and install new sewer, water, gas, and storm water infrastructure under Water Street. Connect stormwater through to the Piscataqua and make it operational.
3. Demolish the “garage” and “lean-to” structures back fill the existing foundations, and relocate their functions to the Lacava Wharf Barn. This will provide an area for temporary trailers to house PPAF’s office operations, if off-site space is not available, until Shaw is restored and ready for re-occupancy.
4. Lift and relocate the Shaw building onto its new foundation. Excavate for a place for new foundations for the Shaw building.
5. A long sloping lawn (approx. = 3’ high will exist along the entire length of the Phase 1A work line, to accommodate the new grade change, and until the remaining phases are implemented.
6. Backfill Water Street to a new elevation matching the grade at Liberty Park.
7. Resurface Water Street and install final landscaping surfaces within the limit of work, and “feather” them into existing surfaces that are remaining for future phases.

Much discussion occurred among the City Council regarding the information provided in the presentation.

Councilor Bagley thanked the Committee for their work on the project but expressed concern as to whether this is the best use of funds with the number of historic buildings in Strawberry Banke for the Shaw building further the expenses. Ms. Bethoney said it is a critically important building and should be protected without question.

Councilor Tabor spoke to making the park resilient and the costs involved. Councilor Blalock said mitigating change is an important step towards making real change and preserving our history. Councilor Cook said improvements to the park are critical and we need to consider sea level rise.

Facilities Manager Joe Almeida said that this is a legacy project for the City and will take us 50 years further into the park.

City Manager Conard said we need to be thoughtful and feathered with what will remain and the future of the park.

Councilor Denton moved to concur with the modified scope for the implementation of the Prescott Park Master Plan with the anticipated construction to start spring of 2023. Seconded by Councilor Blalock.

Councilor Bagley said Prescott Park Master Plan is something we need to move forward with as expenses are only going up and we are investing too much. He stated he would not support the motion.

Mayor McEachern said he would support the motion and said we waited on the Sagamore Avenue Sewer Extension project and costs increased, costing us more money. He said he would like to see the space elevated in the park when there is not a performance.

On a roll call vote 8-1, motion passed. Assistant Mayor Kelley, Councilors Tabor, Denton, Moreau, Lombardi, Blalock, Cook and Mayor McEachern voted in favor. Councilor Bagley voted opposed.

Councilor Denton moved to suspend the rules to bring forward Items XI. A.4. – Revocable License for 50 Coakley Road, XIII. A. – Presentation regarding Statistical Revaluation, XV. C.1. – Public Involvement Summary Report – Accessory Dwelling Units and X. D. – Public Hearing/Adoption of Resolution Authorizing a Bond Issue and/or Notes of up to Three Million One Hundred Thousand Dollars (\$3,100,000.00) for costs related to School Facilities Improvements and Elementary School Upgrades. Seconded by Councilor Blalock and voted.

XI. CITY MANAGER’S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

4. Revocable License for 50 Coakley Road

Councilor Blalock moved to authorize the City Manager to negotiate and execute a revocable license which would authorize John and Christina Gallmeyer of 50 Coakley Road to construct and maintain a fence on the property of the City as requested and described in their email of June 14, 2022. Seconded by Councilor Denton and voted.

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- A. Presentation regarding Statistical Revaluation – Rosann Maurice-Lentz, City Assessor

Rosann Maurice-Lentz, City Assessor advised the City Council based on current economic conditions and the unknown economic impact to residential and commercial taxpayers within the City, the Portsmouth Assessor’s office has decided to not conduct the tax year 2022 / Fiscal Year 2023 Statistical Revaluation.

Mayor McEachern thanked City Assessor Lentz for this and her work and her team.

X. PUBLIC HEARINGS AND VOTE ON ORDINANCE AND/OR RESOLUTION

Public Hearing/Second Reading of Ordinances:

- D. Public Hearing/Adoption of Resolution Authorizing a Bond Issue and/or Notes of up to Three Million One Hundred Thousand Dollars (\$3,100,000.00) for costs related to School Facilities Improvements and Elementary School Upgrades

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

Brady Kilroy, Luke Wisler, Matt Ward – Each spoke in support of keeping the turf field at the High School. They spoke to the many issues related to using a grass field.

Esther Kennedy said the city needs to think about keeping a turf field. She stated that grass fields are excellent and safe to play on.

Petra Huda spoke in support of a grass field versus a turf field.

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

Councilor Bagley said there is concerns between a turf field and a grass field. He said we don't have enough land or fields in the city. He stated each turf field provides for sports to be played in the city and if we move to a grass field we will reduce the use of fields.

Councilor Blalock said we have information from experts which state artificial turf is safe to play on. He spoke regarding grass fields versus turf fields. He stated the weather in New England does not support a grass field.

City Attorney Sullivan said the vote to authorize the money could be adjusted regarding details of construction but the School Department would make that decision in consultation with the City Council.

Councilor Cook asked if we found out there was a problem with turf fields could the Council pass a resolution banning the installation of turf fields, if we choose to. City Attorney Sullivan said the Portsmouth the School Department is a department of the city and the role of the School Department is to determine how the money gets spent. He stated once funding is made available it is the School Department's determination how the money is spent. He further stated the city could issue some broad authorization that there would be no turf fields and you would need to come up with authority for that broad authorization, the answer to your question would be no.

Mayor McEachern said the disposal of the field needs to be part of the procurement process. He said he would like to know the best way to recycle this. He stated Community Campus had discussions regarding more fields. He stated this is a different conversation and what sports and times we take away from our children.

Councilor Cook said she feels there needs to be a thorough discussion to explore things we need to as a City Council.

Mayor McEachern said we had an understanding that is would be less programming and a broader conversation.

Councilor Blalock said many studies were performed and several presentations were made by former Athletic Director Wilson.

Councilor Tabor moved to adopt the Resolution as presented. Seconded by Councilor Bagley. On a roll call vote 7-2, motion passed. Assistant Mayor Kelley, Councilors Tabor, Moreau, Bagley, Lombardi, Blalock and Mayor McEachern voted in favor. Councilors Denton and Cook voted opposed.

XV. CITY COUNCIL MEMBERS

C. COUNCILOR MOREAU

1. Public Involvement Summary Report – Accessory Dwelling Units

Luke Cowan, Planning Department provided a presentation regarding the Public Involvement Summary Report on Accessory Dwelling Units. He spoke to the regulatory amendment work plan and the public involvement which was held with small focus group meetings and discussed the six emerging themes. He reported that 48% of abutters would consider building an ADU themselves. He informed the City Council that individuals going before land use boards for approvals are having to pay anywhere from \$20,000.00 to \$30,000.00.

Assistant Mayor Kelley commented that throughout the study we found most ADU's are being used for families, with a large percentage preparing for parents to live in the units. She stated we need to careful as a City Council looking at ADU's and send a clear message out.

Councilor Bagley said 48% of abutters would consider building an ADU. He said that zoning is our concern with density.

Councilor Blalock thanked Lucas for the presentation and thanked all residents who participated in the study.

Councilor Moreau thanked Luke for his great work on this matter. She said she was a moderator of a group and said the costs to go through the approvals are anywhere from \$20,000.00 to \$30,000.00.

Councilor Tabor said this is a wonderful example of a small committee getting quantifiable answers. He stated we need to study data carefully and informed the Council that some communities have a template for designs.

Councilor Lombardi said he would like to see a breakdown of costs for an ADU.

Mayor McEachern said he would like to see templates created to use and looks forward to what comes next.

At 10:15 p.m., Mayor McEachern called a brief recess. At 10:30 p.m., Mayor McEachern called the meeting back to order.

Councilor Moreau moved to suspend the rules in order to continue the meeting beyond 10:30 p.m. Seconded by Councilor Cook and voted.

X. PUBLIC HEARINGS AND VOTE ON ORDINANCE AND/OR RESOLUTION

Public Hearing/Second Reading of Ordinances:

- A. Public Hearing/Second reading of Ordinance amending Chapter 1, Article IV, Section 1.413: Trees and Public Greenery Committee

Assistant Mayor Kelley moved to pass second reading and hold third and final reading at the August 1, 2022 City Council meeting. Seconded by Councilor Cook.

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

Motion passed.

- B. Public Hearing/Second reading of Ordinance amending Chapter 1, Article VIII – Code of Ethics

Councilor Lombardi moved to pass second reading and hold third and final reading at the August 1, 2022 City Council meeting. Seconded by Councilor Cook.

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

Arthur Clough said ethics is about fairness, impartiality and doing the right thing. He spoke to the City Council's responsibility for oversight and spoke against giving the City Manager authority to select the Ethics Officer. He urged the City Council to send the ordinance back for more work before moving forward with third and final reading.

Petra Huda spoke concerning amendments that she feels are necessary to the ordinance. She urged the City Council to think about making changes before moving forward with adoption of the ordinance.

Esther Kennedy said there needs to be a process that is designed and laid out. She agreed that the City Manager should not select the Ethics Officer. She said when a complaint is lodged against someone both sides need ample opportunity to respond to allegations.

Tom Nies (*via zoom*) spoke in support of the ordinance and provided written comments recently to the City Council on this ordinance. He expressed concern regarding a lack of guidance on the investigation process. He suggested that the city hold periodic training on the ordinance.

Arthur Clough spoke to the New Hampshire Municipal Association reviewing the ordinance.

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

Councilor Cook moved to amend Section 1.805 B. by replacing the word consultation with agreement. Seconded by Councilor Tabor.

Councilor Cook said she envisions the City Manager would likely hire someone that does not live in the city and does not have conflicts with the city. She said there is a great deal of trust with the City Manager.

Mayor McEachern said there needs to be more work on qualifications for the investigative officer. He said we are creating a process for the city.

Councilor Lombardi said perhaps the City Manager could hire a person that the City Council could approve.

Motion passed.

Assistant Mayor Kelley said we should table the motion because there needs to be more revisions made. She said some things need to be worked on before looking at other changes.

Councilor Bagley said our Ethics Ordinance has not been used many times and if we do something egregious we find out in the ballot box. He said we have something in place currently and we can take time to come up with a better ordinance.

Councilor Tabor said it would be good to table the Ethics Investigator Ordinance for one step in a four step process. He outlined the process as it currently exist.

Mayor McEachern said in terms of presentations is there an opportunity before the Ethics Committee gathers the information and prepares for the hearing.

Councilor Cook said changes require a report in 45 days, but does not indicate to whom it is provided to.

Councilor Lombardi moved to table second reading until the August 1, 2022 City Council meeting. Seconded by Assistant Mayor Kelley and voted. Councilor Cook voted opposed.

- C. Public Hearing/Adoption of Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of up to Two Million One Hundred Fifty Thousand Dollars (\$2,150,000.00) related to Well Station Improvements, Water Storage Tanks Painting, and Bartlett Street Improvements

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

Assistant Mayor Kelley moved to adopt the Resolution as presented. Seconded by Councilor Denton.

With no speakers, Mayor McEachern declared the public hearing closed.

On a unanimous roll call 9-0, voted to adopt the Resolution as presented.

- E. Public Hearing/Adoption of Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of up to Seven Million Three Hundred Fifty Thousand Dollars (\$7,350,000.00) for costs related to Annual Sewer Line Replacements, Pease Wastewater Treatment Facility, Wastewater Pumping Station Improvements, Sewer Main for Sagamore Avenue Area Sewer Extension, Bartlett Street Upgrades and Fleet Street Utilities Upgrades

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

Assistant Mayor Kelley moved to adopt the Resolution as presented. Seconded by Councilor Lombardi.

With no speakers, Mayor McEachern declared the public hearing closed.

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

- F. Public Hearing/Adoption of Resolution Authorizing a Bond Issue and/or Notes of up to Nine Million Five Hundred Five Thousand Dollars (\$9,505,000.00) for costs related to Police Facility Deficiencies Improvements, Outdoor Pool Aquatics Upgrade and Pool House, Citywide Fuel Station Upgrades, Greenland Road Recreation Facility (Skateboard Park), Citywide Facilities, Aerial Utilities Undergrounding and Bartlett Street Improvements

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

Assistant Mayor Kelley moved to adopt the Resolution as presented. Seconded by Councilor Bagley.

Esther Kennedy asked what stage we are at with the bonding. She said it looks like we are bonding this early.

Petra Huda questioned the legal notice as prepared.

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

City Manager Conard said we are still in the design phase. Public Works Director Rice said the conduit is laid out before lighting is put in place. He said we would bid the project and award it before July 1st.

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

XI. CITY MANAGER'S ITEM WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Approval of Agreement for Association of Portsmouth Teachers

City Manager Conard said this is a request for approval of the agreement with the Association of Portsmouth Teachers. She reviewed changes outlined in the agreement.

Councilor Blalock moved to approve the proposed Agreement with the Association of Portsmouth Teachers as presented. Seconded by Councilor Bagley.

Attorney Closson said the agreement keeps wages in line and that this is a two-year agreement.

Councilor Bagley said that there was a great deal of discussion in Non-Public Session on the agreement. He said these decisions are not made lightly.

Motion passed.

2. Temporary Construction License for Ten State Street, Unit D

City Manager Conard said this area is a dead end area on State Street. She said the improvements to Unit D and encumbrances must go beyond 30 days. She indicated that the Planning Department and Legal Department have reviewed this matter and recommended approval.

Councilor Bagley moved to authorize the City Manager to execute and accept the temporary construction license regarding 10 State Street Unit D as submitted. Seconded by Councilor Tabor and voted.

3. Request for Restoration of Involuntarily Merged Lots – 880 Woodbury Avenue

Councilor Moreau moved to refer this request to the Planning Board and the Assessor for a report back. Seconded by Councilor Bagley and voted.

5. Right to Know Request of Christopher White

City Manager Conard said that Mr. White has made the request and there is no objection to unsealing the minutes.

Councilor Tabor moved pursuant to RSA 91-A:3, to unseal the minutes of the City Council non-public session held on March 7, 2022 insofar as they relate to the Audit Committee. Seconded by Councilor Cook and voted.

XII. CONSENT AGENDA

- A. Request from SOL, LLC, River Wharf, LLC d/b/a SOL, LLC to install a Projecting Sign at 111 State Street (***Anticipated action - move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement 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 projecting sign, for any reason, shall be done at 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***

- B. Request from Patrick Lavoie, Port City Barbers to install a Projecting Sign at 295 Maplewood Avenue (***Anticipated action - move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement 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 projecting sign, for any reason, shall be done at 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***

- C. Request from Bob Richard, Circle Furniture to install a Projecting Sign at 40 Bridge Street (***Anticipated action - move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement 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 projecting sign, for any reason, shall be done at 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 Blalock moved to adopt the Consent Agenda. Seconded by Assistant Mayor Kelley and voted.

XIII. PRESENTATIONS AND WRITTEN COMMUNICATIONS

- C. Email Correspondence

Councilor Moreau moved to accept and place on file. Seconded by Assistant Mayor Kelley and voted.

- E. Letter from Oksana Karcha requesting permission to set up pop-up tent in Market Square in front of North Church to vend as part of the Peace Vigils for Ukraine on the following Sunday's – July 17th or July 31st, August 14th or August 28th and September 11th or September 25th

Mayor McEachern said this would create a situation where we would be required to allow anyone the same right to do this type of request.

City Attorney Sullivan said the Council will see similar requests, if this is granted approval.

Councilor Denton moved to refer to the City Manager. Seconded by Assistant Mayor Kelley and voted.

XIV. MAYOR McEACHERN

1. Appointment of Nancy Brown to the COVID Response Task Force Blue Ribbon Committee

Mayor McEachern announced that he is appointing Nancy Brown to the COVID Response Task Force Blue Ribbon Committee.

2. Appointment to be Considered:
 - Johanna Landis as an Alternate to the Historic District Commission

The City Council considered the appointment of Johanna Landis as an Alternate to the Historic District Commission to be voted upon at the next City Council meeting.

XV. CITY COUNCIL MEMBERS

A. COUNCILOR TABOR

1. Community Power: Authorize Portsmouth Energy Aggregation Committee to draft Power plan to implement in 2023

Councilor Tabor moved that the City Council authorize the Portsmouth Energy Advisory Committee to create an Energy Aggregation Plan per RSA 53-E, including two public hearings, for review and vote of the council. Seconded by Assistant Mayor Kelley.

Councilor Tabor spoke to the plan being submitted and the need to create community power. He reported on a survey conducted whereby 75% are willing to pay for more energy supply for smart growth.

Motion passed.

2. Community Power: CPCNH Joint Power Agreement changes to allow bylaw amendments to be voted by the full membership at times other than just the Annual Meeting

Councilor Tabor moved that the City Council approves the amendment to Article XVI, Section 2 of the Joint Powers Agreement of the Community Power Coalition of New Hampshire as presented in the Council Packet dated July 11, 2022. Seconded by Councilor Denton and voted.

B. COUNCILOR DENTON

1. Request to hold Portsmouth's 3rd Annual Electric Vehicle Show one day over the last weekend in September or First weekend in October

Councilor Denton moved to refer the request to the City Manager with power. Seconded by Councilor Moreau.

Councilor Denton said in 2018 this type of event was held in the lower lot of City Hall and then we held one in 2019 in Foundry Garage.

Motion passed.

D. COUNCILOR COOK

1. Mid-Year Report from Governance Committee (powerpoint presentation)

Councilor Cook moved to table until the August 1, 2022 City Council meeting. Seconded by Councilor Lombardi and voted.

2. Work Session on ARPA Funds Requests

Councilor Cook moved to schedule a City Council Work Session on current request from staff and city committees for ARPA funds allocation. Seconded by Councilor Bagley.

Councilor Cook said this is to make the City Council aware of requests that have come in thus far.

Motion passed.

E. COUNCILOR BLALOCK

1. Athletic Turf Field – Manufacturer’s Representations

Councilor Blalock moved to authorize a letter to be sent on behalf of the City Council to the manufacture of the artificial turf field components regarding statements made during the procurement process. Seconded by Assistant Mayor Kelley.

Councilor Blalock said we have learned a great deal and have been leading the charge. He stated the salesmen never should have said that they could provide a PFAS free field.

XVI. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation for the Skate Board Park Lights from Pioneers Board Shop - \$500.00

Councilor Blalock moved to approve and accept the donation as presented. Seconded by Councilor Cook and voted.

XVII. CITY MANAGER'S INFORMATIONAL ITEMS

1. Use of ARPA Funds

City Manager Conard advised that the City has recently updated its ARPA funding webpage to better identify the amounts that have already been appropriated and the balance remaining. She stated the updated page also serves to advise the community that a public input process is being developed.

XVIII. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

1. Neighborhood Outreach Forum – Ward 5 Meeting Minutes

City Manager Conard said that that these minutes submitted by the Neighborhood Citywide Committee are for informational purposes.

Mayor McEachern advised the City Council that he authorized a letter of condolences to be sent to Honorable Kyohei Sakita, Mayor of Nichinan, Japan regarding the assassination of Japanese Prime Minister Shinzo Abe.

XIX. ADJOURNMENT

At 12:10 a.m., Councilor Moreau moved to adjourn. Seconded by Assistant Mayor Kelley and voted.



KELLI L. BARNABY, MMC/CNHMC
CITY CLERK

LEGAL NOTICE

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KELLI L. BARNABY,
MMC/CNHMC
CITY CLERK

DRAFT
6/23/2022

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 1, Article III – **BOARDS** of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

ARTICLE III: BOARDS

Section 1.301: CREATION

There shall be established the following Boards in the City of Portsmouth:

A. Planning Board

B. Recreation Board

~~C. Board of Health~~

~~D. Board of Plumbing Examiners~~

~~E.~~ Board of Library Trustees

~~F.~~ Personnel Advisory Board

~~G.~~ Board of Trustees of the Trust Funds

~~H.~~ Zoning Board of Adjustment

~~I.~~ Building Code Board of Appeals

~~J. Portsmouth Heritage Museum Board (Adopted 9/19/88)~~

Section 1.302: APPOINTMENTS, TENURE AND REMOVAL

A. All appointees to Boards shall serve for the term appointed or until a successor shall have been appointed and qualified. Appointments for unexpired terms shall be for the remainder of that term or until a successor shall have been appointed and qualified.

B. Records of attendance shall be kept by the Chairmen of Boards and Commissions appointed by the City Council. The attendance records of Boards and Commissions shall be reported to the City Council on an annual basis. If a member notifies the Chairman of the Board or

Commission prior to a meeting that he will not be able to attend the meeting due to sickness, vacation or out of town business travel, such absence will be considered an excused absence and so noted in the minutes of the meeting and the attendance sent to the Council. The City Council shall declare vacant the office of any member who has unexcused absences from more than one-third of the regularly scheduled meetings of the board or commission in any calendar year.

- C. In the case of appointees who must be removed pursuant to State Statute, the Chairman of the Board or Commission shall notify the City Council in writing of any members in violation of the previous paragraph and such violation may be found by the City Council to be neglect of duty and may be grounds for dismissal.
- D. Every member of a board, commission or committee of the City, whose term is to expire, shall receive a notice from the City Clerk sixty (60) days prior to the expiration of his or her term. A copy of the notice shall be sent to the City Council. Public notice of the upcoming vacancy shall be advertised in the local newspaper.
- E. Eligibility for appointment to Municipal Boards shall be limited to residents of the City of Portsmouth. Any individual who is a resident of the City at the time of appointment to a Municipal Board shall become ineligible to remain on that Municipal Board in the event that the individual shall discontinue residency in the City. (Adopted 9/22/97)

Section 1.303: PLANNING BOARD

- A. Membership: The Planning Board of the City shall consist of nine (9) members and two (2) alternate members, specifically; (Adopted 1/23/95)
 - 1. The City Manager, or the designee of the City Manager with the approval of the City Council, who shall be an ex-officio member;
 - 2. An administrative official of the City selected by the City Manager who shall be an ex-officio member;
 - 3. A member of the City Council selected by the Mayor with the approval of the Council, who shall be an ex-officio member;
 - 4. Six residents of the City appointed by the Mayor with the approval of the City Council.
 - 5. Two (2) alternates who shall be residents of the City appointed by the Mayor with the approval of the City Council. (Adopted 1/23/95)

- B. Term: All Planning Board members shall serve as such without compensation and the appointed members shall hold no other municipal office except ward official, election official and checklist supervisors. The term of each appointed member shall be three (3) years. The Mayor shall apportion appointments so that no more than three appointments occur annually. (Amended 6/3/2002)
- C. Powers: The Planning Board shall have those powers and perform those duties identified by State law and local ordinance. (Amended 3/22/93)

Section 1.304: RECREATION BOARD

- A. Membership: The Recreation Board shall consist of ten members, namely the City Manager as a member ex-officio and nine persons appointed by the Mayor.
- B. Term: All board members shall be residents of Portsmouth and shall serve for a three year term without compensation. Appointments will be apportioned and appointed members shall hold no other municipal office.
- C. Functions: The Recreation Board shall perform the following functions:
 - 1. Assist the Recreation Director in planning a city wide recreation program.
 - 2. Advise the City Manager in regard to recreational policy.

~~Section 1.305: BOARD OF HEALTH~~

~~The Board of Health shall consist of 5 voting members appointed by the Mayor and City Council. The Health Officer shall serve as an ex-officio member of the Board and shall vote only in the case of tie votes. (Amended 5/3/93)~~

- ~~A. Term: The appointed members of the Board shall serve three year terms.~~
- ~~B. Composition: The Board shall represent a cross section of the community health delivery system. One member shall be a physician, one member shall be a nurse with public health background, one member shall have a background in environmental sanitation and one member shall be consumer oriented.~~
- ~~C. Meetings: The Board shall meet at least semi-annually. Additional meetings may be called by the Mayor, City Manager, City Attorney, or at the request of the three members of the Board on five days notice;~~

~~which notice may be waived in an emergency. Minutes of all meetings shall be filed with the City Clerk.~~

~~D. Functions: The Board shall perform the following functions:~~

- ~~1. Formulate general policies regarding public health in the City.~~
- ~~2. Act as an advisor to the Environmental Health Officer and the City Manager.~~
- ~~3. Propose for adoption by the City Council ordinances pertaining to environmental health and/or health consistent with State and Federal law.~~
- ~~4. Prepare an annual report concerning public health in Portsmouth and submit the same to the City Council at the end of each calendar year.~~
- ~~5. Perform other health related duties which the City Council assigns to the Board from time to time.~~

~~(Section 1.305 amended 9/22/97 by deletion of Subsection C Qualifications.)~~

~~Section 1.306: BOARD OF PLUMBING EXAMINERS~~

~~A. Membership: The Board of Plumbing Examiners shall consist of three members, namely the Plumbing Inspector as Chairman, and two persons appointed by the City Manager.~~

~~B. Term: One of the appointed members shall be a master plumber who has been engaged for at least five years in the plumbing business in New Hampshire and the other members shall be appointed from the Department of Health. Each member shall serve for a term of three years without compensation. All members of the Board shall be residents of Portsmouth.~~

~~C. Functions: The Board of Plumbing Examiners shall perform the following functions:~~

- ~~1. Examine and pass upon all applicants, whether as masters, employing plumbers or journeymen plumbers in the City.~~
- ~~2. Issue a license valid in the State to such person who shall successfully pass the required examination for plumbers.~~

~~3. Maintain a register of the names and places of business of all persons to whom a plumber's license has been granted.~~

~~D. Issuance of Licenses: The Board of Plumbing Examiners shall issue a license valid for one year, which license shall be renewed yearly upon proper application. The license shall not be transferable and examination shall not be required of the same person more than once in the City.~~

Section ~~4.307~~ 1.305: BOARD OF LIBRARY TRUSTEES

- A. Membership and Term: The Board of Library Trustees shall consist of nine members and at least one of these members shall be a member of the Board of Education. All members shall be approved by the Mayor and shall be subject to the approval of the City Council. With the exception of the first appointments made under this authorization, all appointments shall be for a three year term and no member shall be eligible for more than two consecutive terms. First appointments made under this authorization shall be for such terms as will provide for three member's terms to expire each year.
- B. Powers and Duties of the Board of Library Trustees:
1. Adopt bylaws, rules and regulations for the conduct of its own business and choose its own officers.
 2. To determine objectives which will result in the continuing growth and improvement of library services and to establish policies necessary for the attainment of these objectives.
 3. Establish policies necessary for the operation of the library.
 4. Finances:
 - a. Prepare the annual budget for the Library in consultation with the librarian and present the same to the City Manager.
 - b. Receive and expend the income from all trust funds, donations and bequests made to the City for the benefit of the Library in accordance with the wishes of the done.
 - c. Expend all monies received from fines, payments for lost or damaged books, fees for providing non-resident services and other miscellaneous income.

5. To recommend to the City Manager the appointment of the City Librarian and staff librarians.
6. To prepare and present annual reports to the City covering all phases of the operation of the Library and to make an annual report to the N.H. State Library as may be required by the State Library Commission.
7. Saving Clause: To perform all other acts necessary for the management and control of the Library.

Section ~~1.308~~ 1.306: PERSONNEL ADVISORY BOARD

- A. Establishment: The Personnel Advisory Board shall be established in conformity with Section 49 of the Amended Charter of the City of Portsmouth, 1947, as amended.
- B. Functions: The Personnel Advisory Board shall perform the following functions:
 1. Exercise all power and perform all duties as stated in Section 49 of the Amended Charter of 1947, as amended.

Section ~~1.309~~ 1.307: BOARD OF TRUSTEES OF TRUST FUND

- A. Establishment: The Board of Trustees of the Trust Funds shall be established in conformity with Section 67 of the amended charter of the City of Portsmouth, 1947.
- B. Functions: The Board of Trustees of Trust Funds shall perform the following functions:
 1. Exercise all power and perform all duties as stated in Section 67 of the amended Charter of 1947.
 2. Receive all trust funds which may donated or bequeathed to the City or any department thereof, unless otherwise provided or required.
 3. Distribute income and principle in accordance with the purpose for which the trusts were established.

Section ~~1.340~~ 1.308: ZONING BOARD OF ADJUSTMENT

- A. Membership and Term: The Zoning Board of Adjustment shall consist of seven (7) members and two (2) alternates, all of whom shall be residents of Portsmouth, appointed for terms of five years by the Mayor with the

approval of the City Council. Appointments shall be apportioned, and the Board shall annually elect a Chairman for its membership.

Members and alternates shall serve without compensation and shall hold no other municipal office except ward official, election official and checklist supervisors. The Mayor shall submit the names of appointees to the council within thirty days after a vacancy occurs. (Amended 6/3/2002; amended 03/15/2021)

B. Functions: The Zoning Board of Adjustment shall perform the following functions:

1. Exercise all power and perform such duties as stated in Chapter 673:3 of New Hampshire Revised Statutes Annotated. In addition the Board shall have those powers as set forth in the Zoning Ordinance of the City of Portsmouth, Chapter 10, of this revised Code of Ordinances. (Amended 6/3/2002)

Section ~~4.314~~ 1.310: BUILDING CODE BOARD OF APPEALS

It is the intent of the City of Portsmouth to establish a Building Code Board of Appeals. This ordinance authorizes the City Council to establish said Board and directs the reader to Chapter 12 of these Ordinances (City Building Code), for the specifics regarding the appeal process, membership, member qualifications, conflicts of interest, hearings, board decisions, and administration of the Building Code Board of Appeals. (Adopted 7/9/90)

~~Section 1.312: PORTSMOUTH HERITAGE MUSEUM BOARD (Adopted 9/19/88)~~

~~A. Purpose: The Portsmouth Heritage Museum Board is hereby created to encourage the development of a facility which would provide the location for display, acquisition and safe-keeping of various items which in the opinion of the Board have special historical significance to the City of Portsmouth.~~

~~B. Membership: The Portsmouth Heritage Museum Board shall consist of five members. One shall be the Mayor (ex-officio), one shall be the City Manager (ex-officio), one shall be the Director of the Library (ex-officio), and two citizens of Portsmouth, one shall be appointed by the Mayor and one person shall be appointed by the Trustees of Prescott Park.~~

~~C. Term: Membership shall be for a term of two years. One appointment shall be made each year except at the initial organization of the Board.~~

~~D. Duties and Powers of the Board:~~

- ~~1. Adopt bylaws, rules and regulations for the conduct of its own officers.~~
- ~~2. Determine objectives which will result in the continued growth and improvement of the Portsmouth Heritage Museum, subject to the approval of the City Council.~~
- ~~3. Recommend to the Library Director policies necessary for the operation of the Museum.~~
- ~~4. Recommend an annual budget to the Library Director.~~
- ~~5. Promote the acquisition through loan or gift of those articles of historical significance to the City presently in private ownership.~~
- ~~6. Develop and recommend to the City a long-range plan for the preservation and safe-keeping of historically significant artifacts.~~

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

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

This ordinance shall take effect upon its passage.

APPROVED:

Deaglan McEachern, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

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

DRAFT
7/26/2022

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 1, Article IV – **COMMISSIONS AND AUTHORITIES** of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

ARTICLE IV: COMMISSIONS AND AUTHORITIES

Section 1.401: RESIDENCY REQUIREMENT

Eligibility for appointment to Commissions and Authorities of the City of Portsmouth shall be limited to residents of the City of Portsmouth. Any individual who is a resident of the City at the time of appointment to a Commission or Authority shall become ineligible to remain on that Commission or Authority in the event that the individual shall discontinue residency in the City. (Adopted 9/22/97)

~~Section 1.402: BUILDING COMMISSION~~

~~A. Membership: The Building Commission shall be a Board consisting of five members, who shall be the head of the Health Department, the head of the Fire Department, the head of the Planning Department, the Inspector of Wires and Poles and the Plumbing Inspector.~~

~~B. Powers and Duties: The powers, duties and procedures of the Building Commission shall be those set forth in Chapter 14 of this Code, Sections 14:114 through 14:118.~~

Section 1.403 1.402: ECONOMIC DEVELOPMENT COMMISSION

A. Membership and Term: The Economic Development Commission shall consist of nine (9) qualified regular members and one alternate member. They shall be appointed by the Mayor subject to the approval of the City Council for a term of four years. The Mayor and City Manager shall also serve as ex-officio members of the Economic Development Commission whose terms shall correspond to their respective tenure of office. (Amended 9/22/97)

B. Powers and Duties: The Commission shall encourage the establishment of business and industry in Portsmouth and the surrounding area and promote the welfare of local industry and general business. (Adopted as amended 12/03/90)

- C. 1. The Commission shall make recommendations to the City Council concerning the acquisition, bonding, developing, building, leasing and mortgaging of commercial and industrial land and buildings and other matters incidental to attracting business and industry to Portsmouth. (Adopted as amended 12/03/90)
2. It shall be the general responsibility of the Economic Development Commission to increase and sustain the business and personal prosperity of all residents of this community while protecting and maintaining the quality of our natural environment and historic and cultural assets. This process should consist of the encouragement of a broad, productive community effort to coordinate and enhance the utilization of all community resources involved in any respect with economic development. The process should further ensure that adequate financing sources are available to those qualified enterprises, which desire to start up, expand, and/or locate in our Community. (Adopted as amended 12/03/90)

Section ~~1.404~~ 1.403: HISTORIC DISTRICT COMMISSION

There is hereby established an Historic District Commission and it shall have the powers prescribed in RSA 31:89a – 31:89(1) together with any amendments hereinafter enacted by the General Court and as further defined in this Section and in Article X, Chapter 10 of the Zoning Ordinances of the City of Portsmouth.

A. Membership and Term

1. **Membership:** The Historic District Commission shall consist of seven members and two alternates appointed by the Mayor with the approval of the City Council. One of the members shall be a City Council member and another may be a Planning Board member as provided by State Law. At least two members shall be residents of the Historic District and at least one member shall be a person owning or being employed in a business within the Historic District. All appointees must be residents of Portsmouth. All members are required to have demonstrated interest in and commitment to promote the purposes of historic districting as stated in this Ordinance. A member's term serving at the time of enactment of this Ordinance shall not be affected. Future appointments, however, shall be filled in accordance with the provision of this Section. (Amended 9/21/98; Amended 11/22/2010; amended 03/15/2021)
2. **Term:** The members of the Commission shall be appointed for three-year terms. In the event a vacancy is created, an interim appointment shall be made in accordance with the procedures

described above to complete the unexpired term. All members shall serve without compensation.

3. Attendance: Records of attendance shall be kept by the Commission. The attendance records shall be reported to the City Council on an annual basis. If a member notifies the Chairman of the Commission prior to a meeting that he will not be able to attend the meeting due to sickness, vacation, or business obligations such absence will be considered an excused absence and so noted in the minutes of the meeting. The appointed alternate shall serve in the absence of a member. The City Council shall declare vacant the office of any member who has unexcused absences from twenty-five percent or more of the regularly scheduled meetings of the Commission in any quarter.

B. Organization, Meetings and Rules

1. The Commission shall annually elect a Chairman, Vice-Chairman and Secretary from the appointed members and create and fill such other offices, as it may deem necessary to fulfill its work during the first meeting of July. The Commission shall meet at the call of the Chairman and at such other times as the majority of the Commission may determine, and shall adopt rules for the orderly conduct of meetings. Minutes of all meetings shall be kept and all records and meetings of the Commission shall be open to the public.
2. Quorum: In order for the Historic District Commission to issue a Certificate of Approval or Notice of Disapproval, at least five members must be present to constitute a quorum for the conduct of such business, and a majority of the members voting in the affirmative shall be required to issue a Certificate of Approval. (Adopted 9/25/89)

C. Powers and Duties

1. The Historic District Commission, consistent with the powers specified in the preamble of this Section, shall review and approve or disapprove all applications for construction, alteration, repair, moving and/or demolition of buildings or structures located within an historic district(s) before any building, demolition, or other permit may be issued by the Building Inspector, subject, however to the provision of the Scope of Review as specified in Article X, Section 10:1004. The review shall be limited to the exterior of the building(s) or structures and shall not apply to the interiors thereof.

2. The Building Inspector shall notify the Chairman of the Historic District Commission within seven working days after receipt of any application for permit, which is subject to the Scope of Review and conditions of this Ordinance.
 3. It shall be the duty of the Commission to file with the Building Inspector or other duly delegated authority, either a Certificate of Approval or a Notice of Disapproval following the review and determination of the application. Said certificate shall be filed with the Building Inspector within thirty calendar days after the filing of the application for said certificate, unless the applicant shall agree in writing to a longer period of time. No building permit shall be issued until a Certificate of Approval signed by the Chairman or Vice-Chairman has been filed with the Building Inspector. In the case of disapproval, such notice shall be binding upon the Building Inspector and no permit shall be issued. Failure to file said certificates within the specified period of time shall be deemed to constitute approval of the Historic District Commission.
 4. The Commission may request reports and recommendations regarding the feasibility of the applicant's proposal from the Planning Board, Fire Chief, Building Inspector, Health Officer and such other administrative officials who may possess information pertinent to the application. The Commission may request advice from such professional, educational, cultural or other groups as may be deemed necessary for the determination of a reasonable decision. The Historic District Commission may request the City Manager to have persons present whose input is deemed necessary.
 5. The Commission may request such technical assistance and consultants as may be deemed necessary to carry out the purpose of this Ordinance subject to funding, if necessary, by the City Council.
 6. The Historic District Commission shall have the power to adopt by-laws, rules and regulations necessary for the conduct of business providing the same have been approved by the City Council. The Commission also shall prepare and issue guidelines to assist the applicants in determining the appropriateness of the applicant's proposal.
- D. Appeal: Any person aggrieved by a final decision of the Historic District Commission shall have a right of appeal to the Board of Adjustment as provided by State Law. Any such appeal shall be filed with the Board of Adjustment within thirty days of the date of final decision of the Historic

District Commission. Any person aggrieved may apply to the Commission for a rehearing. Upon the filing of application for rehearing, which must include a written statement with reasons for the request, the Commission shall either grant or deny the same. In the event such a rehearing is granted, the Commission shall schedule the rehearing for the next regularly scheduled Commission meeting, except at the request of the Petitioner. (Adopted 9/25/89)

Section ~~1.405~~ 1.404: HOUSING AUTHORITY

- A. Membership, Qualifications, Tenure: The Housing Authority shall consist of five commissioners appointed by the Mayor to apportioned five year terms. The qualifications, tenure, and succession of the said commissioners shall be those set forth in Chapters 203-5 through 203-7 of the N.H. RSA.
- B. Power: The Housing Authority shall constitute a public body corporate and politic, exercising public and essential governmental functions within the provisions of Chapter 203-8 N.H. RSA, and all other provisions of the Housing Authority Law of N.H. as contained in said Chapter 203.

~~Section 1.406: PLANNING AND DEVELOPMENT COUNCIL~~

~~A. Membership and Terms: The Planning and Development Council shall consist of nine members:~~

~~Chairman and one member of the Planning Board;
Chairman and one member of the Economic Development Comm.;
Chairman and one member of the Portsmouth Housing Authority;
Chairman and one member of the Conservation Commission;
City Manager.~~

~~The City Manager shall be the Chairman of the Council. Members shall serve terms of four years with the exception of the first members appointed to this Commission:~~

~~2 shall be appointed for one year;
2 shall be appointed for two years;
2 shall be appointed for three years;
2 shall be appointed for four years.~~

~~B. Powers and Duties~~

- ~~1. The Council shall advise the City Council on such matters as it deems appropriate for the City Council to consider in the development of planning goals, objectives and programs for the City of Portsmouth in the several areas represented by the membership of the Council.~~
- ~~2. The Council shall act as coordinating and information exchanging agency for city planning and development.~~
- ~~3. The Council shall meet monthly and shall submit a semi-annual report of its activities including recommendations to the City Council to include record of the vote and any minority report, if the minority members wish to file such a report.~~
- ~~4. The Directors of the several departments and agencies represented by the members of the Council shall function as advisors to the Council.~~

Section ~~1.407~~ 1.405: CONSERVATION COMMISSION

- A. Authority to Establish, Purpose: The City Council of the City of Portsmouth, New Hampshire, hereby does adopt the provisions of Chapter 36-A of the RSA of the State of New Hampshire which chapter authorizes the establishment of a conservation commission, for the promotion and development of the natural resources and for the protection of watershed resources of the City.
- B. Establishment, Duties and Powers: There hereby is established the Portsmouth Conservation Commission which shall consist of seven members and two alternates to be appointed by the Mayor with the approval of the Council. The duties and powers and terms of membership shall be set forth in said Chapter 36-A. (Amended 8/16/99)

Section ~~1.408~~ 1.406: CABLE TELEVISION AND COMMUNICATIONS COMMISSION (amended in its entirety 2/26/96)

- A. Membership, Qualifications, Tenure: The Cable Television and Communications Commission shall consist of five (5) commissioners and one alternate commissioner appointed by the Mayor subject to confirmation by the City Council. Of the initial appointments, three shall be of three (3) years and two shall be for two (2) years. Thereafter, all appointments including the alternate commissioner shall be for a term of three years. The alternate commissioner shall attend all Commission meetings and may vote at any time when there are less than five commissioners otherwise voting. (Amended 10/3/05)

Commissioners shall be residents of the City of Portsmouth at the time and during the terms of their appointments. Commissioners shall be familiar with the general concepts underlying the operation of cable television.

- B. The Commission shall have the authority to establish standing subcommittees on matters pertaining to the operation and performance of cable companies within the City.

Such subcommittees shall serve in an advisory capacity to the Cable Commission. In the first instance, the standing Sub-committees shall consist of:

Government/Education Access Channels, I-Net System and Customer Service. The Commission shall have the right to appoint non-Commission members to subcommittees; when possible, the Commission shall attempt to use Portsmouth residents for such appointments. If the Commission wishes to appoint a non-Portsmouth resident who has skills helpful to the Commission's work; the Commission shall have the authority to make such an appointment.

- C. Powers: In addition to establishing the standing Sub-Committees referenced above, the Commission shall have the authority to eliminate such Sub-Committees and create new ones as the Commission deems appropriate. The Commission shall oversee the operation of the existing Cable Television Franchise Agreement and any future agreements, which the City Council may approve.
- D. The Commission shall meet as often as deemed appropriate and necessary to insure the proper operation of the Franchise Agreement. The Commission shall, upon request of the City Council, submit written or verbal reports of its activities.

Section ~~1.409~~ 1.407: PORTSMOUTH HOUSING ENDOWMENT FUND ADVISORY BOARD

- A. The PHEF Advisory Board shall consist of seven (7) voting members, specifically:
1. A realtor maintaining an office in the City of Portsmouth (residential real estate), who shall be a resident of Portsmouth;
 2. A residential real estate banker, who shall be a resident of Portsmouth;

3. A local appraiser, who shall be resident of Portsmouth;
4. A City resident;
5. A representative of the Portsmouth Housing Corporation;
6. An administrative official of the City from the Bureau of Community & Economic Development, who shall be an ex-officio member;
7. An administrative official of the City from the Legal Department, who shall be an ex-officio member.

All members shall be appointed by the Mayor and Council with the exception of the City officials who shall be designated by the City Manager.

B. Term: The appointed members of the Board shall serve a three-year term and shall serve without compensation.

C. Powers:

1. Formulate general policies regarding the operation of the program including application criteria;
2. Establish specific policies as the need may arise dictated by the program demands;
3. Advise the City Manager and City staff with regard to the operation of the program;
4. The Advisory Group shall not have the authority over the investment of the PHEF Trust, which function shall remain with the Trustees of the Trust Funds.

D. Meetings: The Advisory Group shall meet at least semi-annually and may be called by the City Manager, the City staff representatives or upon the request of the Advisory Board on five (5) days notice, which notice may be waived in an emergency.

(Section 1.409 Adopted in its entirety 5/20/96)

~~Section 1.410: — MICROENTERPRISE ADVISORY COMMITTEE~~

~~A. — The Microenterprise Advisory Committee shall consist of seven (7) voting members: (Amended 9/22/97)~~

- ~~1. An Attorney~~
- ~~2. Two (2) Accountants or Commercial Loan Officers (Amended 9/22/97)~~
- ~~3. Four (4) owners of small businesses, (businesses with ten (10) or fewer employees, including the owner) (Amended 9/22/97)~~

~~All members shall be appointed by the Mayor and City Council. Preference will always be given to Portsmouth residents unless there is an overriding reason for selecting an individual who is employed in Portsmouth, yet is not a resident.~~

~~B. Term: The members of the Committee shall serve a three-year term and shall serve without compensation.~~

~~C. Powers:~~

- ~~1. Formulate general policies regarding the operation of the program, including application selection criteria.~~
- ~~2. Establish specific policies as the need may arise dictated by the program demands.~~
- ~~3. Advise the City Manager and staff with regard to the operation of the program.~~

~~D. Meetings: The advisory Committee shall meet at least semi-annually and may be called by the City Manager, the City staff or upon the request of the Committee on five (5) days notice, which notice may be waived in an emergency.~~

~~Section 1.411: PEIRCE ISLAND COMMITTEE~~

~~A. Membership and Term: The Peirce Island Committee shall consist of not less than twelve (12) or more than eighteen (18) regular members. The members shall be appointed by the Mayor subject to the approval of the City Council for a term of two (2) years, coterminous with the City Council term.~~

~~B. Powers and Duties: The Committee shall provide advice and recommendations to the City Manager and the City Council with respect to all issues affecting the development and use of Peirce Island, including the solicitation and acceptance of grants; the expenditure of any funds for specific improvements; and any expenditures from the Peirce Island Trust Fund. Nothing herein shall~~

~~limit the power of the City Council or City Manager to take immediate action in the event of exigent circumstances. (Amended 5/17/99)~~

~~C. It shall be the responsibility of the Peirce Island Committee to encourage the use and enhancement of Peirce Island in the manner which maximizes the value and use of the island for the residents of the City of Portsmouth while minimizing the impact on the environmental condition and natural beauty of the island.~~

Section 1.412 1.408: PARKING AND TRAFFIC SAFETY COMMITTEE
(Adopted 11/21/2011)

The Parking and Traffic and Safety Committee shall be established and shall have the duties and authority as described in Chapter 7, Article I of these ordinances.

Section 1.413 1.409: TREES AND PUBLIC GREENERY COMMITTEE
(Adopted 10/21/2013)

There is hereby established a Trees & Public Greenery Committee. The Committee shall consist of nine (9) voting members including the following: City Manager or designee; Tree Warden or designee; the Public Works Foreman in charge of tree maintenance; and six (6) individuals with an interest in trees and public greenery. Members of the Committee, other than City Officials listed above, shall be appointed by the Mayor and City Council for three year terms with the length of the initial terms being staggered at the discretion of the Council. Vacancies for the unexpired terms shall be filled in the same manner as the original appointments.

The main purpose of this Committee shall be to advise and assist the City's Tree Warden in enforcing the provisions of this Ordinance as well as to ensure the proper expansion, protection, and maintenance of the City's Urban Forest consistent with best arboricultural practices, horticultural practices, aesthetic concerns, and public safety. The Committee shall, with the assistance of the Department of Public Works, collect and maintain all records and data necessary to objectively evaluate whether progress is being made toward the proper protection and expansion of the City's Urban Forest. The Committee shall prepare an annual report summarizing all activity relating to this Ordinance and shall offer recommendations for actions to better achieve the proper maintenance and expansion of the City's Urban Forest. This report shall be presented to the City Council for its consideration.

Section ~~1.414~~ 1.410: AUDIT COMMITTEE

There shall be a permanent Audit Committee established and maintained for the purpose of advising the City Council on the adherence to the City Charter- Section 7.4 INDEPENDENT AUDIT.

- A. Membership and Term: The Audit Committee shall have ~~five (5)~~ **three (3)** voting members who shall be appointed by the Mayor and confirmed by the City Council, ~~two~~ **all** members shall be City Councilors. The City Manager shall be a member of the Committee with voice, non-voting. ~~Audit Committee members, other than the City Councilors, shall possess experience in finance, accounting, auditing, and/or financial management and reporting. All members shall be independent of both City management and any auditing firm which may be under contract with the City. In order to enhance the integrity of the financial reporting, the independence of each member will be maintained throughout the duration of their term on the Audit Committee.~~ In the event of a vacancy in a member position on the Audit Committee, a qualifying individual shall be appointed to fill the remainder of the term of the vacant member. The ~~initial~~ terms of the members of the Committee shall be for ~~three (3)~~ **two (2)** year terms ~~coterminous with the term of the City Council except that the length of the initial terms to be staggered as follows: In year of initial appointment: three (3) members shall be 3-year terms and two (2) members shall be 2-year terms. Thereafter, all members shall serve a term of three (3) years. All members shall be residents of the City of Portsmouth throughout their term on the Audit Committee.~~
- B. Duties and Powers: The primary purpose of the Audit Committee is to recommend an external auditor to the City Council. In the event the auditor identifies any serious exceptions, the Audit Committee shall advise and work with the City council as to next steps. ~~The Audit Committee will be able to retain the services of professionals, as necessary, in municipal finance and audits, and experts hired will have no past employment as City staff or current relationships therewith, or employment with the auditing firm or current relationships therewith, and shall be independent.~~

Section ~~1.415~~ 1.411: CEMETERY COMMITTEE

- A. Membership and Term: The Cemetery Committee shall consist of not less than twelve (12) or more than eighteen (18) regular members. The members shall be appointed by the Mayor subject to the approval of the City Council for a term of two (2) years, coterminous with the City Council term.
- B. Powers and Duties: The Committee shall provide advice and recommendations to the City Manager and the City Council with respect to all issues affecting municipal cemeteries, including the solicitation and acceptance of grants; the expenditure of any funds for specific improvements; and any expenditures from the Cemetery Trust Fund. Nothing herein shall limit the power of the City Council or City Manager to take immediate action in the event of exigent circumstances.
- C. It shall be the responsibility of the Cemetery Committee to encourage the restoration, preservation, and safeguarding of Portsmouth's historic cemeteries and their history for future generations.

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

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

This ordinance shall take effect upon its passage.

APPROVED:

Deaglan McEachern, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, August 22, 2022 at 7:00 p.m., at the Portsmouth Municipal Complex in the Eileen Dondero Foley Council Chambers, Portsmouth, NH, on a Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or participation in the State Revolving Fund (SRF) Loan of up to One Million Two Hundred Thousand Dollars (\$1,200,000.00) for costs related to Sewer Service Connections related to the Sagamore Avenue Area Sewer Extension Project. The complete Resolution is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

KELLI L. BARNABY, MMC/CNHMC
CITY CLERK

LEGAL NOTICE
NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, August 22, 2022 at 7:00 p.m., at the Portsmouth Municipal Complex in the Eileen Dondero Foley Council Chambers, Portsmouth, NH, on a Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or participation in the State Revolving Fund (SRF) Loan of up to One Million Two Hundred Thousand Dollars (\$1,200,000.00) for costs related to Sewer Service Connections related to the Sagamore Avenue Area Sewer Extension Project. The complete Resolution is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.
KELLI L. BARNABY,
MMC/CNHMC
CITY CLERK

**CITY OF PORTSMOUTH
TWO THOUSAND TWENTY TWO
PORTSMOUTH, NEW HAMPSHIRE**

RESOLUTION# - 2022

A RESOLUTION AUTHORIZING A BOND ISSUE AND/OR NOTES OF THE CITY UNDER THE MUNICIPAL FINANCE ACT AND/OR PARTICIPATION IN THE STATE REVOLVING FUND (SRF) LOAN OF UP TO ONE MILLION TWO HUNDRED THOUSAND DOLLARS (\$1,200,000) FOR COSTS RELATED TO SEWER SERVICE CONNECTIONS RELATED TO THE SAGAMORE AVENUE AREA SEWER EXTENSION PROJECT.

RESOLVED:

THAT that the sum of up to **One Million Two Hundred Thousand Dollars (\$1,200,000)** is appropriated to pay costs of sewer service connections related to the Sagamore Avenue Sewer Extension project, including the payment of costs incidental or related thereto;

THAT to meet this appropriation, the City Treasurer, with the approval of the City Manager is authorized to borrow, on a competitive or negotiated basis, up to **One Million Two Hundred Thousand Dollars (\$1,200,000)** through the issuance of bonds and/or notes of the City under the Municipal Finance Act and/or a loan program offered through the State of New Hampshire Department of Environmental Services, identified as the State Revolving Fund Loan.

THAT the expected useful life of the project is determined to be at least thirty (30) years, and;

THAT this Resolution shall take effect upon its passage.

APPROVED:

DEAGLAN MCEACHERN, MAYOR

ADOPTED BY CITY COUNCIL

**KELLI BARNABY, MMC/CNHMC
CITY CLERK**

EF-22-SD-90: Sewer Service Funding For Sagamore Avenue Area Sewer Extension

Enter use funds: Sewer

Department	Public Works – Sewer Division
Project Location	Portions of Sagamore Ave and Wentworth House Rd; Cliff Rd, Walker Bungalow Rd and Sagamore Grove
Project Type	Construction or Expansion of A Public Facility, Street or Utility
Commence FY	2022
Priority	A (needed within 0 to 3 years)
Impact on Operating Budget	Negligible (<\$5,001)



Description: The City has approached this project in order to obtain pricing for the private side work for converting existing septic systems to

a pumped sewer connection. Bids were received in August 2021 and pricing was found to be higher than anticipated. The project will be re-bid and updated prices obtained. City staff will present updated cost information to the City Council in order to conclude an approach to the cost sharing proposal. This item sets aside funds in anticipation of City Council action.

- Studies Identified & Useful Website Links:**
- Consent Decree Second Modification.
 - [Sagamore Ave Sewer Extension Project Page](#)
 - [FY22-FY27 CIP \(Prior Year\) Project Sheet](#)

Notes of Changes in Funding Plan from FY22-27 CIP:

After receiving bids for the project in August 2021, it was determined that the prices to install private side work were higher than originally estimated. Increased values accordingly.

Evaluation Criteria	Quality?
Responds to Federal or State Requirement	
Addresses Public Health or Safety Need	Y
Alleviates Substandard Conditions or Deficiencies	
Eligible for Matching Funds with Limited Availability	
Timing or Location Coordinate with Synergistic Project	
Identified in Planning Document or Study	Y
Improves Quality of or Provides Added Capacity to Existing Services	Y
Reduces Long-Term Operating Costs	
Provides Incentive to Economic Development	Y
Responds to a Citywide Goal or Submitted Resident Request	

	FY23	FY24	FY25	FY26	FY27	FY28	Totals 23-28	6 PV's Funding	Totals
GF	0%						\$0	\$0	\$0
Fed/State	0%	\$1,200,000	\$280,000	\$280,000	\$280,000	\$280,000	\$0	\$0	\$0
Bond/ Lease	100%	\$450,000	\$450,000	\$450,000	\$450,000	\$350,000	\$2,600,000	\$300,000	\$2,900,000
Other	0%						\$0	\$0	\$0
Revenues	0%						\$0	\$0	\$0
PPP	0%	\$1,200,000	\$280,000	\$280,000	\$280,000	\$280,000	\$0	\$0	\$0
Totals		\$450,000	\$450,000	\$450,000	\$450,000	\$350,000	\$2,600,000	\$300,000	\$2,900,000

CAPITAL IMPROVEMENT PLAN

FY 23-28

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter One, Article VIII, **CODE OF ETHICS** of the Ordinances of the City of Portsmouth be amended as follows:

ARTICLE VIII: CODE OF ETHICS

Section 1.801: DEFINITIONS

For purpose of this Article, the following terms shall be defined in the following manner:

- A. Charged Party: That Officer or Employee alleged to have violated this Ordinance and is the subject of the Complaint.
- B. Complaint: Any written communication meeting the requirements of Section 1.806 (A).
- C. Complainant: The person making the Complaint.
- D. Employee: The term "Employee" shall include all employees of the City including the Police, School and Fire Departments whose salary is paid in whole or in part from the City Treasury.
- E. Ethics Investigation Officer (EIO): That person serving in the capacity as described in Section 1.805.
- F. Governing Body: The term "Governing Body" shall mean the City Council, School Board, Police Commission, or Fire Commission.
- G. Officer: The term "Officer" shall be defined to include every person who serves the City of Portsmouth in any official position which is established by state law, the Municipal Charter, the Ordinances of the City or by appointment of the City Council.
- H. Official Duties: The term "Official Duties" shall mean the following:
 - 1. In the case of members of the City Council, School Board, Fire Commission, Police Commission and the City Manager, those duties and responsibilities set forth in the City Charter and/or established by State law.

2. In the case of all other Officers, those duties and responsibilities set forth in the legislation or vote which establishes the position held by the Officer or the job description for that position.
3. In the case of the Chief of Police, the Superintendent of Schools, the Fire Chief, and all employees, those duties and responsibilities set forth in the respective job description for each party or employee.

Section 1.802: CONFLICTS OF INTEREST

- A. No Officer or employee shall engage in any business or transaction or shall have a financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his/or her official duties.
- B. Representing Private Interests Before City Agencies: No Officer or employee shall appear in behalf of private interests before any governing body or land use regulatory board of which the officer or employee is a member or membership on which is subject to approval by the officer or employee.
Officers and employees, however, may appear without compensation in behalf of constituents or in the performance of public or civic obligations. This section shall not prohibit appearances upon matters only incidentally requiring official action which do not develop into a substantial part of the employment, provided, that the retainer is not for the purpose of appearing before the governing body or land use regulatory board.
- C. Representing Private Interests Before Courts: No officer or employee shall represent private interests in any action or proceeding against the interests of the land use regulatory board or governing body of which the officer or employee is a member, or membership on which is subject to approval by the officer or employee in any litigation to which the City is a party.
- D. Disclosures of Interest in Legislation: A Councilor who has a direct or indirect financial or other private interest in any proposed legislation shall publicly disclose, on the official records of the Council, the nature and extent of such interest.
- E. Disclosures by Officer or Employee of Interest in Legislation: An officer or employee who has a direct or indirect financial interest or other private interest in any legislation and who participates in discussion before or gives official opinion to the Council, shall publicly disclose on the official record the nature and extent of such interest.

- F. Gifts and Favors: No officer or employee shall accept any gift, over \$100.00, whether in the form of service, loan, thing or promise, any other form from any person, firm or corporation which to his/or her knowledge is interested directly or indirectly in any manner whatsoever, in business dealings with the City. This provision shall not apply to campaign contributions of \$100.00 or less.
- G. Disclosures of Confidential Information: Any officer or employee, who holds any investment direct or indirect in any financial, business, commercial or other private entity which creates a conflict with his/her official duties shall publicly disclose on the official record the nature and extent of such interest.
- H. Investments in Conflict with Official Duties: Any officer or employee, who holds any investment direct or indirect in any financial, business, commercial or other private entity which creates a conflict with his/her official duties shall publicly disclose on the official record the nature and extent of such interest.
- I. Incompatible Employment: No officer or employee shall engage in or accept private employment or render or seek services or goods for private interests when such employment or service creates a conflict with his/her official duties.

Section 1.803: CONSEQUENCES OF VIOLATION

Any violation of any provisions of this ordinance shall constitute cause for public censure, suspension or removal from office or, in the case of Employees disciplinary action as may be set forth in any collective bargaining or employment agreement up to and including termination from employment.

Section 1.804: BOARD OF ETHICS

- A. A Board of Ethics ("BOE") is hereby created. This BOE shall consist of five (5) persons: two members shall be selected from the City Council and one member each from the School Board, Police Commission and Fire Commission. All members shall be selected by lot to maintain a full board as necessary. The City Attorney (ex officio) or such other legal counsel (ex officio) shall provide legal advice and support for the BOE. The BOE members shall be selected by lot and drawn at the first meeting of the calendar year of the governing bodies.
- B. Each BOE Member selected is required to serve unless the BOE Member is the subject of the Complaint, has a conflict of interest, or is excused due to unavailability or exceptional causes (such as a health issue).

- C. The BOE Members shall elect a chairperson and the BOE may adopt such rules for the conduct of its business as it sees fit. The BOE shall have the power to draw upon City departments for reports and information and stenographic and clerical help. They shall have all subpoena powers as may be available to them under State law.

Section 1.805: ETHICS INVESTIGATION OFFICER

- A. The position of Ethics Investigation Officer (EIO) is hereby created. The City Manager shall have the power to identify and retain an EIO, with approval from the Board of Ethics, to assist with the investigation and prosecution of any Complaint which has been referred for investigation. The EIO, with approval from the Board of Ethics, shall have sufficient experience and training to conduct the investigation.
- B. In the event the Complaint is against the City Manager, the responsibility to identify and retain an EIO shall reside with the City Attorney in agreement with the Mayor and with the approval of the Board of Ethics.

Section 1.806: COMPLAINTS, INVESTIGATIONS AND HEARING

- A. Complaint Requirements. Any person may submit a written complaint alleging one or more violations of Section 1:802. Such complaint must be based on personal knowledge, and set forth facts with enough specificity and detail for a determination of sufficiency for investigation. The Written Complaint must be signed under oath and include contact information, including: home address, phone number and email address (such personal contact information to be treated as confidential upon request). The Complaint shall be delivered to the City Attorney with a copy to the Mayor and City Clerk. The City Attorney shall promptly provide a copy of the Complaint to the Charged Party.
- B. Review for Sufficiency.
 - 1. A Review for Sufficiency of the Complaint will be completed within thirty (30) days of receipt. This review will be based on the allegations contained in the Complaint and the immediately available record of any public meetings or records referenced in the Complaint.
 - 2. The City Attorney and the Mayor shall conduct the Review for Sufficiency except in cases in which either is the subject of the Complaint. Complaints against the City Attorney shall be reviewed by the City Manager and Mayor. Complaints against the

Mayor shall be reviewed by the City Attorney and the Assistant Mayor.

3. If the Complaint is deemed insufficient, the Complainant will be notified in writing of that decision with a copy provided to the Charged Party. A Complaint will be deemed sufficient if it is determined that the Complaint establishes some reasonable possibility that a violation of the Code of Ethics may have occurred.
4. If the Complaint is deemed to be sufficient for further investigation, it shall be referred to the EIO for further action and all parties will be notified of this step through a communication in writing. That communication in writing will contain the following:

This Determination of Sufficient does not determine the truth or falsity of any of the allegations contained in the Complaint or constitute any finding or conclusion that a violation occurred.

- C. Investigation Phase. The EIO shall be provided the full cooperation of the City government to conduct such investigation as may be necessary to determine whether any violation may have occurred and next steps. The EIO shall have all subpoena powers as may be available under State law. The Charged Party shall have an opportunity to provide a response to the Complaint.

The EIO's investigation shall be completed within forty-five (45) days of the date of referral unless the Charged Party and the City's representative (City Manager or City Attorney) mutually agree to a longer period.

The EIO shall provide a written report with the conclusions reached in the completed investigation to the BOE. The EIO shall provide a non-binding recommendation as to the disposition of the Complaint to the BOE. Thereafter, all action with regard to the Complaint shall be taken by the BOE.

- D. Board of Ethics Hearings.

1. The BOE shall take no further evidence on any Complaint, but shall make its determination based upon the report received from the EIO. However, the BOE shall hold at least one (1) public hearing at which the EIO, the Complainant, and the Charged Party shall be afforded an opportunity to present oral and written argument to the BOE. The BOE may hear from such other and further parties as it determines appropriate.

2. Any party may be represented by legal counsel at his or her own expense at any stage of an ethics proceeding.
 3. The BOE shall issue a written decision within thirty (30) days of the final public hearing with findings and a disposition, dismissal or referral for further action if a violation has been found. If a violation has been found, the BOE shall recommend a sanction or penalty, and refer the matter to the City Council (if an Officer or the City Manager) or to the City Manager (if an Employee) for disposition, sanction or other action as set forth in Section 1:807.
- E. If the employee is a member of a bargaining unit covered by the terms of a collective bargaining agreement, the investigation will comply with those provisions of the applicable collective bargaining agreement; this may include, but is not limited to the employee having Union representation at any investigative interview that may lead to discipline.

Section 1.807: DISPOSITION AND SANCTION

- A. In the event that the BOE determines that any Officer or the City Manager committed a violation of this Ordinance, the City Council may take any of the following actions:
- a. Vote for removal pursuant to the City Charter as amended;
 - b. Vote to publicly censure or admonish the offending member;
 - c. Vote to place the matter on file; or
 - d. Vote to overturn the finding of a violation.
- B. In the case of Employees, the City Manager shall have all rights available under any employment agreement or collective bargaining agreement to discipline or terminate the employee and the City Manager shall make such report to the City Council as it determines necessary, in public or non-public session as may be determined at the time, as to the action taken.
- C. Criminal Sanctions: In addition to the civil sanctions imposed by this ordinance violation of any provision of this ordinance shall constitute a criminal offense and the City Council may authorize the City Attorney or any other attorney approved by it to prosecute such a violation in the Portsmouth District Court.

The penalty for violation of any provision of this Ordinance upon conviction in the Portsmouth District Court shall be \$1,000 for each offense.

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

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

This ordinance shall take effect upon its passage.

APPROVED:

Deaglan McEachern, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk



CITY OF PORTSMOUTH

City Hall, One Junkins Avenue
Portsmouth, New Hampshire 03801
kconard@cityofportsmouth.com
(603) 610-7201

Karen S. Conard
City Manager

Date: August 18, 2022

To: Honorable Mayor McEachern and City Council Members

From: Karen S. Conard, City Manager *KSC*

Re: City Manager's Comments on City Council Agenda of August 22, 2022

X. Public Hearings and Votes on Ordinances and/or Resolutions:

A. Public Hearing and Second Reading of Ordinance Amending Chapter 1, Article III – Boards:

Attached please find a [proposed ordinance amending Chapter 1, Article III – Boards](#).

I recommend that the City Council move to pass second reading, and hold a third and final reading at the September 19, 2022 City Council meeting.

B. Public Hearing and Second Reading of Ordinance Amending Chapter 1, Article IV – Commissions and Authorities:

Attached please find a [proposed ordinance amending Chapter 1, Article IV – Commissions and Authorities](#).

I recommend that the City Council move to pass second reading, and hold a third and final reading at the September 19, 2022 City Council meeting.

C. Public Hearing and Adoption of Resolution Authorizing a Bond Issue and/or Notes of the City under the Municipal Finance Act and/or Participation in the State Revolving Fund (SRF) Loan of Up To One Million Two Hundred Thousand Dollars (\$1,200,000) for Costs Related to Sewer Service Connections Related to the Sagamore Avenue Area Sewer Extension Project:

Staff recommends that a [Bond Resolution in the amount of \\$1.2 million](#) be adopted at this evening's meeting in order to maximize the number of connections to the new sewer line under the current contract with Severino. [A memorandum from the Department of Public Works staff supporting the recommendation was provided at the August 1, 2022 City Council meeting.](#)

The City's Assistant City Engineer, Zachary Cronin, will be providing a brief presentation on this project at this evening's meeting.

I recommend that the City Council move to adopt the Resolution as presented.

D. Third and Final Reading of Ordinance Amending Chapter 1, Article VIII – Code of Ethics:

Attached please find a [proposed ordinance amending Chapter 1, Article VIII – Code of Ethics](#).

I recommend that the City Council move to pass the third and final reading of the ordinance as presented.

XI. City Manager's Items Which Require Action:

1. Approval of Deputy Fire Chief Contract:

Attached for your consideration is a proposed four (4) year Employment Agreement between the Portsmouth Fire Commission and Deputy Fire Chief Patrick R. Howe. This Employment Agreement provides for an initial annual salary of one hundred fifteen thousand seven hundred and ten dollars and forty-four cents (\$115,710.44). Effective July 1, 2022, this initial annual salary will receive the same COLA as is negotiated between the City and the Portsmouth Professional Management Alliance ("PMA"). Thereafter, the annual salary will be adjusted according to the City's usual rolling 10-year average CPI-U. Unless otherwise specified in the Employment Agreement, all other benefits will follow the PMA contract. One notable exception is an additional annual payment of one thousand six hundred sixty-six dollars and ninety-five cents (\$1,666.95) to recognize the Deputy's attainment of the prestigious Executive Fire Officer Certification from the National Fire Academy.

The other provisions and format of this Employment Agreement are consistent with the template that the City uses for positions at this level.

The Fire Commission has approved this Employment Agreement.

I recommend that the City Council move to approve the agreement with Deputy Fire Chief Patrick R. Howe as presented.

2. Approval of Welfare Guidelines:

Per RSA 165:1, "The local governing body, as defined in RSA 672:6, of every town and city in the state shall adopt written guidelines relative to general assistance."

The City of Portsmouth Welfare Guidelines were most recently updated in 2015. The NH Local Welfare Administrators Board of Directors, in late 2021, worked with attorneys from the NH Municipal Association, to update the NHLWAA Model Guidelines. These Model Guidelines are provided to cities and towns to use as their own or to modify them as they see fit.

Working in conjunction with City Attorney Sullivan, the City has recently revised [the Welfare Guidelines, which are attached for your consideration](#). The changes are primarily additional definitions and other language that clarify the City's policies with the intention of making the document more user friendly for clients and their advocates.

I recommend that the City Council move to adopt the Welfare Guidelines as presented.

3. **Request to Schedule ARPA Work Session:**

At the July 11, 2022 City Council meeting, the Council vote to schedule a Work Session on current requests from staff and city committees regarding the allocation of ARPA funds.

I recommend that the City Council move to schedule an ARPA Work Session on September 12, 2022 at 6:00 p.m. in Council Chambers.

4. **Neighborhood Pilot Parking Program:**

At the May 16, 2022 City Council meeting, the Parking and Traffic Safety Committee referred the Neighborhood Parking Program ("NPP") data to the City Council for its consideration. Parking Director Ben Fletcher presented statistics and a cost analysis of the NPP to the Council. After reviewing the presentation, the Council supported collecting data on the program through the summer months and voted to continue the NPP as currently configured through Labor Day weekend. [Parking Director Fletcher has updated his prior presentation in the Council packet](#) to include data from the summer months and is available to answer questions about the program. The program expires on September 6, 2022 unless the NPP is extended by vote of the City Council.

If the City Council is interested in extending the NPP, *I recommend that a motion be made to maintain the NPP program for 90 days during which time the City staff will bring to the Fee Committee a recommendation regarding the fees that should be adopted to sustain the program.*

5. **Wayfinding Easement for City Property Located at 93 Pleasant Street:**

Dagny Taggart LLC owns an existing building and parking lot located at 93 Pleasant Street, and has proposed redevelopment of that property into 53 living units. This project has received all requisite land use approvals, including from the Planning Board, Historic District Commission, and the Zoning Board of Adjustment.

At its regularly scheduled meeting on December 30, 2021, the Planning Board granted site plan approval for this project. As a part of the project, the property owner has agreed to relocate a City wayfinding sign currently in the right of way onto private property at 93 Pleasant Street. The Planning Board recommended the City accept an easement to access, maintain, replace and repair the relocated sign.

The attached easement has been reviewed for form and substance by the Legal and Planning Department, and City staff recommend the City accept an easement in substantially similar form to the attached easement.

I recommend that the City Council move to authorize the City Manager to accept and record a Sign Easement over 93 Pleasant Street in substantially similar form to the easement deed from Dagny Taggart, LLC contained in the agenda packet.

6. Renewal of Coalition Communities 2.0 Membership Agreement:

On January 25, 2021, the City Council authorized the City to participate in the Coalition Communities, 2.0 and to enter into a Memorandum of Understanding (“MOU”) for Professional Services Between Coalition Communities 2.0 (“CC2”). The MOU expires on December 31, 2022 and may be renewed for another two year term by vote of the majority of its Members after they have received authorization from their Board of Selectman or City Council. The Annual Meeting of the CC2 is scheduled for September 22, 2022 and I am seeking authorization to renew the City of Portsmouth’s participation in the MOU prior to the annual meeting.

By way of background, the State passed legislation to fund education through a formula that created what was commonly known of as “donor” and “receiver” towns. Under this education funding formula, a community was characterized as a donor community if it raised more in Statewide Education Property Tax (“SWEPT”) than the State’s calculation of that community’s total cost of an adequate education for its students. This “excess” SWEPT was then to be distributed by the State to communities whose cost of an adequate education exceeded the amount raised in SWEPT (known as “receiver” communities). Portsmouth, along with other donor towns, worked together to challenge the donor/receiver education funding formula through the formation of a group known as the “Coalition Communities.” In part, due to the advocacy of the Coalition Communities through lobbying efforts and litigation, the Legislature abolished the donor/receiver education funding formula and currently former donor towns are able to retain the “excess” SWEPT they collect.

A Commission to Study School Funding (“Commission”) was created by the Legislature in 2019 to “review the education funding formula and make recommendations to ensure a uniform and equitable design for financing the cost of an adequate education for all public-school students.” On December 1, 2020, the Commission issued its final report which recommends, in part, the return of a donor/receiver education funding model that would increase SWEPT and have communities remit the “excess” SWEPT to the State for redistribution to towns whose cost of an adequate education is more than the SWEPT the town generates.

After the Commission issued its final report, CC2 was formed to advocate and lobby in opposition to a donor town funding formula. Education funding is a complex issue and it would be unduly burdensome and costly for each town to separately track, advocate and lobby in opposition to education funding legislation that supports a donor/receiver model.

CC2 formalized an agreement with each other to pool resources to hire a lobbyist to assist in advocacy and communication services and other professional services if needed and entered into the attached MOU. CC2 conducted a procurement process and retained the firm of Bernstein Shur for lobbying services.

Over the last two years, Bernstein Shur has helped CC2 create a website, track legislation, create education funding bill list summaries, hold public meetings of its Joint Board and recently generate surveys on the education funding issue for those running for election. Bernstein Shur is unable to continue its lobbying efforts for CC2 during the next legislative session and by renewing this MOU for another two years, CC2 through its Joint Board, will be able to issue a new RFP for lobbying and other professional services.

These services will be necessary as education funding will be an issue next session. HB 1680 is a bill that is in interim study which codifies the Commission’s recommendations discussed above and is due out of interim study in October. In addition, there are two pending lawsuits that are directly challenging the education funding formula, specifically the retention of excess SWEPT by donor communities (Contoocook Valley School District, et. al. v. State of New Hampshire (213 2019 CV 00069)) which is set for trial in April, and a new lawsuit filed in June, 2022 by Attorneys Andru Volinsky and John Tobin on behalf of taxpayers challenging the education funding formula and the retention of SWEPT by donor communities. The City’s participation in CC2 and extending this MOU supports the City Council’s Legislative Principle #20 which states that the City will support legislation that provides education funding based on an equitable and sustainable framework and oppose the return of the donor town concept.

I recommend that the City Council move to authorize the City to continue to participate in the Coalition Communities 2.0 and authorize the City Manager to negotiate and execute a two year renewal of a MOU with the Coalition Communities 2.0 on behalf of the City in a form similar to the attached.

7. Monitoring Well License Request for 60 Penhallow Street:

McNabb Properties (Dagny Taggart, LLC, “Owner”) is the owner of Tax Map 107, Lot 27, the Brick Market project located at 60 Penhallow Street. Site plan approval for the project includes grading and drainage plans. The City’s Department of Public Works, along with NH Department of Environmental Services and the Owner recently met to review the grading and drainage plan and recommend a revision to the existing drainage plan regarding the location of monitoring wells surround the site. NHDES is requiring the Owner to install four (4) monitoring wells to provide a means to monitor and assess the water quality surrounding the site after completion of construction. The recommended location of the four (4) monitoring wells is depicted in the [attached Exhibit A](#) and shows two (2) monitoring wells located on private property abutting 60 Penhallow (also owned by McNabb Properties) and two (2) monitoring wells located beneath the sidewalk on Penhallow Street adjacent to the Brick Market building. Because these two (2) wells will be located under a City sidewalk, a license from the City is required for the Owner to maintain and access the wells for sampling.

The Owner will submit a revised Grading and Drainage Plan to show the exact location of the monitoring wells after consultation with Dig Safe and the Department of Public Works. The Owner agrees to comply with specifications from the Department of Public Works and the State of New Hampshire, including but not limited to requirements regarding size, location and timing of the installation of wells and repair to sidewalk and hardscape after installation. An amended Grading and Drainage Plan showing the exact location of the monitoring wells will be recorded with the final license.

I recommend that the City Council authorize the City Manager to negotiate and execute a license with Dagny Taggart, LLC to locate NHDES required monitoring wells under the City sidewalk along Penhallow adjacent to the Brick Market Building.

XIII. Presentations and Consideration of Written Communications and Petitions:

B. Capital Improvement Plan FY2024- 2029:

Attached please find a memorandum from the City’s Planning Director, Beverly Mesa-Zendt, regarding the Capital Improvement Plan (CIP) for FY2024 through FY2029.

Director Mesa-Zendt will be prepared to share a presentation with the Council and the public at this evening’s meeting.

C. Status Update on Seacoast Greenway/Railtrail Project:

New Hampshire Seacoast Greenway Alliance (NHSGA) is a recently incorporated 501(c)(3) with the mission of providing on-going stewardship of the Greenway, commonly referred to as the “Railtrail,” as a regional recreation facility to the benefit of the citizens of the seven corridor communities of Seabrook, Hampton Falls, Hampton, North Hampton, Rye, Greenland and Portsmouth as well as the surrounding Seacoast region.

Several members of the Alliance will give the City Council an update at this evening’s meeting on the status of the project to transform the former Boston and Maine rail line into a robust recreational opportunity. The State of New Hampshire, Department of Transportation is currently overseeing the design of the improvements to the Greenway. In addition the City Council will receive an update on a Community Input session that will be taking place in Portsmouth on Thursday, September 22, 2022 and Friday, September 24, 2022. The purpose of the sessions is to elicit public input on trailhead, or public access points to the Greenway.

XVI. Approval of Grants/Donations:

A. Acceptance of Grant to the Public Works Department from the Department of Environmental Services – \$4,238:

A grant in the amount of \$4,238 from the Department of Environmental Services (DES) has been applied for and is available to the City to assist in managing Household Hazardous Waste Collection events. This grant would supplement the \$30,000 that has been committed from the Water & Sewer Enterprise Fund for two Household Hazardous Waste Collection events in the FY23 budget.

Household Hazardous Waste Collection events help protect the City’s water supply and reduce the potential of hazardous waste being dumped or inappropriately disposed of. In the interest of protecting public health and ensuring household hazardous waste and unwanted household hazardous products are disposed of in an environmentally sound manner, the City has been hosting the collection event for more than twenty years. Over 200,000 gallons of hazardous waste have been properly disposed of during this time. An average of almost 600 families take advantage of the collection events every year.

In the spirit of being a good neighbor, the City also offers the services to residents of Newington and Greenland. The expenses are shared between the communities on a prorated basis - per vehicle, per community.

I recommend that the City Council move to accept and expend a \$4,238 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.

B. Acceptance of Various Police Department Grants:

At its July 28, 2022 meeting, the Board of Police Commissioners approved and accepted the following grants:

- Department of Justice through the ARPA for the NH Internet Crimes Against Children Task Force - \$700,000; and
- USPCA AKC Reunite K9 Organization - \$7,500

I recommend that the City Council move to accept and approve that grants to the Police Department as presented.

XVII. City Manager’s Informational Items:

1. Prescott Park Public Forum Area:

Attached please find a memorandum from City Attorney Sullivan regarding the Prescott Park Public Forum Area.

EMPLOYMENT AGREEMENT

1. Preamble

This Agreement is entered into between the Fire Commission, City of Portsmouth, New Hampshire (the “Commission”) and Patrick R. Howe (the “Employee”). This Agreement is null and void unless approved by the Portsmouth City Council.

2. Employment and Term

The Commission agrees to employ the Employee and the Employee agrees to accept employment in the position of Deputy Fire Chief for a four (4) year term commencing on July 1, 2022 and ending on June 30, 2026. The Commission and the Employee acknowledge that this is a full-time, year-round position including extensive obligations in the evenings and on weekends. The Employee agrees to devote all his professional efforts to the successful fulfillment of his responsibilities to the Commission and the City.

3. Salary

Effective July 1, 2022, the Employee will be placed on Grade 22, Step H of the City of Portsmouth Non-Union Salary Schedule, which is one hundred fifteen thousand seven hundred and ten dollars and forty-four cents (\$115,710.44) per annum, payable in no fewer than twenty-six (26) installments and subject to such deductions as may be authorized by the Employee or as may be required by law. Except as expressly described herein, the Employee will not be entitled to any other salary enhancements.

Effective July 1, 2022, the Employee will receive a COLA to base salary of 2.05%. However, if the Portsmouth Professional Management Association (“PMA”) negotiates a COLA increase that exceeds 2.05%, the Employee will be entitled to an additional increase to base salary that is equal to the difference between 2.05% and the COLA increase negotiated by PMA.

Effective July 1, 2023, July 1, 2024, and July 1, 2025, a COLA will be computed and applied to the Employee’s base salary, which COLA will not be less than 2% nor more than 5%. The COLA will be determined by taking the 10-year average of the CPI-U for the Boston-Cambridge-Newton, MA-NH 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 COLA. BLS’s calendar year for this index is November through November, it is not published on a December through 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 base as used by BLS.

4. Certification

This Section is not applicable to the Deputy Fire Chief position.

5. Termination for Cause

This Agreement may be terminated by the Commission 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, 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.

Termination for Cause will 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 will 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 will hold this hearing within twenty (20) days after receipt of such request. The Commission will render a written decision to the Employee within ten (10) days of the hearing. In the event of a Termination for Cause, the Employee will receive no severance and no further compensation beyond the last day worked.

6. Termination with Severance Payment

If at any time the Commission in its discretion so determines, the Commission may, without cause and with or without prior notice, relieve the Employee of all duties under this Agreement. In such event, the Employee will be entitled to severance benefits. Such severance benefits will be six (6) months' salary or the balance due under the terms of this Agreement, whichever is less. As set forth above in Section 5, if the termination is for cause, the Employee will not be entitled to severance benefits. Severance benefits will not be paid upon the voluntary resignation of the Employee.

7. Termination by Mutual Consent/Voluntary Resignation

This Agreement may be terminated at any time 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 or any renewal thereof, the Employee will give the Commission thirty (30) days written notice in advance of such resignation. In the event of voluntary resignation, the Employee will not be eligible for severance benefits.

8. Acceptance of Severance Constitutes Release

The acceptance by the Employee of the severance benefits provided under this Agreement will 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, 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 will be established by the collective bargaining agreement currently in place between the City of Portsmouth and PMA. Any exception(s) will be described in detail in Section 10 below.

10. Exception(s) to Section 9

In lieu of or in addition to the benefits enumerated in Section 9, the Employee will also be entitled to the following:

- a. The Employee will be provided with a suitable automobile for use in the performance of duties under this Agreement. Recognizing that the Deputy Fire Chief is always on-call, it is understood that the automobile may also be used for personal business.
- b. Subject to budgetary constraints, the City agrees to cover the cost of tuition and textbooks for courses and/or other classes that would provide for improved job performance as part of a career development program. Prior approval by the Commission of any courses will be required. If the Employee fails to successfully complete the course and/or class with a final passing grade, the Employee will be required to reimburse the City for the entire cost of tuition and textbooks.
- c. The City agrees to pay the Employee one thousand six hundred sixty-six dollars and ninety-five cents per year (\$1,666.95), a payment of sixty-four dollars and eleven cents (\$64.11) in each bi-weekly period, for attainment of the Executive Fire Officer Certification from the National Fire Academy. This compensation will be considered wages and subject to applicable taxes and New Hampshire Retirement deductions.

AGREED: 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.

Date: _____

Patrick R. Howe

Date: _____

Portsmouth Fire Commission

Date: _____

Portsmouth City Manager Karen S. Conard

Approved by the Portsmouth City Council on: _____

Date: _____

Portsmouth City Clerk Kelli Barnaby

**CITY OF PORTSMOUTH
WELFARE DEPARTMENT**

WELFARE GUIDELINES

Revised 2022

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SECTION 1: DEFINITIONS

AS USED IN THIS MANUAL THE FOLLOWING TERMS HAVE THE INDICATED MEANINGS:

ADVERSE ACTION: A Notice of Decision documenting suspension, denial, or reduction of assistance.

AGENCY: Any health, social service or other entity that provides services to an applicant/recipient or any such entity to which the Welfare Official may refer an applicant/recipient for additional resources and/or assistance.

APPLICANT: A person who expresses a desire to receive General Assistance or to have his/her eligibility reviewed and whose application has not been withdrawn. This may be expressed either in person or by an authorized representative of the applicant.

APPLICATION (RE-APPLICATION): Written action by which a person requests assistance on a form provided by the Welfare Official. A new application shall be required every six months, or sooner in the event of significant changes in household circumstances. The application must be filed in person or by an approved proxy.

ARREARAGES: Past due amounts on bills for basic needs.

ASSETS: All cash, real estate property, personal property, and future assets owned by the applicant. Includes, but is not limited to, cash on hand, checking accounts, bank and credit union accounts, annuities, insurance awards, tax refunds. Tools of a trade, livestock and farm equipment, and necessary and ordinary household goods shall not be considered as available assets.

AVAILABLE LIQUID ASSETS: Assets readily convertible to cash. See exclusions enumerated in Section 8 "Determination and Amount of Eligibility" of these Guidelines. Available liquid assets include, but are not limited to: bank accounts, credit union accounts, stocks, bonds, brokerage accounts, securities, tax refunds, tax sheltered funds (IRA 401K, 403B accounts, etc.), retirement funds, pension funds, insurance policies with a loan value. Non-essential personal property shall be considered as available liquid assets when they have been converted into cash.

BASIC NEEDS: The essential maintenance and support requirements of a welfare applicant, as determined by the Welfare Official in accordance with the "standard of need" described in Section 8 "Determination and Amount of Eligibility" of these Guidelines

CASE RECORD: Official City of Portsmouth Welfare Department files containing forms, documents, correspondence and narrative records pertaining to the application. Case records include determination of eligibility, reasons for decisions and action by the Welfare Official, and types of assistance requested and assistance provided. The case record may be kept electronically. Hard copies of all signed documents should be kept for a period of seven years after the last date of contact.

CITY: The City of Portsmouth, New Hampshire.

CLAIMANT: A recipient or applicant who has requested a Fair Hearing under Section 12 of these Guidelines either in person or through an authorized representative.

CLIENT: An individual who receives services from the welfare department. May be a single person or encompass a household.

COMPLIANCE: Fulfillment by a welfare recipient of all official requirements and conditions of assistance, and adhering to these Guidelines.

DENIAL: A determination made by the Welfare Official that an applicant does not meet the criteria for assistance.

ELIGIBILITY: Determination by the Welfare Official, in accordance with RSA 165 and Section 7 of these Guidelines, of an applicant's inability to meet their basic immediate needs, and therefore, the need for General Assistance.

FAIR HEARING: A hearing, in accordance with the standards in Section 12 of these Guidelines, which an applicant may request to contest an adverse action.

GENERAL ASSISTANCE: Financial assistance provided to applicants in accordance with RSA 165 and these Guidelines.

HOUSEHOLD: A household is defined as:

1. The applicant/recipient and all persons residing with him/her, including those in the relationship of father, mother, stepfather, stepmother, son, daughter, husband or wife, other adult with whom the applicant has produced a child, and/or
2. The applicant/recipient and any adult (including an unrelated person) who resides with the applicant/recipient "in loco parentis" (in the role of a substitute parent) to a minor child. A person "in loco parentis" is one who intentionally accepts the rights and duties of a natural parent with respect to a child not his/her own and who has lived with the child long enough to form a "psychological family."

HOUSING:

- **Emergency Shelter:** A temporary or non-permanent and non-tenancy housing with is temporary housing from a housing provider through which an individual or family may seek emergency housing when no other housing is available.
- **Non-Permanent Non-tenancy Housing:** Applicant(s) pay for room(s) in rooming or boarding houses, hotels, motels, inns or tourist home or other dwelling which rent for recreational or vacation use or room(s) in a single-family home with no lease which is the primary and usual residence of the owner, other occupancies noted as non-tenancy under RSA 540:1, IV.
- **Permanent Tenancy Housing:** Applicant(s) rent apartment, home or room or real property for the sole purpose of residential and non-transient purposes. Applicant(s) may or may not have lease or contract.
- **Transitional Housing:** A non-permanent and non-tenancy housing which is usually provided by an assistance program which can require adherence to rules or policies to stay in their housing and programs.
- **Tenant of Tenancy:** Permanent housing where occupants shall be deemed to rent at will or have a contract or lease in which have protections of eviction as noted in RSA 540.

INTAKE FORM: A form to be completed by an applicant the time of each office visit, unless it is time for a new Application to be completed, reporting any changes in circumstance and specifying assistance requested.

LANDLORD: An applicant's property owner or the property owner's authorized agent of a valid rental property.

LIABILITY FOR SUPPORT: Those legally liable relatives deemed under RSA 165:19 to have financial responsibility for anyone applying for General Assistance.

MINOR: A person under 18 years of age.

NEED: The basic maintenance and support requirements of an applicant, as determined by the Welfare Official under the standards described in Section 8 "Determination of Eligibility" of these Guidelines.

RECIPIENT: A person who is receiving General Assistance.

RELIEVE AND MAINTAIN: The sustaining of basic needs necessary to the health and welfare of an applicant's household.

RESIDENCE: Residence or residency shall mean an applicant/recipient's place of abode or domicile. The place of abode or domicile is that place designated by an applicant/recipient as his/her principal place of physical presence for the indefinite future to the exclusion of all others. Such residence or residency shall not be interrupted or lost by temporary absence from it if there is intent to return to such residency as the principal place of physical presence.

RESIDENTIAL UNIT: All persons physically residing with an applicant, including persons in the applicant’s household and those not within the household.

ROOMMATE: A person(s) who is/are financially responsible for himself/themselves and living with a City Welfare applicant/recipient. The roommate will be assumed to be responsible for a pro-rata share of the basic household expenses, but not for the expenses associated specifically with the applicant (food, prescriptions, etc.).

SUSPENSION: Period of ineligibility for assistance due to noncompliance with these Guidelines.

UTILITY: Any service such as electric, gas, oil, water or sewer necessary to maintain the health and welfare of the household.

VENDOR/PROVIDER: Any landlord, utility company, store or other business which provides goods or services needed by the applicant/recipient.

VERIFIABLE GOOD CAUSE: Includes, but is not limited to a verified medical emergency, or other verified unforeseen emergency circumstances which precludes the recipient from fully complying with mandated requirements and/or renders an applicant/recipient unable to provide for his/her basic needs.

VOUCHER SYSTEM: The system whereby vouchers are issued by the Welfare Official directly to a recipient's vendors and creditors, rather than cash to the recipient.

WELFARE OFFICIAL: The individual, either “Welfare Administrator” or “Welfare Administrative Clerk”, appointed by the City for the purpose of administering these Guidelines in accordance with NH RSA 165.

WELFARE WORK (“WORKFARE”) PROGRAM: Labor performed by welfare recipients at municipal sites or human service agencies as reimbursement for benefits received. RSA 165:31.

SECTION 2: CONFIDENTIALITY OF INFORMATION

Information given by or about an applicant/recipient is confidential and privileged. Such information will not be released or discussed with any individual or agency without written permission of the applicant/recipient except when disclosure is required by law or is for the purposes directly connected with administration of General Assistance.

SECTION 3: ROLES OF THE PORTSMOUTH CITY COUNCIL AND THE WELFARE OFFICIAL

The responsibility for the day-to-day administration of the General Assistance Program is vested in the appointed Welfare Official of the City of Portsmouth. The Welfare Official shall administer the General Assistance program in accordance with these written Welfare Guidelines. The Portsmouth City Council is responsible for the adoption and amendment of the Welfare Guidelines.

SECTION 4: MAINTENANCE OF RECORDS

A: Legal Requirement: The Welfare Official is required by law to keep complete records concerning the number of persons given assistance and the cost for such support. Separate case records, paper and/or electronic shall be established for each individual or family applying for General Assistance. The purposes for keeping such records are:

1. To provide a valid basis of accounting for expenditure of the City's funds.
2. To support decisions concerning the applicant/recipient's eligibility (especially important if the Welfare Official should be required to prove in court that assistance was granted equitably).
3. To assure availability of information if the applicant/recipient seeks administrative or judicial review of the decision.
4. To provide the Welfare Official with accurate statistical information.
5. To provide a complete history of an applicant/recipient's needs and assistance that might aid the Welfare Official in referring the applicant to appropriate agencies for services (subject to confidentiality Guidelines).
6. To aid in the determination of residence and to allow a smooth transition of information if the applicant/recipient is transferred to another legally liable unit.

B. Case Records: The Welfare Official shall maintain case records containing, at a minimum, the following information:

1. The complete application for assistance, including any authorizations signed by the applicant allowing the Welfare Official to release, obtain or verify all pertinent information in the course of assisting the recipient, to include a signed Authorization to Release Information from the NH Division of Health and Human Services.
2. The results of the investigation and verification of information.

3. Copies of all documents presented by the applicant/recipient to verify assets, income, work search, and applications to other sources of assistance as required by the Welfare Official.
4. Written grounds for approval or denial of an application, contained in a Notice of Decision.
5. A narrative history recording need for assistance, the results of investigations of applicant's circumstances, referrals, changes in status, grounds for release of information.
6. A client account summary which has complete data concerning the type, amount and dates of assistance given.
7. Completed Welfare Work Program documentation, if a recipient must participate (Section 10).

SECTION 5: APPLICATION PROCESS

A. Right to Apply

1. Anyone may apply for General Assistance by appearing in person or through an authorized representative approved by the welfare official and by completing a written or electronic application form. Applications and necessary forms may be obtained at from the City Offices at any time during normal business hours. The Welfare Official should determine the process by which eligibility determinations shall be made; either by in-person appointments, via telephone or video, or home visits. If more than one adult resides in a household, each may be required to appear at the Welfare Department office to apply for assistance, unless one is working or otherwise reasonably unavailable. Unrelated adults in the applicant's residential until may be required to apply separately if they do not meet the definition of household as defined in these guidelines. Each adult in the household may be requested to sign release of information forms.
2. The Welfare Official shall not be required to accept an application for General Assistance from a person who is subject to a suspension pursuant to RSA 165 and Section 11 of these Guidelines; provided that any person who contests a determination of continuing noncompliance with the Guidelines may request a Fair Hearing; and provided further that a recipient who has been suspended for at least six (6) months due to noncompliance may file a new application.
3. An application is considered withdrawn if the applicant withdraws the application prior to the intake interview.

4. If an applicant/client refuses to sign the Notice of Decision, the applicant/client is still responsible to observe and /or fulfill the requirements(s) listed in the Notice of Decision.

B. Welfare Official's Responsibilities at Time of Application

The Welfare Department shall be open during normal City Hall business hours. The Welfare Official shall establish protocols with appropriate City staff to respond to emergency requests outside of regular business hours.

The Welfare Official shall inform the applicant of those pertinent sections of these Guidelines enumerated below, when appropriate.

1. The requirement that a completed application contains all necessary information including the applicant's signatures agreeing to reimbursement, allowing the Welfare Official to contact all necessary sources for investigation and verification, and verifying that the applicant has been given, read (or had read to him/her) and understood all information. An incomplete application may be grounds for denial of assistance.
2. A description of eligibility requirements, including a general description of the Guidelines and the eligibility standard, as necessary.
3. A referral of an applicant requiring emergency assistance to agencies or resources which have agreed to provide available emergency, temporary assistance which will meet the needs of the applicant until an appointment can be arranged.
4. The requirement to provide the applicant with a scheduled appointment.
5. The responsibility of the Welfare Official to verify all documentation required by the Welfare Official and provided by the applicant, including, but not limited to: identification for all household members, receipts for expenditures, documentation of employment, documentation of application for other programs which would reduce or eliminate the need for General Assistance, documentation of income, loss of employment and any other similar claims affecting eligibility.
6. The possible need to relocate to more affordable housing based on the applicant's present and projected verifiable income. Effort will be made to maintain an applicant/recipient in his/her own housing if the monthly cost falls within the normal housing costs (rent plus utilities) in Portsmouth, unless it is clear that to do so would probably require an unreasonable period of continuing subsidy from the Welfare Department. In determining whether or not continuing subsidy is warranted the department shall consider, among other relevant factors:
 - a. efforts by the applicant/recipient to increase household income or obtain less expensive housing

- b. the applicant/recipient's prospects of obtaining other forms of rental assistance
 - c. special consideration will be given to helping an applicant/recipient residing in federally subsidized housing or other substantially below market rate housing to retain such housing.
7. The amount of assistance provided will be negotiated with vendors whenever possible. In any case where an applicant for rental assistance has resided in his/her current housing for less than thirty (30) days, the Welfare Official will require the landlord to provide copies of the applicant's rental screening documentation. The results of this inquiry will be relevant to any rental negotiation process between the City and the landlord. The Department will always attempt to provide what is necessary for the least cost possible. If negotiation is not possible, the least expensive appropriate alternative will be sought.
 8. The Department will not pay charges which do not directly represent an actual service, for example, late charges, security deposits, key charges, damages, eviction fees, etc.
 9. The Welfare Official may make home visits to verify information when necessary or to interview an applicant who is shut-in, unable to appear in the Department office, and has no agent to act for him/her.
 10. Families or individuals currently without housing and/or income may be referred to a shelter.
 11. Verification will be conducted in order to further substantiate facts and statements as presented by the applicant/recipient, and that this investigation will be ongoing while the case is open.
 12. The applicant/recipient's right to request a Fair Hearing and the process by which to do so.
 13. The statutory requirement of placing liens. See Section 13 "Liens" of these Guidelines.
 14. The requirement to pursue reimbursement of all assistance in accordance with RSA 165.
 15. The applicant/recipient's right to review the Guidelines and the responsibilities as set forth in the Guidelines.
 16. To provide the client with a copy of the "Responsibilities of Applicant/Recipient" document which he/she signed as set forth in the "Right to Apply" section of these Guidelines.

17. The fact that the Child Protection Act requires the Welfare Official or any person who suspects that a child under age 18 has been abused or neglected must report that suspicion immediately to NH DHHS Division of Children, Youth and Families per RSA 169-C:29-31.
18. The fact that the Adult Protection Law requires the Welfare Official or any person who has a reason to believe that a vulnerable adult has been subjected to abuse, neglect, exploitation or self-neglect to make a report immediately to the NH DHHS Bureau of Elderly & Adult Services per RSA 161-F:46.

C. Responsibilities of Each Applicant and Recipient

At the time of the initial application, and as long as an applicant is receiving assistance or the case is open, the applicant/recipient shall comply with each of the following responsibilities:

1. To submit an Application For Assistance, with all releases of information signed, or an Intake Form if a recent Application for Assistance is on file, including any supporting documentation, that is complete, accurate and truthful in all respects and to comply with all requirements set forth in each Notice of Decision, for example, applicant/recipient must provide proof of all household income and dated receipts for all household expenses;
2. To provide accurate and complete information without misrepresentation or omission concerning needs and resources. To provide records and other required information and access to such records and information, when requested;
3. To cooperate fully and completely in answering all questions asked by the Welfare Official, including providing information regarding all legally liable relatives (RSA 165:19). Refusing to answer all questions asked by the Welfare Official relevant to the applicant's receipt of assistance may result in a denial of the requested assistance.
4. To report to the Welfare Official, within three (3) working days, any and all changes in circumstances, particularly the receipt of any financial resources from any source;
5. To apply for and accept any benefit or resource (public or private) that reduces or eliminates the need for local General Assistance upon application and within seven (7) days after the date of the interview;
6. To cooperate fully and completely with the Welfare Official in verifying all information that has been provided and is necessary to determine eligibility; and to notify the Welfare Official, within three (3) working days, of any changes which differ from the information provided on the Application For Assistance or on the Intake Form;

7. To keep all appointments as scheduled unless a verifiable emergency prevents keeping the scheduled appointment. In such an event, promptly providing verifiable documentation of the emergency;
8. To provide the City's medical information form completed by a medical doctor or physician's assistant as to the level of work that can be performed by the client if claiming an inability to work due to medical problems;
9. To immediately report the theft and/or loss of any money, voucher or other valuable property to the appropriate entity and/or law enforcement authority and to the Welfare Official with proof of the report to law enforcement;
10. To provide verifiable documentation of a diligent search for employment (the number of work search contacts to be determined by the Welfare Official). To accept employment when offered, except for documented reasons of good cause, and to maintain such employment once assistance has been granted;
11. To cooperate fully and completely with the Welfare Official in efforts to obtain reimbursement to the City for assistance provided by any means authorized by law, and to notify the Welfare Official of any pending civil judgment(s), lawsuit(s), inheritance(s), financial settlement(s), insurance claim(s), tax refund(s), and any other financial award(s);
12. To make reimbursement of any assistance granted when and if returned to income status and if such reimbursement can be made without financial hardship;
13. To participate fully in the Welfare Work Program, if physically and mentally able.

An applicant shall be denied assistance if he/she fails to fulfill any of these responsibilities without reasonable justification. A recipient's assistance may be terminated or suspended for failure to fulfill any of these responsibilities without reasonable justification. Also, disqualification for General Assistance may occur.

Interviews and/or appointments may be deferred if the applicant/client appears to be under the influence of alcohol, drugs or other substances, or otherwise appears incapable of comprehending/completing the application/interview process.

Any person may be denied or terminated from General Assistance, in accordance with these Guidelines, or may be prosecuted for a criminal offense, if he/she, by means of intentionally false statements or intentional misrepresentation, or by impersonation or other willfully fraudulent act or device, obtains or attempts to obtain any assistance to which he/she is not entitled.

D. Actions on Applications

1. **Decision.** Unless an application is withdrawn, the Welfare Official shall make a decision concerning the applicant's eligibility immediately in the case of an emergency, or within five (5) working days after completion of the written application. A written Notice of Decision shall be provided on the same day or next working day following the making of the decision. The Notice of Decision shall state that assistance of a specific kind and amount has been given and the time period of aid, or that the application has been denied, in whole or in part, with reasons for denial. The Notice of Decision shall contain a first notice of conditions and shall notify the applicant of his/her right to a Fair Hearing if dissatisfied with the Welfare Official's decision.
2. **Emergency Assistance.** If, at the time of initial contact, the applicant demonstrates and verifies that an emergency need exists because of which the applicant may suffer a loss of a basic necessity of living or imminent threat to life or health (such as loss of shelter, utilities, heat, hot water, or lack of food or prescriptions), then temporary assistance to mitigate such an emergency need shall be provided to prevent the imminent threat to life or health or, loss of basic necessity pending a decision on the application. Such emergency assistance shall not obligate the Welfare Official to provide further assistance after the application process is completed.
3. **Temporary Assistance.** In circumstances where required records are not available, the Welfare Official may give temporary approval to an applicant pending receipt of required documents. Temporary status shall not extend beyond one week.
4. **Withdrawn Applications.** An application shall be considered withdrawn if:
 - a. The applicant has refused to complete an application or has refused to make a good-faith effort to provide required verifications and sufficient information for the completion of an application. If an application is deemed withdrawn for these reasons, the Welfare Official shall so notify the applicant in a written Notice of Decision.
 - b. The applicant dies before assistance is rendered.
 - c. The applicant avails themselves of other resources in place of assistance.
 - d. The applicant requests that the application be withdrawn (preferably in writing).
 - e. The applicant terminates an interview by leaving the office refusing a written notice.
 - f. The applicant does not contact the Welfare Official after the initial interview after being requested to do so.

SECTION 6. VERIFICATION OF INFORMATION

The Welfare Official will verify all information.

1. Any determination or investigation of need or eligibility shall be conducted in a manner that will not violate privacy or personal dignity of the individual or violate his or her individual rights. Verification may be made through records provided by the applicant (for example, birth and marriage certificates, pay stubs, paychecks, rent receipts, bank books, etc.) as primary sources. The failure of the applicant to bring such records does not affect the Welfare Official's responsibility to process the application promptly. The Welfare Official shall inform the applicant in writing what records are necessary and that the applicant is required to produce records within seven (7) days. If such records are not available, the Welfare Officer should ask the applicant to suggest alternative means of verification.
2. Verification may also be made through other sources, such as relatives, employers, banks, school personnel, and social or government agencies.
3. When information is sought from such other sources, the Welfare Official shall explain to the applicant or recipient what information is desired, how it will be used, and the necessity of obtaining it in order to establish eligibility. Before contact is made with any other source, the Welfare Official shall obtain written consent of the applicant or recipient, unless the Welfare Official has reasonable grounds to suspect fraud. In the case of suspected fraud, the Welfare Official shall carefully record his/her reasons and actions, and before any accusation or confrontation is made, the applicant may be given an opportunity to explain or clarify the suspicious circumstances.
4. The Welfare Official may seek statements from the applicant's legally liable relatives regarding their ability to help support the applicant.
5. Verification will normally be required of, but not limited to, the following:
 - a. Applicant/recipient's address.
 - b. Names of persons in applicant's household residential unit or family unit.
 - c. Picture identification(s), birth certificate(s), and social security card(s). Immigration and Naturalization Service documentation for applicant(s) and household members, when applicable.
 - d. Marriage certificate(s), divorce decree(s), child support order(s), custody papers, proof of guardianship, and physical custody of children.
 - e. Applicant/recipient's and household/family unit's income and assets.
 - f. Applicant/recipient's and household/family unit's financial obligations.
 - g. The physical and mental condition of household/family unit members, only when relevant to their receipt of assistance, such as ability to work, determination of needs or referrals to other forms of assistance.
 - h. Any special circumstances claimed by applicant.
 - i. Applicant/recipient's employment status and availability for employment.

- j. Names, addresses, employment and financial status of legally liable relatives.
 - k. Utility costs.
 - l. Housing costs.
 - m. Facts relevant to the applicant/recipient's residence.
 - n. Proof of application and/or benefits received from other sources.
 - o. Any other additional information deemed necessary to be verified by the Welfare Official.
 - p. Proof of any other costs that the applicant deems necessary.
6. Should the applicant/recipient refuse to provide requested information and/or indicate an unwillingness to have the Welfare Official seek further information that is necessary, assistance will be denied for lack of compliance with these Guidelines.

SECTION 7: DISBURSEMENTS

The City provides assistance in the forms of vouchers, checks, or by credit card directly to vendors or creditors up to the dollar amount designated on the voucher, or for the actual amount listed on an itemized bill or cash register tape if less than the voucher amount. Tobacco products, alcoholic beverages, pet food, magazines, plants, cards, and children's toys shall not be purchased with the food or maintenance vouchers. It is the responsibility of the applicant to safeguard from theft, loss or misuse of any voucher he/she receives. No duplicate voucher will be issued if the original is lost, stolen, misplaced, or misused.

SECTION 8: DETERMINATION AND AMOUNT OF ELIGIBILITY

A. Legal Standard and Interpretation

"Whenever a person in any City is poor and unable to support himself (sic), he (sic) shall be relieved and maintained by the Overseers of Public Welfare of such City, whether or not he (sic) has residence there." RSA 165:1.

- 1. An applicant cannot be denied assistance solely because he/she is not a resident.
- 2. "Whenever" means at any or whatever times that person is poor and unable to support himself/herself.
 - a. An Application for Assistance may be filed at any time during the City's normal business hours. The Welfare Official will keep appointments and act on Applications in accordance with Section 5.B. of these Guidelines.
 - b. The eligibility of an applicant for General Assistance shall be determined at the time of application if an emergency, or within five (5) working business days.
 - c. Assistance shall begin as soon as the person is determined eligible.

3. "Poor and unable to support" means that an individual lacks income and available liquid assets to adequately provide for the basic maintenance needs for himself/herself or family as determined by the Guidelines.
4. "Relieved" means a person shall be assisted, as the Welfare Official shall determine, to meet those basic needs.
5. "Maintained" means to be continued on assistance as long as eligible.

B. Eligibility Formula. An applicant is eligible to receive assistance when:

1. He/she meets the non-financial eligibility factors, and
2. When the applicant's basic maintenance need exceeds his/her available income plus available liquid assets. If available income and available liquid assets exceed the basic maintenance need, the applicant is not eligible for General Assistance. If the need exceeds the available income/assets, the amount of assistance shall be the difference between the two amounts, in the absence of circumstances justifying an exception.

C. Non-Financial Eligibility Factors

1. Age. Age is not a factor in determining whether or not a person may receive General Assistance. However, age may make certain persons eligible for other kinds of State or Federal assistance. Minor children are assumed to be the responsibility of their parent(s) or legal guardian(s), unless circumstances warrant otherwise.
2. Residence. Residence and residency shall mean a person's place of abode or domicile. The place of abode or domicile is that designated by a person as his/her principle place of physical presence for the indefinite future to the exclusion of all others. Such residence or residency shall not be interrupted or lost by a temporary absence from it, if there is intent to return to such residence or residency as the principal place of physical presence.
3. Support Actions. No applicant or recipient shall be compelled, as a condition of eligibility or continued receipt of assistance, to take any legal action against any other person. The City may pursue recovery against legally liable persons or governmental units.
4. Eligibility for Other Categorical Assistance. Applicants or recipients, who are eligible for any other form of public assistance, must apply for such assistance immediately, but no later than seven (7) days after being advised to do so by the Welfare Official. Failure to do so may render the applicant or recipient ineligible for assistance.
5. Employment. A person who is gainfully employed, but whose income and assets are not sufficient to meet necessary family expenses, may be eligible

to receive General Assistance. However, recipients who without good cause refuse a job offer or referral to suitable employment, participation in the Welfare Work Program or who voluntarily leave a job, may be ineligible for continuing General Assistance in accordance with the procedures for suspension outlined in these Guidelines. The Welfare Official shall first determine whether there is good cause for such refusal, taking into account the documented ability and physical and mental capacity of the person, transportation problems, working conditions that might involve risks to health or safety, lack of adequate child care, lack of worker's compensation protection, or any other factors that might make refusing a job reasonable. These employment requirements shall extend to all adult members of the household.

6. Unemployed Recipients: All unemployed recipients and adult members of their households shall, within seven (7) days after having been granted assistance, provide proof that they are utilizing the New Hampshire Employment Security resources (office and/or on-line) to find work, and must conduct a reasonable verified job search as determined by the Welfare Official. Each recipient must apply for employment to each employer to whom he/she is referred to by the Welfare Official. A work search exclusively conducted electronically (on-line) may be accepted as meeting these requirements.

These work search requirements apply unless the recipient or other adult member of the household is:

- a. Gainfully employed full-time
- b. A dependent 18 years of age or under who is regularly attending school
- c. Unable to work due to the necessity to care for a disabled family/ household member verified by a licensed medical provider's note.
- d. In a multi-adult family/household only one (1) adult will be exempt from the work search due to caregiver responsibilities.
- e. Is solely responsible for the care of a child under the age of one. A recipient responsible for the care of a child aged one to twelve shall not be excused from work search requirements, but shall be deemed to have good cause to refuse a job requiring work during the hours the child is not usually in school, if there is no responsible person to provide care, and it is verified by the Welfare Official that no other care is available.

The Welfare Official shall give all necessary and reasonable assistance to ensure compliance with work placement requirements, including the granting of allowances for transportation and work clothes. Failure of a recipient to comply with these requirements without good cause will be reason for denial or sanction of assistance.

7. Voluntary Quit Law. Applicants subject to the New Hampshire Voluntary Quit Law shall become ineligible for assistance for 90 days from the time of a voluntary quit as provided by law. Applicants must have:
 - a. Received General Assistance from the City within the past 365 days;

- b. Received prior written notice that a voluntary quit could lead to disqualification;
 - c. No documented mental or physical impairment that causes him/her to be unable to work
 - d. Been employed at a job working at least twenty (20) hours per week;
 - e. Quit said employment without good cause, as defined in the statute, within 60 days of application for assistance
 - f. No minor children in the household supported by the applicant
8. Students: Post-secondary education students must be employed full time in order to be eligible for General Assistance.
 9. Property Transfers. No person who is otherwise eligible shall receive such assistance if he/she has made an assignment, transfer, or conveyance of property for the purpose of rendering himself/herself eligible for assistance within three (3) years immediately preceding his/her application.
 10. Employment of Household Members. The employment requirements of these Guidelines, or participation in the Welfare Workfare Program, shall be required of all adults aged 18 to 65 years residing in the same household, except those regularly attending high school or employed on a full-time basis, who are related to the recipient, legally liable to contribute to the support of the recipient, and not prevented from maintaining employment and contributing to the support of the person by reason of physical or mental disability or other substantial or justifiable cause. The Welfare Official may waive this requirement where failure of the other household members to comply is not the fault of the applicant and the Welfare Official decides it would be unreasonable for the applicant to establish a separate household
 11. Non-Citizens: the welfare officer may, at their sole discretion, provide limited assistance to non-citizens not otherwise eligible for general assistance.

D. Available Assets

1. Available Liquid Assets. See definition, Assets.
2. Automobile Ownership. The ownership of one automobile by an applicant or his dependent does not affect eligibility. Auto payments may be considered justifiable expenses when determining eligibility if the applicant can document that no alternative exists for transportation to verified employment and/or to essential medical services. Disabled adults will generally be considered able to access their medical providers by means of public transportation or agency bus service, eliminating the need for a personal vehicle.

3. Insurance. The ownership of life insurance policies does not affect eligibility. However, when such a policy has cash or loan value, the applicant will be required to obtain and/or borrow all available funds, which shall then be considered available assets. However, the cost of the policy will not be considered as a part of the “need.”
4. Real Estate. The type and amount of real estate owned by an applicant does not affect eligibility, although rent or other such income from property should be considered as available to meet need. Applicants owning real estate property, other than that occupied as a home, shall be expected to make reasonable efforts to dispose of it at fair market value. Applicants shall be informed that a lien covering the amount of any General Assistance they receive shall be placed against any real estate they own. The Welfare Official shall not make mortgage payments when the applicant has a co-signer on the note.

E. Standard of Need

The basic financial requirement for General Assistance is that a person be poor and unable to support himself/herself. A person shall be considered poor when he/she has insufficient available income or assets to purchase either for himself/herself or dependents any of the following services. The payment level for any particular allowable expense shall be based on local market conditions and costs. The payment levels shall be reviewed by the Welfare Official, and if warranted, will be updated to reflect changes in the market.

1. Rental / Housing

- a. Rental assistance is determined by the client’s ability to afford housing based on present and projected verifiable income. The City will not assist applicants to move into housing which they cannot document that they will be able to afford once they are housed.
- b. Arrearages and security deposits are not normally included. The Welfare Official may assist in the least costly manner, or may provide alternate means to accommodate the health and safety of the household unit. The Welfare Official is not responsible for finding housing for applicants, but may reasonably participate in this search in order to assure the least costly alternative.
- c. Whenever a relative of an applicant/recipient is also the landlord for the client, that landlord will be presumed able to assist his/her relatives, and must prove an inability to assist before any aid payment for shelter is made.
- d. Mortgage payment may be considered. A property lien shall be placed by the City if assistance is provided.
- e. Condominium fees may be considered if failure to pay these will put the applicant at risk of homelessness.
- f. In cases in which the City has made an appropriate referral for verified available space in emergency temporary shelter (homeless or domestic violence) and the applicant/recipient refuses to accept such a referral and enter the shelter on the day indicated, the City will not be liable for

alternative housing, but may consider other forms of assistance to which the applicant/recipient is otherwise eligible. If the applicant does not abide by the rules of the emergency housing/shelter, the Welfare Official may suspend the applicant by refusing to pay for alternative emergency shelter.

- g. Assistance to applicants whose conduct caused them to be barred from their most recent previous temporary shelter, and who failed in any and all appeal processes available to them, will be limited to transportation to the closest available shelter. The applicant's housing costs shall not borne by the City.
 - h. Whenever an applicant requests rental assistance and the Welfare Official has concerns regarding the health and safety of the applicant's housing, the Welfare Director may request the applicant's premises be inspected by officials from the City's Inspection and/or Fire Departments prior to any rent(s) being paid. Such inspections will be conducted by appointment only, with full knowledge of the applicant and at a time of the applicant's choosing.
 - i. Security deposits may be included in the 'need' formula if the applicant is unable to secure alternative housing or shelter for which no security deposit is required or is unable to secure funds from alternative sources for payment of the deposit. Any security deposit provided by the general assistance program which is returned shall be returned to the municipality, not the recipient.
2. Utilities. When utility costs are not included in the shelter expense, the most recent outstanding monthly utility bill will be included as part of "need" by the Welfare Official. Utilities must be in the applicant/recipient's name in order to render assistance. A disconnect notice must be in effect. Arrearages will not normally be included in "need" except as set forth below:
- a. Arrearages. Arrearages will not be included except when necessary to ensure the health and safety of the applicant household or to prevent termination of utility service where no other resources of referrals can be utilized.
 - b. Electric Arrearages. In accordance with the rules of the New Hampshire Public Utilities Commission relating to electric utilities, arrearages for electric service need not be paid if the Welfare Official notifies the electric company that the City guarantees payment of an average of the last twelve months bills as long as the recipient remains eligible for General Assistance.
 - c. Restoration of Service. When utility service has been terminated and the Welfare Official has determined that alternative utility service is not available and alternative shelter is not feasible, arrearages will be included in "need" when restoration of service is necessary to ensure the health and safety of the applicant household. The Welfare Official may negotiate with the utility for payment of less than the full amount of the arrears and/or may attempt to arrange a repayment plan to obtain restoration of service.

- d. Restoration of Electric Service. When electric service has been terminated and restoration is required, arrearages may either be included as set forth in Paragraph c) above, or may be paid in accordance with a reasonable payment plan entered into by the applicant and the electric company.
 - e. Deposits. Utility security deposits will be considered as "need" if and only if the applicant is unable to secure utility service without a deposit. Such deposits shall, however, be the property of the City.
3. Food. The amount included as "need" for food purchases will be in accordance with the most recent standard Supplemental Nutrition Assistance Program (SNAP) (formerly known as food stamps) allotment for household size, as determined under the food stamp program administered by the New Hampshire Department of Health and Human Services. The applicant's food allowance will equal the maximum Food Stamp allotment available for household size, less the dollar amount of food stamps actually received in the month prior to application for General Assistance benefits. An amount in excess of the food stamp allotment may be granted as an allowance if a physician has stated in writing that one or more members of the household needs a special diet, the documented cost of which is greater than can be purchased with the family's allotment of food stamps. Food vouchers may not be used for alcohol, tobacco or pet food.
4. Household Maintenance Allowance. Intended to provide personal hygiene and household cleaning supplies, the maintenance allowance, also known as "personal goods", will be 20% of the maximum food stamp allotment for household size.
5. Telephone. If the absence of a telephone would create an unreasonable risk to the recipient's health or safety (verifiable in writing by a physician), or, for other good cause as determined by the Welfare Official, the lowest available basic monthly rate will be allowed. The Welfare Department will not provide telephone equipment.
6. Transportation. If the Welfare Official determines that transportation is necessary (e.g. for health or medical reasons, to maintain employment, or to comply with conditions of assistance), "need" should include the cost of public transportation. The possession of one motor vehicle by an applicant/recipient or his/her dependent(s) does not affect eligibility if it is essential for: medical or rehabilitation services, transportation to and from employment, or if it is essential for use necessary to the maintenance of the individual or family. Essential means that there is no other transportation available. The costs and maintenance of a necessary vehicle must be appropriate to the applicant/recipient's current and projected income.

7. Maintenance of Insurance. Life Insurance premium payments shall not be included as "need" in determining eligibility or amount of aid. Payment of premiums for health insurance policies and COBRA health insurance extensions may be determined a valid expense if it is documented that the policies reduce the applicant/recipient's need for medical assistance from the City.
8. Medical Expenses. The Welfare Official shall not include nor provide payment for medical, dental or eye services unless the recipient or applicant can verify that all other potential sources have been investigated and that there is no source of assistance other than local General Assistance. Other sources to be considered shall include state and federal programs; local and area clinics, area service organizations and area hospital programs designed for such needs. An applicant seeking medical service, prescriptions, dental service or eye service must provide written documentation from a doctor, dentist or person licensed to practice optometry in the area indicating that these services are absolutely necessary and cannot be postponed without creating a significant risk that the applicant or recipient's well-being will be placed in serious jeopardy. The Welfare Official may accept verbal verification from the provider, but shall seek written confirmation. Whenever possible, the applicant will seek service from a Medicaid provider physician. If advance payment is required for such medical services, the Welfare Official may approve payment of the fee up to the reimbursable amount set for the procedure by the New Hampshire Medicaid Program. The City of Portsmouth Welfare Department does not provide payment for hospitalization or any other medical services incurred without written prior authorization from the welfare official. Nor will the cost of medical services incurred be considered part of the "need." Whenever possible, generic medications should be used unless specified differently by the physician. Dental assistance is limited to emergency extraction of teeth.
9. Legal Expenses. Except for those specifically required by statute, no legal expenses will be included.
10. Home Ownership Expenses. Where the applicant owns a home and is otherwise eligible for assistance, payment for essential repairs to retain heat, electric, water, and/or sanitary facilities may be made as deemed necessary by the Welfare Official to prevent foreclosure, preserve the home, and promote the health and safety of the applicant.
11. Shared Expenses. If the applicant/recipient household shares shelter, or other expenses with a non-applicant/recipient (i.e., is a part of a residential unit), then need should be determined on a pro-rata share, based on the total number of persons in the residential unit (i.e., three persons in residential unit, but only one applies for assistance: Shelter need is one-third of shelter allowance for a household of three persons; if the individual's name appears on the lease).

12. Miscellaneous. The “Standard of Need” shall not include costs to prevent repossession of any kind, “rent-to-own” furniture or appliance payments, moving expenses, storage charges, or other costs and fees unrelated to the applicant’s health and safety.

F. Income

In determining eligibility and the amount of assistance, the applicant’s standard of need shall be compared to the available income/assets. Computation of income and expenses will be by the week or month. The following items will be included in the computation:

1. Earned Income. Income in cash or in-kind earned by the applicant or any member of his/her family or household through wages, salary, commission, or profit, whether self-employed or as an employee, is to be considered as income. Rent income and profits from produce sold are this category. With respect to self-employment, subtracting business expenses from gross income in accordance with standard accounting principles arrives at total profit. When income consists of wages, the amount computed should be that net amount available after deductions for income taxes; social security and other payroll deductions required by state, federal, or local law; court-ordered support payments; garnished wages; child care costs and work-related clothing costs.
2. Income or Support from other Persons. Contributions or gifts from relatives or other household members shall be considered as income only if actually received by or to the benefit of the applicant.
3. Income from Other Assistance or Social Insurance Programs. State categorical assistance benefits, OAA payments, Social Security payments, VA benefits, unemployment insurance benefits, and payments from other government sources shall be considered as income.
4. Benefits From Other Sources: Certain benefits received by the applicant will not be counted as income, but the receipt of these benefits will reduce the amount of need by the dollar value of the benefit:
 - a. Food Stamps cannot be counted as income pursuant to federal law 7 USC 2017 (b).
 - b. Fuel Assistance cannot be counted as income pursuant to federal law. 42 USC 8624 (f) (1).
5. Court-Ordered Support Payments. Alimony and Child Support shall be considered income only if actually received by the applicant or recipient.

6. Income from Other Sources. Tax refunds, payment from pension and trust funds, tax returns and the like shall be considered income. Any income actually available to the applicant from members of their household shall be considered as income. Persons in the relationship of father, mother, stepfather, stepmother, son, daughter, husband or wife, are legally liable to support the applicant, and therefore may be required to apply jointly with him/her if they are in the same household.
7. In Loco Parentis. Any adult (even an unrelated person or roommate) who resides in the same household “in loco parentis” (in the role of substitute parent) to a minor child is liable for contributing to that child’s support, and thus be required to apply jointly with that household.
8. Shared Facilities. For the purposes of determining eligibility under these Guidelines, the income of a member of the household may be considered available to the applicant if he/she lives together with the applicant in a single housekeeping unit and shares the facilities.
9. Earnings of a Child. No inquiry shall be made into the earnings of a child 17 years of age or less unless that child makes a regular and substantial contribution to the family.
10. Deemed Income. The Welfare Official may deem as income all or any portion of any “qualified state assistance reduction” (QSAR). When an applicant receiving benefits through the Division of Human Services is sanctioned by a reduction in benefits for non-compliance, the amount of income considered available would be the amount the applicant was receiving prior to the sanction. The City will waive any or all of a QSAR if necessary to prevent an immediate threat to children in the household.

G. Residents of Shelters for Battered Women and Children.

An applicant residing in a shelter for battered women and children who had income and other resources jointly with abusive members of the applicant's household shall be required to cooperate with the normal procedure for the purposes of verification, but may have these resources and income excluded from eligibility determinations unless the sheltered household can safely access joint resources at the time of application. The verification process may be completed through an authorized representative of the shelter of residence. The normal procedure taken in accordance with these Guidelines to recover assistance granted shall not delay assistance.

H. Burials

Payment for burial of City indigents is limited to \$750.00 and is paid only if relatives, other persons, Department of Health and Human Services, Social Security or other sources will not cover the entire expense. Prior authorization must be given by the welfare official. City assistance will not be considered if the decedent’s family has already contracted for services. City assistance will not be utilized as a portion of payment for a costlier service.

SECTION 9. NON-RESIDENTS

- A. Eligibility.** No persons shall be refused assistance solely on the basis of residence.
- B. Standards.** The application procedure, eligibility standards and standard of need shall be the same for non-residents as for residents.
- C. Verifications.** Verification records shall not be considered unavailable, nor the applicant's responsibility for providing such records relaxed, solely because they are located in the applicant's community of residence.
- D. Temporary or Emergency Aid.** The standards for the fulfilling of immediate or emergency needs of non-residents and for temporary assistance pending final decision shall be the same as for residents.
- E. Determination of Residence.** No determination of residence shall be made unless the applicant requests return home transportation (see Paragraph F below) or unless the Welfare Official has some reason to believe the person of another New Hampshire municipality from which recovery can be made.
1. **Minors.** The residence of a minor shall be presumed to be the residence of his/her custodial parent/guardian.
 2. **Adults.** For competent adults, the standard for determining residence shall be the overall intent of the applicant, as set forth in the definition of "residence." The statement of a person over 18 as to his/her residence or intent to establish residence shall be accepted in absence of strongly inconsistent evidence of behavior. The following criteria shall aid the Welfare Official in determining the applicant's residence:
 - a. Does the person have or immediately intend to establish a dwelling place within the municipality?
 - b. Does the person have property, an established dwelling place or employment in any other municipality, to which he/she intends to return?
 - c. Does the person have a present intent to leave the municipality at some specific future time?
 - d. Has the person evidenced his/her domiciliary intent in some manner, such as registering a vehicle, paying residence tax, registering to vote, opening local bank accounts, etc., or does he/she intend to do so in the immediate future?

- F. **Return Home Transportation.** At the request of a non-resident applicant, temporary or otherwise, to which he/she would be otherwise entitled under the standards set forth in these Guidelines, may be used by the Welfare Official to cause the person to be returned to his/her community of residence. The cost of public transportation will be allowed unless alternative arrangements (taxi, care giver, etc.) are made by the welfare official that minimize the cost to the City.
- G. **Recovery.** Any aid given to a non-resident, including the costs of return home transportation, may be recovered from his/her community of residence. If another municipality moves an applicant/recipient into the City, the City will seek reimbursement from the “sending” community in accordance with the New Hampshire Local Welfare Administrators Association’s ethics policy.

SECTION 10. WELFARE WORK (“WORKFARE”) PROGRAM

Anyone found eligible for and receiving General Assistance may be required to work for the City or other appropriate local human service agencies at any available bona fide jobs that are within his/her capacity as reimbursement for benefits received. Workfare participants are not considered employees of the City, and any work performed by Workfare participants does not give rise to any employee/employer relationship between the Workfare participant and the City.

- A. **Required Hours.** Workfare participants’ hours are based on the amount of aid rendered and are calculated at the prevailing ~~minimum~~ area wage. All hours attributable to Workfare participation shall be used to reimburse the City for current assistance given. No recipient shall work more hours than necessary to reimburse aid received. Welfare work under this section shall continue for as long as assistance is required and received.
- B. **Value of Hours Worked:** If, due to lack of available work or other good cause, a Workfare participant does not work a sufficient number of hours to fully compensate the City the amount of his/her aid, the full amount of aid he/she has received less the dollar value of Workfare labor performed shall still be paid.
- C. **Work Search Allowance.** The City shall provide reasonable time during working hours for the Workfare participant to conduct a documented employment search.
- D. **Workfare Schedule.** Refusal to work does not include failure to appear for or to perform under the circumstances listed below. The Workfare participant should, however attempt to schedule appointments so as not to conflict with the assigned Workfare schedule and must notify his/her supervisor in advance of the appointment. The Welfare Official may require Workfare participants to provide documentation of their attendance at a conflicting interview or appointment. The circumstances include when the Workfare participant:
1. Has a conflicting interview for a job opportunity.
 2. Has a conflicting interview at a service or welfare agency.

3. Has a medical appointment or illness.
 4. Must care for children under the age of five. A person responsible for a child over five (5), but under twelve (12) years of age, shall be deemed to have good cause to refuse to work during the hours the child is not in school, if there is no responsible person available to provide care, and no other care is available.
 5. As verified in writing by a physician, is unable to work due to mental or physical disability or must remain at home because of illness or disability to another member of the household.
 6. Does not possess the materials or tools required to perform the task and the City fails to provide such materials and tools.
- E. Worker's Compensation.** Workfare participants are included in the definition of public employee for the purposes of the Worker's Compensation Law.
- F. Failure to Comply.** Working hours are subject to approval by the supervisor and the Workfare participant. Failure of the Workfare participant to adhere to agreed working hours and reasonable work standards will prompt review of the recipient's eligibility for General Assistance and may result in suspension or termination of assistance ~~and/or possible sanction.~~

SECTION 11: RIGHT TO NOTICE OF ADVERSE ACTION

Note: This procedure has been developed by NHMA in an effort to set for a clear process for suspension of assistance for willful noncompliance with guidelines. There are differing opinions as to the intent and interpretation of the statute. There are differing opinions as to the specific procedures required by statute.

- A. Right to a Written Notice of Decision:** All persons have a constitutional right to be free of unfair, arbitrary or unreasonable action taken by ~~local~~ government. This includes applicants for and recipients of General Assistance, whose aid has been denied, terminated or reduced. Every applicant and recipient shall be given written notice of every decision regarding assistance. The Welfare Official will make every effort to ensure that the applicant understands the decision.
- B. Sanction for Non-Compliance with the Guidelines**
1. Recipients must comply with these Guidelines and the reasonable request of the Welfare Official, who must enforce the Guidelines while ensuring that all recipients and applicants receive due process. Recipients should be given reasonable notice of the conditions and requirements of eligibility and continuing eligibility and notice that non-compliance may result in termination or suspension.

2. Conditions. Any person otherwise eligible for assistance shall become ineligible if he/she willfully fails to comply with the requirements of these Guidelines relating to the obligation to:
 - a. Disclose and provide verification of income, resources or other financial material data, including any changes in this information.
 - b. Participate in the Welfare Work Program as assigned by the Welfare Official.
 - c. Comply with the work search requirements imposed by the Welfare Official
 - d. Apply for other public assistance, which would alleviate the need for General Assistance, as requested by the Welfare Official.
 - e. Expend documented income for essential needs such as utilities, rent, etc, as specifically directed by the Welfare Official, excepting instances where the applicant/recipient can document other essential needs for which income has been spent.
3. First Notice. No recipient otherwise eligible shall be suspended for non-compliance with conditions unless he/she has been given a written notice of the actions required in order to remain eligible and a seven (7) day period within which to comply. A first notice shall be included in the Notice of Decision and thereafter as the conditions change. Additional notice of actions required should also be given as eligibility is re-determined, but without an additional seven (7) day period unless new actions are required.
4. Non-Compliance. If the recipient willfully fails to come into compliance during the seven (7) day period, or willfully falls into non-compliance within thirty (30) days from receipt of a First Notice, the Welfare Official shall give the recipient a suspension notice. If a recipient falls into non-compliance for the first time more than thirty (30) days after receipt of a first notice, the Welfare Official must give the recipient a new first notice with a new seven (7) day period to comply before giving the recipient the suspension notice.
5. Sanction Notice. Written notice to a recipient that he/she is suspended from assistance due to failure to comply with the conditions required in a Notice of Decision shall include:
 - a. A list of the Guidelines with which the recipient is not in compliance and a description of those actions necessary for compliance.
 - b. The period of suspension.
 - c. Notice of the right to a Fair Hearing on the issue of willful non-compliance and that such request must be made in writing five (5) days of receipt of the suspension notice.
 - d. A statement that assistance may continue until the Fair Hearing decision is made, if the recipient so requests on the request form for the Fair Hearing, however, if the recipient fails to prevail at the hearing, the suspension will start after the decision and such aid must be repaid by the recipient.
 - e. A form on which the individual may request a Fair Hearing and the continuance of assistance pending the outcome.

6. Sanction Period.
 - a. The period of ineligibility or suspension shall be seven (7) days or fourteen (14) days if the recipient has had a prior suspension which ended within the past six months. Any subsequent suspension period shall be fourteen (14) days. If upon the expiration of the 7-day or 14-day suspension period the person continues to fail to carry out the specific actions set forth in the notice, the disqualification shall continue until such person complies.
 - b. The Welfare Official shall not be required to accept an application for General Assistance from a person who is subject to disqualification of suspension under this section; provided however, that in the event such disqualification or suspension continues beyond the 7 to 14 day period due to continued non-compliance and there is a dispute over a contention by such person that he/she has satisfactorily complied with the requirements set forth in the notice, such person shall be given an opportunity to request a hearing to determine that issue, but shall not be eligible to a continuation of assistance pending the outcome of the Hearing.
7. Fair Hearing on Continuing Non-Compliance. A recipient who has been suspended until he/she complies with the Guidelines may request a Fair Hearing to resolve a dispute over whether or not he/she has satisfactorily complied with the required Guidelines. However, no continued assistance shall be available pending the outcome of the Hearing. The burden of proof lies with the applicant/recipient to show that the City Welfare Department was incorrect in their non-assistance of the recipient's request.
8. Compliance after Sanction. A recipient who has been subject to a suspension and who has come back into compliance shall have his/her assistance resumed, provided he/she is still otherwise eligible. The Notice of Decision stating that assistance has been resumed should again set forth the actions required to remain eligible for assistance, but need not provide a seven (7) day period for compliance unless new conditions have been imposed.

C. Action Taken for Reasons Other Than Non-Compliance with the Guidelines.

1. Whenever a decision is made to deny assistance or to refuse to grant the full amount of assistance requested, a notice of the decision shall be given to the applicant immediately or within five (5) working days from the time application is filled out and submitted.
2. In any case where the Welfare Official decides to terminate or reduce assistance for reasons other than non-compliance with the Guidelines, the official shall send notice at least (7) days in advance of the effective date of the decision to the recipient stating the intended action.

3. The notice required by Paragraph 1 and Paragraph 2 above shall contain:
 - a. A clear statement of the reasons for the denial or proposed termination or reduction.
 - b. A statement advising the individual of his/her right to a Fair Hearing, and that any request for a Fair Hearing must be made within (5) days.
 - c. A form on which the individual may request a Fair Hearing.
 - d. A statement advising the individual of the time limits, which must be met in order to receive a Fair Hearing.
 - e. A statement that assistance may continue, if there was initial eligibility, until the date of hearing, if requested by the claimant. Aid must be repaid if the claimant fails to prevail at the hearing.

SECTION 12: FAIR HEARINGS

A. Requests. A request for a Fair Hearing is a written expression by the applicant or recipient or any person authorized to act for him/her to the effect that he/she wants an opportunity to present his/her case to a higher authority.

B. The Fair Hearing Officer. The City may appoint a Fair Hearing Officer from among other regional Welfare Officials or any other qualified individual meeting the standards delineated below. The person serving must:

1. Not have participated in the decision causing dissatisfaction.
2. Be impartial.
3. Be sufficiently skilled in interviewing to be able to obtain evidence and facts necessary for a fair determination.
4. Be capable of evaluating all evidence fairly and realistically to explain to the claimant the laws and regulations under which the Welfare Official operated and to interpret to the Welfare Official any evidence of unsound, unclear or inequitable policies, practices, or actions.
5. In the case of a regional Welfare Official assuming the duty of Fair Hearing Officer, the City Welfare Official should make certain this individual has had no prior interaction with the claimant.

C. Time Limits for Request and Hearing.

1. When an application is denied or when an applicant desires to challenge a decision made by the Welfare Official relative to the receipt of assistance, a request for a Fair Hearing must be received within five (5) working days of receipt the Notice of Decision at issue.
2. Hearings requested by claimants must be held within seven (7) working days of the receipt of the request. The Welfare Official shall give notice to the claimant setting forth time and location of the hearing. This notice must be given to the claimant at least forty-eight (48) hours in advance of the hearing or mailed to the claimant at least seventy-two (72) hours in advance of the hearing.

D. Fair Hearing Procedures

1. A claimant or his/her duly authorized representative has the right to examine prior to a Fair Hearing all records, papers, and documents from the claimant's case file which either party may wish to introduce at the Fair Hearing as well as any available documents not contained in the case file, but relevant to the Welfare Official's action of which the claimant complains.
2. Evidence. No record, paper, or document, which the claimant has not been allowed to examine prior to the hearing, shall be introduced at the hearing or become part of the record.
3. The Welfare Official (or a duly authorized representative) shall have the right to examine at the Fair Hearing all documents on which the claimant plans to rely at the Fair Hearing and may request a twenty-four (24) hour continuance if such documents contain evidence not previously provided or disclosed by the claimant. Should the applicant have new documentation relevant to the disputed decision, he/she may reapply for assistance and file a written withdrawal of the fair hearing request.
4. Procedures for Fair Hearings.
 - a. All Fair Hearings shall be conducted in such a manner as to ensure due process of law.
 - b. Fair Hearings shall not be conducted according to strict rules of evidence. However, in order to protect the right of cross-examination, the Fair Hearing Officer shall not rely solely upon any hearsay evidence in making a decision if any party objects to its introduction.
 - c. The burden of proof shall be on the claimant who shall be required to establish his/her case by a preponderance of the evidence.
 - d. The Welfare Official responsible for the decision complained of shall attend the hearing and testify about his/her actions and the reasons therefore.
 - e. Both parties shall be given the opportunity to offer evidence and explain their positions as fully and completely as they wish.
 - f. The claimant or his/her representative and the Welfare Official or his/her representative shall have the opportunity to examine all records and documents used at the hearing. The claimant shall have the right to present his/her own case alone or with the aid of others; to bring witnesses to establish all pertinent facts; to advance any arguments without undue interference; to question or refute testimony or evidence presented; and confront and cross-examine adverse witnesses.
 - g. The decision of the Fair Hearing Officer must be based solely on the record in light of these Guidelines. Evidence, both written and oral, which is admitted at the Fair Hearing, shall be the sole contents of the records. The Fair Hearing Officer shall not review the case record or other materials prior to introduction at the hearing.
 - h. The parties may stipulate to any facts.

- i. Any applicant may withdraw in writing his/her request for a Fair Hearing at any time up to the time of the Hearing. An applicant who fails to appear for any scheduled Fair Hearing shall be deemed to have withdrawn his request for such a Hearing.
- j. An applicant who believes he has good cause to request a continuance or postponement of a scheduled Fair Hearing shall contact the Welfare Official at the earliest possible time prior to the hearing. Upon good cause shown, the Welfare Official may reschedule such Hearing; however, the applicant is entitled to only one (1) such postponement or continuance per Fair Hearing request. Good cause shall include, but not necessarily be limited to, demonstrated medical emergency, or other demonstrated unforeseen circumstances which reasonably prevent the applicant from attending such scheduled Hearing. An applicant shall provide documentation of such circumstances to the satisfaction of the Welfare Official no later than 72 hours after the request for postponement is made. If the applicant does not provide documentation of such circumstances to the Welfare Official within 72 hours, then the request shall be deemed withdrawn by the applicant.

E. Decisions

1. Fair Hearing decisions shall be rendered within seven (7) business days of the Hearing. Decisions shall be in writing, setting forth the reasons for decisions and the facts on which the Fair Hearing Officer relied in reaching the decision and citations from these Guidelines. A copy of the decision shall be mailed or delivered in to the claimant and to the Welfare Official.
2. Fair Hearing decisions will be rendered on the basis of the Fair Hearing Officer's findings of fact, these Guidelines and state and federal law. The Fair Hearing decision shall set forth appropriate relief.
3. The decision shall be dated. In the case of a Hearing to review a denial of aid, the decision is retroactive to the date of the action being appealed. If a claimant fails to prevail at the Hearing, the assistance given pending the hearing shall be debt owed by the individual to the municipality.
4. The Welfare Official shall keep all Fair Hearing decisions on file in chronological order.
5. None of the procedures specified herein shall limit any right of the applicant or recipient to subsequent court action to review or challenge the adverse decision.

SECTION 13: LIENS

A. Real Estate. The law requires the City to place a lien for General Assistance received on any real estate owned by an assisted person in all cases. (This does not authorize the placement of a lien on the real estate of legally liable relative). The Welfare Official shall file a Notice of Lien with the County Registry of Deeds, complete with the owner's name and description of the property sufficient to identify it. Interest shall be charged as allowed by state law. The lien shall not be enforced so long as the real estate is occupied as the sole residence of the assisted person, his/her surviving children who are under age 18 or blind or

permanently and totally disabled. At such time as the lien may become enforceable, the Welfare Official shall attempt to contact the attorney handling the real estate or estate before enforcing the lien. Upon repayment of a lien, the municipality must file written notice of the discontinuance of the lien with the County Registry of Deeds.

B. Civil Judgments.

1. The City shall be entitled to a lien upon property passing under the terms of a will or an intestate succession, a property settlement, or civil judgment or personal injuries (except Worker's Compensation) awarded any person granted assistance by the City for the amount of assistance granted by the City.
2. The City shall be entitled to the lien only if the assistance was granted no more than six (6) years before the receipt of the inheritance or award of the property settlement or civil judgment. When the Welfare Official becomes aware of such a claim against a civil judgment he/she shall contact the attorney representing the recipient.

SECTION 14: RECOVERY OF ASSISTANCE

The Welfare Official shall seek to recover money expended to assist former or current recipients.

- A. Recovery from Legally Liable Relatives.** The amount of money spent by the City to assist a recipient who has legally liable relatives (father, mother, stepfather, stepmother, husband, wife or child who is no longer a minor) of sufficient ability to also support the recipient may be recovered from those legally liable relatives. Sufficient ability shall be deemed to exist when relatives' weekly income is more than sufficient to provide a reasonable subsistence compatible with decency and health. The Welfare Official may determine that "in kind" assistance or the provision of products/services to the recipient is acceptable as a relative's response to liability for support. Written notice of money spent in support of a recipient must be given to the legally liable relatives. The Welfare Official shall attempt to give such written notice prior to the giving of aid, but aid for which an applicant is eligible under these Guidelines shall not be delayed due to inability to contact potentially legally liable relatives. Inability to contact potentially legally liable relatives must not be the result of applicants' failure to provide the information.
- B. Recovery from the Municipality of Residence.** The Welfare Official shall may seek to recover from the municipality of residence the amount of money spent by the City to assist an applicant/recipient who has a residence in another municipality as allowed by state law. Written notice of money spent in support of a recipient must be given to the welfare official of the municipality of residence.

- C. Recovery from Former/Current Recipient's Income.** A former/current recipient who is returned to an income status after receiving assistance may be required to reimburse the City for the assistance provided, if such reimbursement can be made without financial hardship.
- D. Recovery From State and Federal Sources.** The amount of money spent by the City to support a recipient who has applied for SSI and has voluntarily signed NH DHHS Form 151 "Authorization For Reimbursement Of Interim Assistance" may be recovered through the SSA and the New Hampshire Department of Health and Human Services. Prescription expenses paid by the City for a recipient who has applied for Medicaid may be recovered through the NH DHHS if and when the recipient is approved for medical coverage.

SECTION 15: APPLICATION OF RENTS PAID BY THE CITY

A. Property Owner

Whenever the owner of property rented to a person receiving assistance from the City is in arrears in sewer, water, or tax payments to the City, the City may apply the assistance which the property owner would have received in payment of rent on behalf of such assisted person to the property owner's delinquent balances, regardless of whether such delinquent balances are in respect of property occupied by the assisted person.

B. Payment Arrears

A payment shall be considered in arrears if more than thirty (30) days have elapsed since the mailing of the bill, or in the case of real estate taxes, if interest has begun to accrue.

C. Delinquent Property Tax

Delinquent Property Tax balances will be first priority, followed by delinquent sewer/water balances.

D. Procedure

1. The Welfare Official will issue a voucher on behalf of the tenant to the landlord for allowed amount of rent. The voucher will indicate any amount to be applied to a delinquent balance owed by the landlord, specifying which delinquency.
2. The Welfare Official will issue a duplicate voucher to the appropriate department (i.e. Tax Collector, Water Department), which shall forward the voucher to the Treasurer or Finance Official for payment, the department will issue a receipt of payment to the delinquent landlord.

SECTION 16: SEVERABILITY:

If any provision of these Guidelines is held at law to be invalid or inapplicable to any person or circumstances, the remaining provisions will continue in full force and effect.

Adopted This Day, the _____ day of _____, 2022, by: **City of Portsmouth
City Council**

CITY OF PORTSMOUTH

Parking & Transportation Division

Islington Creek Neighborhood Parking Program PILOT
Statistical and Cost Analysis for City Council
August 22, 2022



NPP PROGRAM HISTORY

- Islington Creek Neighborhood Requested the City Create a PILOT in 2019 to Address Parking Concerns
 - The 2019 Version of NPP Did Not Achieve 75% Vote Threshold
- Neighborhood Renewed its Request in 2020
 - Consideration was Delayed by COVID-19
- Public Meetings Held April 14 and June 10, 2021
- Current Version of the Program was Developed
 - Boundaries Set as Islington, Dover, Bridge and McDonough Streets
 - 3 Permits + 1 Guest Permit per NPP Household or Business
 - 1 Permit for Portsmouth Residents Outside of NPP Neighborhood
 - 2hr Free Parking Permitted for Non-Participants
 - Enforcement Hours 9a – 8p Monday - Sunday

NPP NEIGHBORHOOD MAP



Islington Street Shown in Orange to Indicate That Residents on Islington May Participate, but that Islington Street Itself was Not Part of the NPP Map Because it is Already Governed with a 2-Hour Limit to Support Businesses

NPP PROGRAM PARTICIPATION

NPP Program Participation as of July 31, 2022

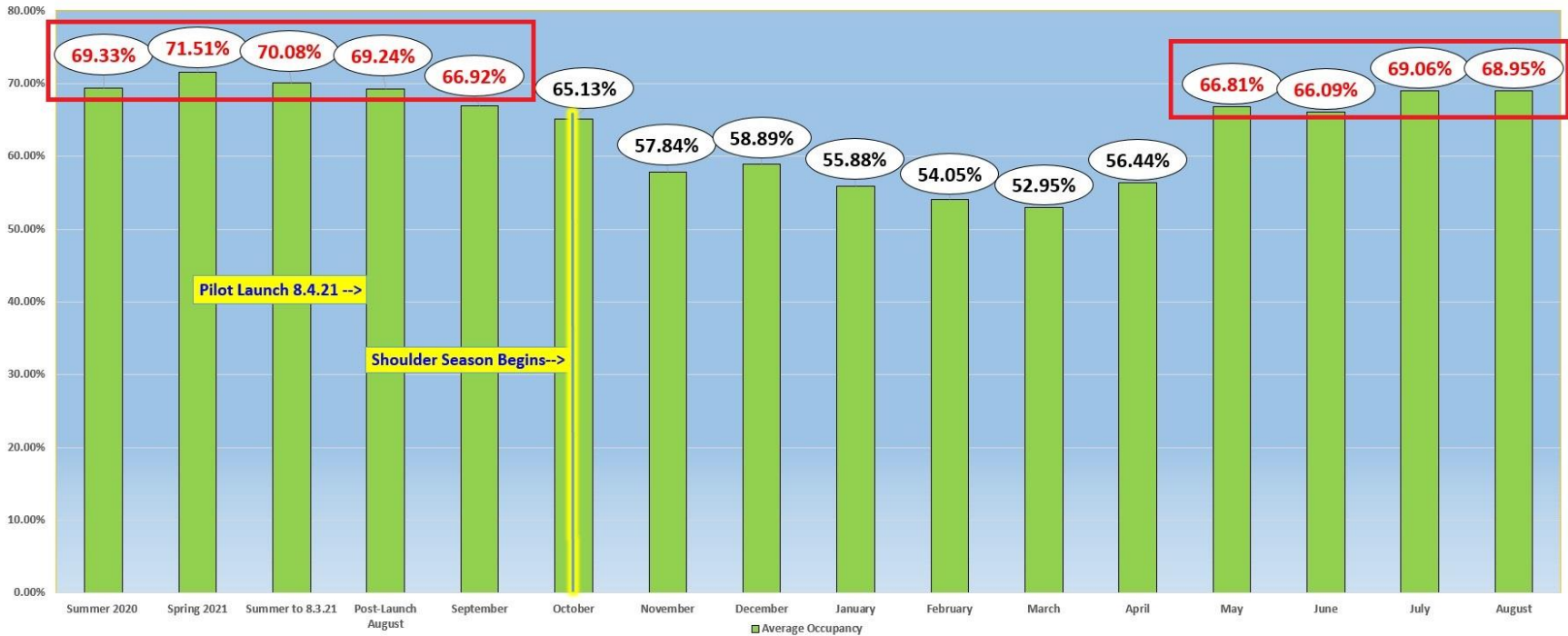
	NPP Passes Issued	Guest Passes Issued	Totals	
NPP Resident	388	265	653	
Non-NPP Resident	53	N/A	53	
Total Issued	441	265	706	Total ALL
		NPP Inventory	251	Total On-Street Spaces
		Passes as % of Inventory	281%	

Synopsis: A total of 441 Regular NPP Passes have been issued through July 31st, 2022, including 53 from outside the NPP Neighborhood. An additional 265 Guest Passes are in Circulation, for a total of 706 passes.

This equates to 281% of the total 251-space On-Street Inventory in the Islington Creek Neighborhood.

YEAR OVER YEAR OCCUPANCY

Islington Creek: Average Parking Occupancy (All Time Zones)



2021 The Pre-Launch Neighborhood occupancy of 70.08% against the October Occupancy figure of 65.13% represented a 4.95% Drop in Overall Demand, equating to 12.42 Total Spaces Gained prior to Onset of the 2021 Shoulder Season

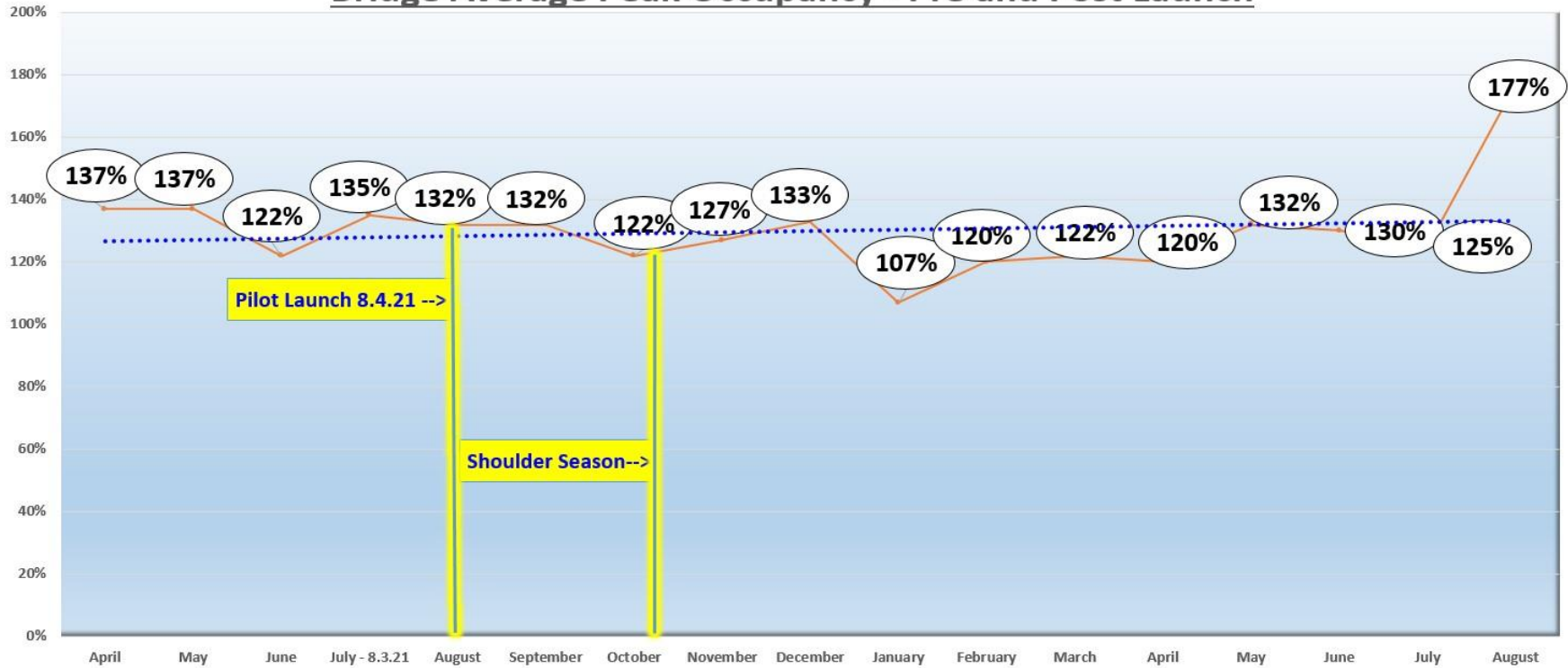
As the Downtown Employee Program participation ramped up in Spring and Summer 2021, and again in 2022, it is important to note that average occupancy rates in those months [shown in red in the graph] were not reduced as anticipated

2022 After seeing the anticipated drop in occupancy during the 2021/2022 winter months, the 3-year pattern of occupancy in the Neighborhood has resumed.

Year over Year A comparison of May - August 2021 average occupancy Vs. May - August 2022 average occupancy reveals a (1.98%) reduction in occupancy year over year, equating to 4.96 spaces gained between Summer of 2021 and Summer of 2022.

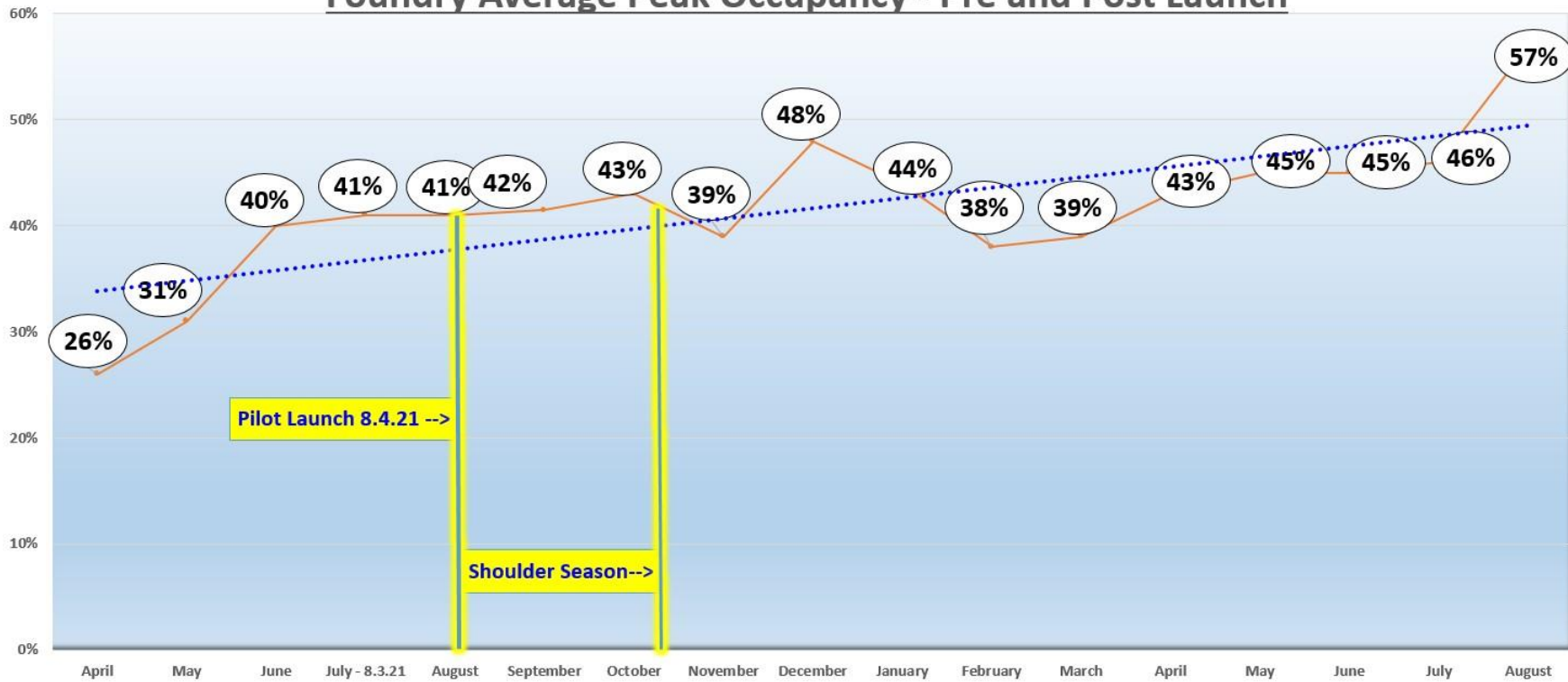
BRIDGE OCCUPANCY

Bridge Average Peak Occupancy - Pre and Post Launch



FOUNDRY OCCUPANCY

Foundry Average Peak Occupancy - Pre and Post Launch



NPP GAINED INVENTORY

Inventory Usage - Percent Reduction (Spaces Gained Through October 31st, 2021)

Date Range	Percent Reduction	Spaces Gained
Post Launch vs Summer 2021	-0.84%	2.11
September Vs. August	-2.32%	5.83
October Vs. September	-1.79%	4.48
Total Results - Summer Season	-4.95%	12.42

Spaces Gained in 1st 3 Months

2021 Post Launch The Neighborhood gained 2.11 spaces in August, 5.83 spaces in September, and 4.48 in October.

This equates to a **4.95%** reduction in Inventory Usage, or **12.42** spaces gained prior to the start of the shoulder season.

Inventory Usage - Percent Reduction (Spaces Gained May-Aug 2021 vs May - Aug 2022)

Average Occupancy, May - August 2021	69.70%
Average Occupancy, May - August 2022	67.73%
Year over Year Change	-1.98%

Spaces Gained Year over Year **4.96**

2022 v 2021 Year over Year Comparison A comparison of May - August 2021 and May - August 2022 reveals a **(1.98%)** reduction in occupancy year over year, equating to **4.96** spaces gained.

NPP CITATION STATISTICS

Citation Statistics

	August	September	October	November	December	January	February	March	April	May	June	July	Totals
Warnings	36	3	1	1	3	1	0	0	0	0	0	0	45
2 hr Citations	133	53	41	65	52	24	29	58	26	45	38	4	568
Collections	\$ 1,820.00	\$ 875.00	\$ 490.00	\$ 805.00	\$ 490.00	\$ 35.00	\$ 370.00	\$ 665.00	\$ 175.00	\$ 385.00	\$ 735.00	\$ 70.00	\$ 6,915.00

Synopsis: A total of **613 Citations** have been issued: **45 Warnings** and **568 2-Hour Violations**
 Total Collections to date: **\$6,915**

NPP COSTS

Costs Associated with NPP Pilot-through 7.31.22 (12 Months)

Item	Amount	Description
(Start Up) Costs-Materials	\$ 3,176	Signage; U-Channel; Quick-crete; Window Decals
(Start Up) Costs-Labor	\$ 1,573	Two Laborers, posting signage
Total Startup Costs	\$ 4,749	

(Annual Recurring) Uniforms	\$ 268	Rain Coats; Rain Pants
(Annual Recurring) Supplies	\$ 274	Office Supplies; paper, clipboards, etc.
(Annual Recurring) Citation Supplies	\$ 1,336	Software Licenses; Citation Issuance Costs; Appeals Labor
Total Annually Recurring Costs	\$ 1,878	

(Monthly Operating) Administration	\$ 16,942	Paperwork; Database; Labor Hours - Parking Clerk Office Staff
(Monthly Operating) Enforcement	\$ 94,657	9a-8p; 7 days
(Monthly Operating) Mileage	\$ 1,658	Enforcement; Inventory Counts
Total Monthly Operating Costs to Date	\$ 113,258	through the first 12 months

\$ 119,885 Total Costs through 7.31.22

\$ 9,438.13 Operating Costs: Average Month

NPP COSTS – BREAK EVEN ANALYSIS

Annualized Break-Even Cost Analysis as of 7.31.22

\$ 119,885 1 year Total Costs

\$ 6,915 1 year Citation Revenues

\$ 112,970 Net Cost as of 7.31.22

706 Total passes in program as of July 31st, 2022

\$ 160 Annual break even cost/pass *at current level of participation*

600 Total passes in program *with an estimated 15% reduction in participation*

\$ 188 Annual break even cost/pass **at 85% of current participation**

NPP STATISTICS-SYNOPSIS

NPP PILOT Program Results and Statistics, 12-Month Report

Current	281%	Issuance of Passes to Spaces available
----------------	-------------	--

NPP PILOT Program Results and Statistics, First Three Months

201%	Increase in DTE320 Participation Prior to Launch
4.95%	Total Gained Inventory Percentage Post-Launch (Through 10.31.21)
12.42	Total Spaces Gained Post-Launch (Through 10.31.21)
0%	Increase in Foundry Peak Occupancy Percentage, post PILOT Launch
-3%	Reduction in Bridge Peak Occupancy Percentage, post PILOT Launch

NPP PILOT Program Results and Statistics, Year over Year

11%	Increase in DTE320 Participation: July 2022 vs July 2021
-1.98%	Decrease in Occupancy: May-August 2022 vs May-August 2021
4.96	Total Spaces Gained: May-August 2022 vs May-August 2021

NPP PILOT Program Results and Statistics, Annual Totals

\$ 6,915.00	Total Collections - Citations Through 7.31.22
\$ 119,884.73	Total Costs of PILOT Through 7.31.22
\$ 160	Break Even Pricing - Current Participation Level
\$ 188	Break Even Pricing - Assuming 15% reduction in Participation

2021 The target neighborhood did not see significant impact in terms of reduction in demand until the Shoulder Season began, more than 3 months into the Pilot
The immediately adjacent alternatives, including Bridge Lot, Foundry Garage, Masonic Lot and surrounding residential neighborhoods have not seen adverse impact in terms of increased demand throughout the life of the Pilot.

2022 Year over Year Inventory Occupancy was reduced 1.98%, equating to 4.96 Spaces Gained when comparing **May - August of 2021 vs 2022**

DISCUSSION



After recording return to:
City of Portsmouth
Legal Department
1 Junkins Ave
Portsmouth, NH 03801

SIGN EASEMENT

NOW COMES DAGNY TAGGART, LLC, a New Hampshire limited liability company, with a business address of 30 Penhallow Street, Suite 300 East, City of Portsmouth, County of Rockingham, and State of New Hampshire (hereinafter “Grantor”),

for consideration paid, grants to **THE CITY OF PORTSMOUTH**, a municipality whose address in 1 Junkins Avenue, Portsmouth, New Hampshire, 03801, (hereinafter “Grantee”),

AN EASEMENT FOR LOCATION OF WAYFINDING SIGN OVER LAND OF GRANTOR, further bounded and described as follows:

A certain encumbrance over the property of Grantor located at 93 Pleasant Street being shown at one (1) location on a plan entitled “Easement and Site Plan, Tax Map 107 – Lot 74, 93 Pleasant Street, Owner: Dagny Taggart, LLC, Land Located At: 93 Pleasant Street, City of Portsmouth, County of Rockingham, State of New Hampshire,” prepared by Ambit Engineering, Inc., dated July 7, 2022 and recorded herewith at the Rockingham County Registry of Deeds (the “Easement Plan”) bounded and described approximately as follows, subject to minor variations resulting during the construction process:

Easement Area 1

That area being depicted on the Easement Plan as “Strawberry Bank ~ Municipal Complex ~ Market Square,” which is being relocated pursuant to the note on said Plan that provides, “Relocate Behind Sidewalk and Provide City Easement,” which easement area is located on the northeasterly side of Court Street within the Lot identified as “107/74” on said Easement Plan (hereinafter referred to as the “Wayfinding Sign”).

The purpose of this Easement is to permit the City of Portsmouth to relocate the Wayfinding Sign on the property of the Grantor in order to satisfy the condition of approval set forth within Note 17 on the Easement Plan. The City shall have the right to access the Wayfinding Sign within the easement area for the purposes of installation, maintenance, removal and replacement.

THIS IS NOT HOMESTEAD PROPERTY.

As authorized by vote of the Portsmouth City Council taken on _____, during its meeting that commenced _____.

Grantor:

Dagny Taggart, LLC

By: _____
Mark A. McNabb, Manager

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

On this ____ day of _____, 2022, before me, the undersigned notary public, personally appeared Mark A. McNabb, Manager of Dagny Taggart, a New Hampshire limited liability company, proved to me through satisfactory evidence of identification, which was a valid driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public:
My Commission Expires:

Grantee:

City of Portsmouth, New Hampshire

By: _____
Karen S. Conard, City Manager
As authorized by vote of the City Council on
_____.

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

On this ____ day of _____, 2022, before: me, the undersigned notary public, personally appeared Karen S. Conard, City Manager of the City of Portsmouth New Hampshire, proved to me through satisfactory evidence of identification, which was a valid driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it in his/her capacity as stated therein and voluntarily for its stated purpose.

Notary Public:
My Commission Expires:

MEMORANDUM OF UNDERSTANDING
FOR PROFESSIONAL SERVICES
BETWEEN THE COALITION COMMUNITIES 2.0

This Memorandum of Understanding (“MOU” or “Agreement”) is entered into by the City of Portsmouth and the Towns/Cities of ----- (hereinafter referred collectively as “Coalition Communities 2.0”) and each understands and agrees to the commitments, terms, and conditions contained in this Agreement.

WHEREAS, For approximately ten years prior to 2006, the state funded education through a formula that created what was commonly known of as “donor” and “receiver” towns. Under this formula, a community was characterized as a donor community if it raised more in Statewide Education Property Tax (“SWEPT”) than the state’s calculation of that community’s total cost of an adequate education for its students. This “excess” SWEPT was then distributed by the state to the community’s whose total cost of education exceeded the amount raised in SWEPT (known as “receiver” communities).

WHEREAS, The former donor towns worked together to challenge the donor/receiver education funding formula through the formation of a group known as the “Coalition Communities”. In part, due to the advocacy and lobbying efforts of the Coalition Communities, the legislature abolished the donor/receiver education funding formula and from 2006 through the present, communities now retain the “excess” SWEPT they raise.

WHEREAS, A Commission to Study School Funding (“Commission”) was created by the NH Legislature in 2019 to “review the education funding formula and make recommendations to ensure a uniform and equitable design for financing the cost of an adequate education for all public-school students.” RSA 193-E:2-e;

WHEREAS, The Commission’s Report, issued on December 1, 2020, recommends, in part, the return of a donor/receiver education funding model by recommending that communities that generate excess SWEPT remit the “excess” SWEPT to the state for redistribution to towns whose cost of an adequate education is more than the SWEPT the town generates;

WHEREAS, The Commission’s Report was comprehensive in its analysis of students’ needs and in identifying the deficiencies in how the state fulfills its constitutional obligations to provide students with an adequate education but seriously deficient in its misplaced reliance on the broken and overburdened system of funding education through the property tax.

WHEREAS, Legislation will be introduced in 2021 that adopts in similar fashion the Commission’s recommendation of a donor/receiver education funding formula, which will have a substantially negative effect on the taxpayers from newly created donor communities (“Coalition Communities 2.0”);

WHEREAS, All Coalition Communities 2.0 are members of the New Hampshire Municipal Association (“NHMA”). NHMA provides advocacy and lobbying services to its members but it may not lobby on behalf of specific legislation supported or opposed by a municipality unless it is of interest to its members generally and supported by clear member-

adopted policy positions as legislative principles. NHMA's current legislative policy on education does not specifically oppose a donor/receiver education funding model. NHMA does not take a position on issues that pit one set of communities against another set of communities. Without majority membership support, NHMA's ability to lobby on behalf of the Coalition Communities 2.0 is severely limited and leaves its Coalition Community 2.0 members at a disadvantage in their ability to effectively advocate in opposition to legislation that would recreate a donor/receiver education funding formula;

WHEREAS, RSA 31:9 provides that “[t]owns may at any legal meeting authorize the employment by the selectmen of counsel in legislative matters in which the town is directly or indirectly interested, or may ratify the previous employment by the selectmen of such counsel and may grant and vote money therefor.”;

WHEREAS, Education funding is a complex issue and it would be unduly burdensome and costly for each town to separately track, advocate and lobby in opposition to education funding legislation that supports a donor/receiver model, particularly during COVID-19;

WHEREAS, The Coalition Communities 2.0 seek to share the cost of professional services, including but not limited to lobbying, communication, legal, and other professional services if required to advocate and educate others regarding its opposition to public policies related to the use of the property tax to fund education

THEREFORE, the Coalition Communities 2.0 enter into this Agreement for the purposes set forth above, as follows:

I. **DEFINITIONS**

A. “Advocate” shall mean the individual hired to provide professional lobbying services, as further described in the Request for Proposal attached as Exhibit A.

B. “Agreement” shall mean this document, this Memorandum of Understanding for Professional Services Between the Coalition Communities 2.0.

C. “Biennium” shall mean the current two-year term of the legislature beginning January, 2021 and ending December, 2022.

D. “Coalition Communities” shall mean donor towns under prior education funding formulas.

E. “Coalition Communities 2.0” shall mean any potential donor towns under an education funding formula that adopts the Commission’s recommendation or any portion thereof that returns to a donor/receiver education funding formula. See also Member.

F. “Commission” shall mean the Commission to Study School Funding created by RSA 193-E:2-e.

G. “Donor communities” shall mean a community that when SWEPT is assessed

on the municipality's total equalized assessed property value, SWEPT raises more funds than the state's calculated cost of an adequate education assessed for all students. This excess SWEPT is remitted to and distributed by the state to receiver communities.

H. "Excess SWEPT" shall mean when the SWEPT is applied to the equalized property value of a town, it raises more in SWEPT than the state's calculated cost of an adequate education for all students in its community.

I. "Joint Board" shall mean the Joint Board for the Coalition Communities 2.0's Joint Board, which will be the oversight board for the Coalition Communities 2.0. This Joint Board shall not be confused with the Board of Selectmen for the individual towns that are members of the Coalition Communities 2.0.

J. "Lobbying Services" are the professional lobbying services, as further described in the Request for Proposal attached as Exhibit A.

K. "Member" shall mean a town or city that is a potential new donor town and party to this Agreement. A Member has contributed its full Assessment and is a full voting member. The Joint Board may create Associate Membership or other types of memberships for those towns who have made a contribution but not in the full amount of the suggested Assessment.

L. "Receiver Communities" shall mean a community that when SWEPT is assessed on the municipality's total equalized assessed property value, SWEPT raises less than the state's calculated cost of an adequate education for all its students. The state distributes excess SWEPT raised by donor communities to receiver communities to meet its obligation to fund an adequate education.

M. "Report" shall mean the report of the Commission entitled *Our Schools, Our Kids; Achieving Greater Equity for New Hampshire Students and Taxpayers, A Report From The Commission to Study School Funding, Submitted to the New Hampshire General Court, December 1, 2020 Relative to RSA 193-E:2-e*.

N. "SWEPT" shall mean the Statewide Education Property Tax or any other form of property tax assessed by the State of New Hampshire.

II. PURPOSE OF THIS AGREEMENT

The purpose of this Agreement is to allow the Coalition Communities 2.0 to jointly hire an advocate for professional lobbying, communication and legal services or other professional services and to share the costs associated with these services as more fully set forth in the Scope of Services attached as Exhibit A or other future contracts or Requests.

III. DURATION OF AGREEMENT

The term of this Agreement runs concurrent with the current biennium of the legislature from January , 2021 through December 31, 2022. This Agreement may be renewed for an additional two-year term by vote of the majority of the Members after receipt of authorization

from its board of selectmen or city council at its annual meeting held in July.

IV. **MEMBERSHIP**

The undersigned hereby organize and constitute themselves as Members of the Coalition Communities 2.0. The Members are listed in Exhibit B, which is attached and incorporated hereto. Each Member is authorized to participate by vote of its Board of Selectmen or City Council and copies of these votes are attached and incorporated as Exhibit C. Each signatory is an authorized representative of its town or city.

Members shall be limited to fifty (50). There will be an organizational meeting of the Members within 15 days of the execution of this Agreement. At the organizational meeting the Members will elect the Joint Board members as more fully described in Section V. Each Member is afforded one vote in all matters upon which require action. A majority vote of those Members present and voting shall be needed to act upon any business associated with this Agreement. One third of the total Membership shall constitute a quorum.

V. **JOINT BOARD**

1. Purpose of Joint Board

A. The Joint Board has the authority to enter into contracts on behalf of the Members, including but not limited to professional services contracts for lobbying, communication, legal and other professional services approved by majority vote of the Members, to hire, supervise, advise and direct the activities of the professionals hired under the terms any contract, to negotiate with respect to all matters relating to this Agreement, to request, collect, hold, accept, invest, disperse and expend funds, to approve bills and circulate documents necessary in order to keep Members informed of activities pursuant to this Agreement and conduct such other activities as the Joint Board deems necessary and proper to carry out the purposes of this Agreement.

B. The Joint Board shall have the sole authority to approve an annual operating budget, which it shall transmit to the Members.

C. Officers: Beginning with its first meeting and then annually thereafter, the Joint Board shall elect a Chair, Vice Chair and a Clerk from the members of the Joint Board. The Chair shall serve as the official spokesperson for the Members.

2. Membership of Joint Board

A minimum of five regular members of the Joint Board shall be comprised of three town/city managers and two elected officials from its Members. All Joint Board members shall be nominated at the Members' organizational meeting and serve through the expiration of the term of this Agreement. If this Agreement is renewed by the Members for an additional term,

the Members will elect Joint Board members at its first meeting during the first 30 days of the second term. There are no term limits for Joint Board members. Joint Board members may be supported by appropriate staff from its community.

Joint Board members and its officers shall not be personally liable for any debt, liability or obligation of the Coalition Communities 2.0. All persons having any claim against the Coalition Communities 2.0 may look only to its funds for payment of any such contract or claim, or for the payment of any debt, damages, judgment or decrees, or of any money that may otherwise become due and payable to them from the Coalition Communities 2.0.

3. Meetings:

A. Annual meetings. The Joint Board shall schedule one annual meeting of the Members during the term of this Agreement after the close of the legislative session in July.

B. Regular meetings. The Joint Board shall meet regularly at quarterly meetings or more frequently at the call of the Chair at such times and places that are mutually convenient to discuss issues of mutual concern to the Members. The Joint Board shall meet once a month with the Members while the legislature is in session. These meetings shall be held on the first Monday of every month at 11:00am. Additional meetings with Members may be scheduled either by the call of the Chair or by written request of five or more Members. The Clerk shall post proper notice of all meetings and shall record minutes pursuant to RSA 91-A:2. Attendance for purposes of quorum and voting may be by telephone or video, subject to the provision of RSA 91-A.

4. Voting and Alternates.

A. Number of Joint Board members. The membership of the Joint Board is comprised of five regular members and two alternate members.

B. Quorum. Three of the five Joint Board members in attendance at a meeting are necessary to form a quorum.

C. Majority vote. All votes will pass by simple majority.

D. Role of Alternates.

Alternate member(s) shall sit with all other Joint Board members during the meetings and may participate but may only vote if regular member can't participate on said item. If an alternate has already been appointed to sit in for a regular member, then the second alternate shall be appointed by the Chair.

If a Joint Board member has unexcused absences for 2 consecutive or 3 total meetings during the term of this Agreement, they will be deemed to have vacated their position and the Joint Board will be free to appoint an alternate as a regular member to the vacant position upon majority vote of the Joint Board. If a Joint Board member resigns or is unable

to continue to serve, the Joint Board will appoint an alternate as a regular member by majority vote of the Joint Board.

If alternates become regular members of the Joint Board, new alternates will be appointed by the Joint Board from all applicants that have been nominated by five or more Members.

VI. FINANCIAL AGREEMENT

A. **Apportionment of Cost:** The Coalition Communities 2.0 agree that they will apportion costs as follows:

Apportionments shall be assessed annually to each Member by the 30th of January (or no later than 30 days after the execution of this Agreement by all parties) of each year of the Agreement. The Apportionment may be based on each Member's percentage of the group's total equalized property value as determined by the most recent and available data from the NH Department of Revenue Administration. Once adopted, this Apportionment formula may not be amended without a majority vote of the Members. This Apportionment will take into account the contributions transferred by Members from the Claremont Coalition Account.

B. **Special Associate Member.** Special Associate Member Assessment shall be assessed by the Joint Board to Associate Members who are not parties to this Agreement and may not vote but have requested information and/or support the Coalition Communities efforts.

C. **Fiscal Agent.** The Members agree that the City of Portsmouth ("City") will be the fiscal agent for the funds described in paragraph A above. The funds will be collected by the Joint Board and held by the City for purposes set forth in this Agreement and the Request for Proposals set forth in Exhibit A. However, the Members have delegated all decisions relative to the acceptance and expenditure of funds to the authority to the Joint Board, as described more fully in section IV above

D. **Accounting for Funds.** The Joint Board with assistance from the Fiscal Agent shall provide to the Members from time to time, but at least quarterly, a formal accounting of monies received, spent, and obligated, and a final accounting upon the termination of the Agreement.

E. **No funds will inure to the benefit of any member of the Joint Board, private individuals, or employee of municipalities subject to this Agreement except that reasonable compensation may be paid for services rendered to the Members, including but not limited to contracted services and administrative support.**

F. **Funds upon Termination.** Upon termination of this Agreement, no individual employee or member of the Joint Board shall be entitled to a share in the distribution of any funds upon dissolution. Upon termination, the funds shall be distributed to each Member at the time of distribution in proportion to the percentage of its contribution relative to the total contribution of the all Members made in the year of distribution.

VII. Termination

A. Mutual Agreement. This Agreement may be terminated at the end of the two-year term upon mutual agreement of the Members' Boards of Selectmen and City Council. The Boards of Selectmen and City Council shall make the decision to terminate in July of the second year of the term of this Agreement.

B. Terminate Without Penalty.

If this Agreement is renewed for a second term, a Member wishing to withdraw from the Agreement shall give notice three months before the expiration of the initial two-year term and shall be responsible for its share of the Apportionment until the expiration of the term. Notice shall be in writing from the Board of Selectmen of the withdrawing Member to the Joint Board. The Joint Board will notify the other Members of any Member's withdrawal through their authorized agents who have executed this Agreement. This Agreement shall terminate upon completion of its two-year term if not renewed.

C. Termination With Penalty

A Member wishing to withdraw from the Agreement before the end of the two-year term shall be responsible for its share of the Apportionment until the completion of the term. Notice shall be in writing from the Board of Selectmen of the withdrawing Member to the Joint Board. The Joint Board will notify the other Members of any Member's withdrawal through their authorized agents who have executed this Agreement.

VIII. Other

A. Amendment: This Agreement may be amended only by written Agreement signed by the majority of Members.

B. City Council and Board of Selectman Approval: All Members undersigned have received approval of this Agreement by its City Council or Board of Selectman and have been authorized to participate by votes taken on dates attached and incorporated as Exhibit C.

C. Notices: Notices for each party shall be in writing and mailed to the individuals listed in Exhibit B which is attached and incorporated hereto.

D. Severability: If any provision of this Agreement is deemed invalid or unenforceable, the remaining provisions shall remain in full force and effect.

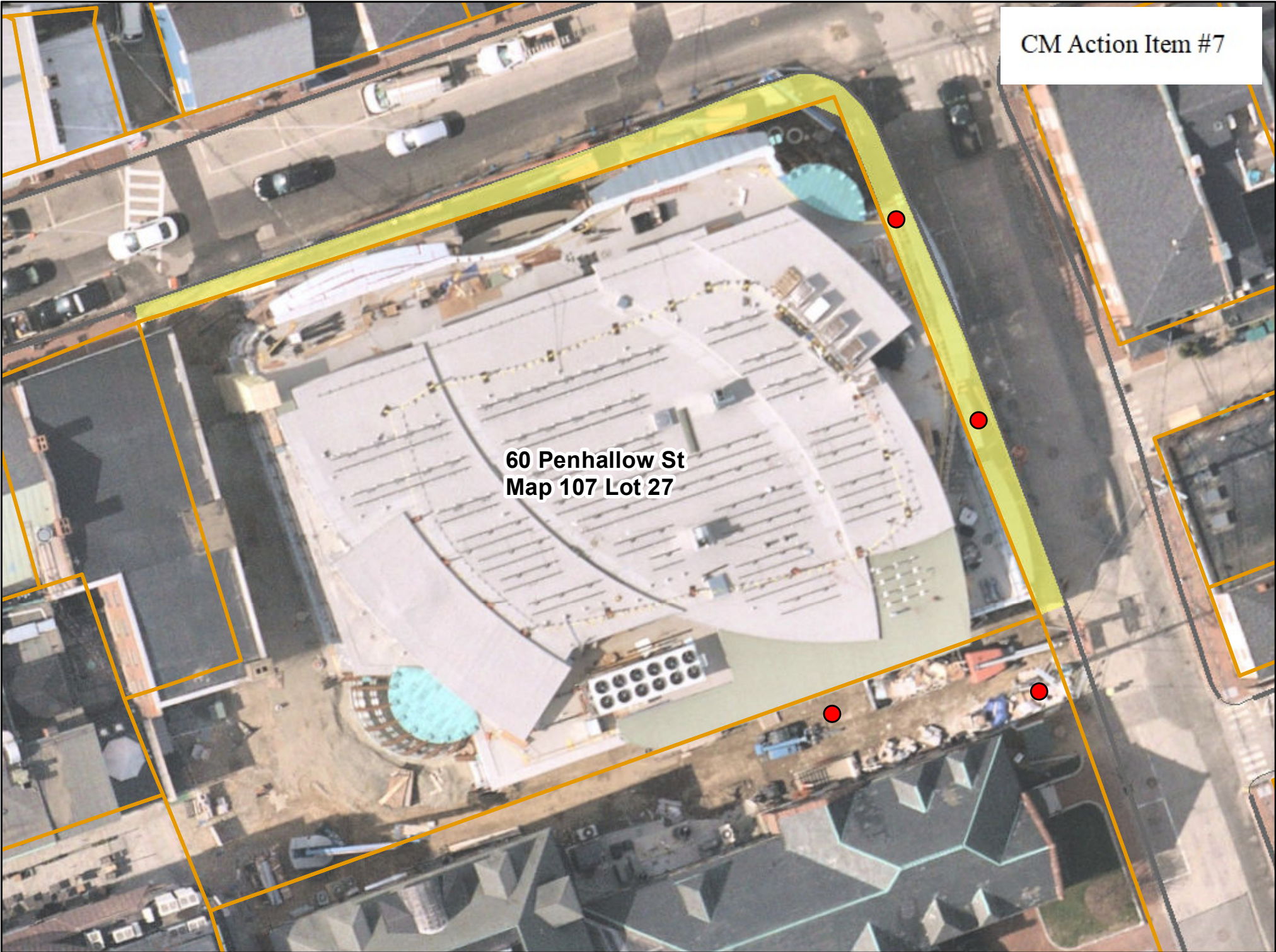
E. Governing Law: This Agreement shall be governed by and interpreted in accordance with the provisions of the laws of the State of New Hampshire.

F. Separate Document: This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

t/2021legislative//donortown/MOUandIM/mou/mou2021

CM Action Item #7

60 Penhallow St
Map 107 Lot 27



August 2, 2022

Good Morning,

North Church of Portsmouth is participating in the Seacoast Area Crop Walk again this on Sunday October 16, 2022.

I contacted you about this last year and I spoke with you, the fire chief, police chief and also public works, and we were able to hold our walk in Portsmouth.

Last year was a success so we have decided we would like to continue having our walk in Portsmouth, starting from the brickwork in front of the church walking down Congress St to Middle to Miller Ave to South St to Junkins Ave onto Pleasant St and ending at the church. We did not experience any problems last year and hope this is a venture we can continue in the future.

Please let me know if I need to revisit our plans with you in person or by Zoom.

Thank you,

Marcia Leach
Mission Board
North Church of Portsmouth

Email

mleach991@gmail.com

Phone Number

[6035487035](tel:6035487035)

CITY COUNCIL E-MAILS

Received: August 1, 2022 (after 5:00 p.m.) – August 18, 2022 (before 9:00 a.m.)

August 22, 2022 Council Meeting

Submitted on Fri, 08/05/2022 - 22:50

Full Name

Jillian Miglionico

Email

miglionico96@gmail.com

Subject

A letter to city counsel

Address

2 Regent Dr

Dover, New Hampshire. 03820

Message

Dear City counsel of Portsmouth N.H

I have lived In Portsmouth almost my entire life, I live in Dover Currently and have worked in Portsmouth over the last 20 years. It has come to my attention there is a group gathering in Market Square and Prescott Park called the Deplorable's. I have seen them in Dover and also in Kittery, they have been gathering with racist signs and Music and yelling and harassing people of color, women and even children in the park.

Prescott Park and Market Square have always been two of my favorite places to visit, I have been coming here my whole life and have been bringing my daughter who is now 15 her entire life. Portsmouth is a family community, it has always felt safe and the actions of these people are hateful and disruptive not to mention despicable.

Portsmouth is a diverse community and should be kept that way for every one, people should feel safe being here regardless of their skin tone, religion or sexual orientation.

I had to sit down and tell my 15 year old daughter who is of a mixed race, to be very careful in town and to make sure she stays far away from them if she sees them in town. What a disgrace it is in 2022 to have to have that kind of a conversation with a child. This group and their behavior is unacceptable on every level and they need to be told that there behavior is not welcome here or anywhere on the Seacoast.

Everyone has a right to their own option but when it's threatening and invasive and disrespectful and hateful that is where the line is drawn. Please take action against this hate group so people the people of Portsmouth and everyone visiting can go back to enjoying this town and feeling safe doing so.

Thank you for your time,

Sincerely

Jillian Miglionico

Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting. Yes

Submitted on Tue, 08/09/2022 - 08:57

Full Name

Nancy Pearson

Email

nespearson@gmail.com

Subject

Dedication of Vernon Boardman's Memorial Bench

Address

104 Lincoln Ave

Message

Dear Mayor and Council:

You are cordially invited to attend the dedication of Vernon Boardman's memorial bench on Saturday, September 17, at 4:00 pm. I invite those of you who knew Vernon to speak and share your memories of him.

Very best regards,

Nancy Pearson

Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting. Yes

Submitted on Sat, 08/13/2022 - 08:05

Full Name

Elizabeth Dinan

Email

dinanroom@gmail.com

Subject

zoning

Address

639 maplewood ave

Message

Councilors,

Several City Councils ago, the city entered into an agreement with the state to bar new development along the I-95 corridor in exchange for money to get sound barriers. Perhaps the development prohibition could be baked into the new zoning items you will be asked to approve, maybe as a sound barrier district with its own code. Thank you for your consideration and service.

Please indicate if you would like your comment to be part of the public record for the upcoming City Council meeting. Yes



MEMORANDUM

TO: KAREN S. CONARD, CITY MANAGER
FROM: BEVERLY MESA-ZENDT, PLANNING DIRECTOR
SUBJECT: RECEIVE A PRESENTATION OF THE 2022 CAPITAL IMPROVEMENT PLAN (CIP) PROCESS
DATE: AUGUST 16, 2022

Background

The Capital Improvement Plan (CIP) is both a financial and infrastructure planning tool that sets forth a multi-year schedule and financing strategies for accomplishing public capital projects that both maintain safe quality city infrastructure and assist in the achievement of Citywide Goals. Careful development of and adherence to the CIP ensures that needed capital projects are accomplished within the City's financial capability. In combination with the annual City budget, the Capital Improvement Plan has a significant impact on the planned allocation of fiscal resources, and is thus one of the most important documents considered by the City Council.

State/Local Regulatory Context

RSA 674.5: Capital Improvement Program

"674:5 Authorization. – In a municipality where the planning board has adopted a master plan, the local legislative body may authorize the planning board to prepare and amend a recommended program of municipal capital improvement projects projected over a period of at least 6 years....

The capital improvements program may encompass major projects being currently undertaken or future projects to be undertaken with federal, state, county and other public funds. The sole purpose and effect of the capital improvements program shall be to aid the mayor or selectmen and the budget committee in their consideration of the annual budget."

City Charter

City Charter Section 7.6 - Capital Program:

The Manager shall prepare and submit to the Council a six (6) year capital program at least three (3) months prior to the final date for submission of the budget (May 15). The program shall include:

- *A general summary of its content;*
- *A list of all capital improvements proposed during the next six (6) fiscal years;*
- *Cost estimates, methods of financing, recommended time schedules for each improvement; and*
- *Estimating annual operating and maintenance costs.*

The purposes of the CIP is to:

1. Implement needed improvements on a scheduled basis
 - Provides a complete picture of the City's major development needs
 - Coordinates activities of various City departments and agencies
 - Assists in implementing recommendations of the City's Master Plan
2. Forecast future allocation of fiscal resources
 - Establishes fiscal priorities for projects
 - Aids in the proper utilization of funding sources
3. Help plan for future City expenditures
 - Discourages piecemeal improvements and duplication of expenditures
4. Ensure capital project needs are provided within the City's financial capability
 - Informs the taxpayers of anticipated future improvements
 - Helps to schedule major projects to avoid large fluctuations in the tax rate

As used in the CIP, a capital improvement project is defined as a major fiscal expenditure that falls into one or more of the following categories:

- ✓ Land acquisition;
- ✓ Construction or expansion of a public facility, street, utility or public infrastructure;
- ✓ Rehabilitation of a public facility or public infrastructure provided the cost is \$50,000 or more;
- ✓ Design work or planning study related to a capital project or implementation of the Master Plan;
- ✓ Any item or piece of equipment, non-vehicular in nature, that costs more than \$50,000 and has a life expectancy of 5 or more years; or
- ✓ Replacement and purchase of vehicles which have a life expectancy of more than 5 years or cost more than \$50,000.

Plan Development Process

The capital planning process is coordinated by the Finance and Planning Departments under the direction of the City Manager. Capital project requests are initially formulated by City department heads and submitted to the Finance Department. Members of the public may also submit project requests, which are reviewed by City departments and incorporated into the departmental project submissions as appropriate.

CIP projects originate from three sources.

- ✓ Capital Improvement Plan from the Prior Fiscal Year
- ✓ City Staff
- ✓ Residents

Staff works to update the prior year's CIP projects to reflect the current status, project needs and costing.. After city departments and residents submit their new requests for capital project, staff works with the City Manager to prioritize them by utilizing the following:

- **Project requirements** – Is the project required to meet legal, compliance, or regulatory requirements?
- **Timing** – How soon does the project need to be implemented to address the needs identified?

- **Strategic alignment** – To what extent is the project aligned with other city projects, policies, processes?
- **Public value** – How much value does the outcome of this project provide to the general public? How much public support is there for implementing this project?
- **Finance planning** – Is the project fundable in the time frame identified, are there available funding sources for this project?

Although the factors above are consistently utilized in the prioritization process, other factors, such as urgent community needs or public health and safety, may also contribute to the final project placement, allowing the process to be nimble and responsive to emerging community needs.

Planning Board Advisory Committee and City Council Adoption

The Planning Board appoints a three member Advisory Committee to review the projects in the initial draft CIP. The Finance Department incorporates the Advisory Committee’s recommendations into a revised form of the CIP which is then reviewed by the Planning Board. The Planning Board holds a public hearing and votes to recommend the adoption of the document to the City Council. The City Council holds a public hearing and adopts the CIP in accordance with City Charter requirements. Once adopted, the CIP is utilized in the development of the annual budget in accordance with RSA 674.5.

Financing

Capital improvement projects are funded from a variety of sources. These funding sources include: General Fund (GF) Capital Outlay; Federal/State Grants; Bond or Lease; Revenues (Parking, Water and Sewer); State Revolving Loan Fund (SRF) and Public Private Partnerships (PPP).

General Fund – Capital Outlay – One method used for financing capital projects is through the use of the General Fund – Capital Outlay. The General Fund includes the money raised by the local property tax for a given year. When a project is funded with General Fund revenues, its entire cost is paid off within the year. The intent is to budget annually a certain amount from the General Fund (approximately 2% of previous Fiscal Year General Fund total Budget) to address City General Fund priorities.

Grants – One source of grants is from other levels of government, for example, the Environmental Protection Agency, the NH Department of Health and Human Services, U.S. Housing and Urban Development, NH Department of Environmental Services, and the NH Department of Transportation. Generally, these Federal and State sources provide an outright grant or matching funds to go with locally raised funds. The City also pursues non-governmental private grants when applicable.

General Obligation Bonds – Bonds are used to finance major municipal capital projects. These are issued for a period of time generally extending from ten to thirty years during which time principal and interest payments are made. They are secured by the full faith and credit of the Municipal Government. This type of payment has the advantage of allowing the costs to be amortized over the life of the project and of allowing taxpayers or rate payers to pay a smaller amount of the project’s cost at a time. However, they do commit the City’s resources over a long period of time and decrease the flexibility of how yearly revenues can be utilized. The City’s bonding capacity is a limited resource. All projects that are to be bonded should meet minimum eligibility criteria and must have a useful life of at least equal to the bond terms. **Projects that are funded through bonds must go through an additional process, after the adoption of the CIP and the budget, of authorization by the City Council after a public hearing.**

Revenues – The City has two established Enterprise Funds (Water and Sewer). The needs for these two divisions are met through the revenues raised from providing that particular service. Therefore, there is no impact on the City's tax rate. Additionally, the City has established a Parking and Transportation Fund (Special Revenue Fund). Revenues derived from the City's parking functions are transferred to this fund in order to operate the City's parking and traffic related activities.

State Revolving Loan Fund (SRF) – This is a program offered through the NH Department of Environmental Services for the purpose of providing low interest rate funding for approved water pollution control projects. State approval of applications does not bind the City to any of the individual projects but does lock into a low interest rate loan. Upon completion of projects, the loan becomes a serial bond payable by the City of Portsmouth Sewer or Water Fund to the State of NH. In addition, the City applies for State Aid Grant (SAG) funding to assist in repaying SRF loans up to 30% of the total project cost.

Public Private Partnership – This method of financing involves joint funding of a particular project between the City and one or more private sector or non-governmental partners. This method is used for projects that will benefit the partners and help to minimize costs to local taxpayers.

Deciding on which method of financing should be selected for a given project is dependent on a number of factors. These include the cost of the project, its useful life, the eligibility of the project to receive funds from other than local taxes, long-term and short-term financial obligations of the City and a project's relative priority in terms of implementation. The Capital Improvement Plan seeks to maximize the potential benefits from all revenue sources.

Timeline

- August 18, Process Kick Off – Planning Board Presentation
- October - Citizen requests and City department project request reviewed/ financials prepared
- October/November- Planning Board Advisory Committee meets to review draft CIP
- November/December – Planning Board holds a public hearing and recommends the adoption of the CIP by the City Council
- January/February/March – City Council holds a public hearing and adopts CIP.

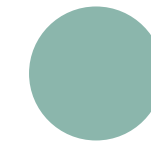


THE CAPITAL IMPROVEMENT PLAN (CIP)

- What is the CIP?
- FY2024-FY2029 CIP Timeline
- Public Input Opportunities

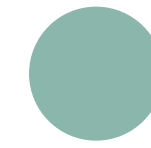


What is the CIP?



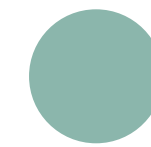
The CIP is a PLAN

The CIP is a six-year plan for identifying and prioritizing major capital projects such as roadway paving or building improvements.



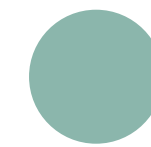
The CIP is a Budgeting Tool

The CIP does not spend or commit any money but instead, identifies and prioritizes projects for various upcoming years and its planned funding source.



The CIP is an Informational Tool

The Public can utilize the CIP to learn more about upcoming capital projects, the timeline in which they are proposed, project details, evaluation criteria, costs, and links to relevant documents associated with the project.



The CIP is a Citizen Input Opportunity

Citizens have numerous public input avenues throughout the process from the ability to request a project to speaking at public hearings.

NEW HAMPSHIRE STATE RSA

RSA 674.5: Capital Improvement Program

"674:5 Authorization. – In a municipality where the planning board has adopted a master plan, the local legislative body may authorize the planning board to prepare and amend a recommended program of municipal capital improvement projects projected over a period of at least 6 years.

The capital improvements program may encompass major projects being currently undertaken or future projects to be undertaken with federal, state, county and other public funds. The sole purpose and effect of the capital improvements program shall be to aid the mayor or selectmen and the budget committee in their consideration of the annual budget."



CITY CHARTER

City Charter Section 7.6 - Capital Program: "The Manager shall prepare and submit to the Council a six (6) year capital program at least three (3) months prior to the final date for submission of the budget."

The program shall include:

1

A general summary of its contents;

2

A list of all capital improvements proposed during the next six (6) fiscal years;

3

Cost estimates, method of financing, recommended time schedules for each improvement; and

4

Estimated annual operating and maintenance costs.

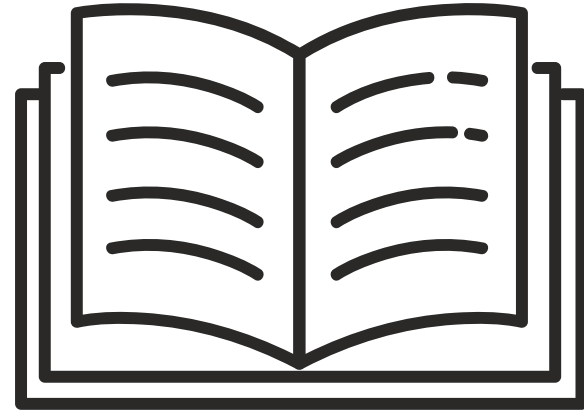


WHAT QUALIFIES AS A CAPITAL IMPROVEMENT PROJECT?

- Land acquisition
 - Construction or expansion of a public facility, street, utility or public infrastructure
 - Rehabilitation of a public facility or public infrastructure, provided the cost is \$50,000 or more
 - Design work or planning study related to a capital project or implementation of the Master Plan
 - Any item or piece of equipment, non-vehicular in nature, that costs more than \$50,000 and has a life expectancy of 5 or more years; or
 - Replacement and purchase of vehicles which have a life expectancy of more than 5 years or cost more than \$50,000



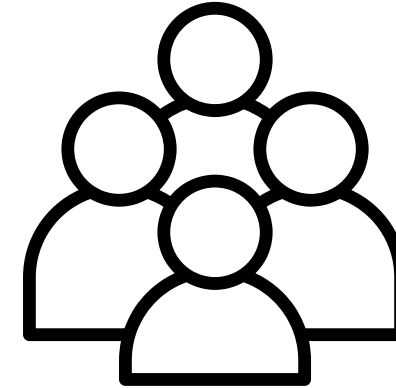
Where do CIP projects originate?



FY23-28 CIP



- CIP Projects Slated for FY24-29 are reviewed and updated by staff and entered into the CIP.
- Projects that no longer meet requirements or are deemed unnecessary are removed from the plan.



Residents



- Citizens are welcomed to submit capital projects (Due September 30th).
- City Staff review the submissions under the CIP guidelines and place applicable projects in the document.
- If a project does not qualify it is redirected to the appropriate process for review and consideration.



City Staff



- City Staff submit new Capital Projects based on the CIP project guidelines.

How are projects *evaluated* and *prioritized*?



Responds to a Federal or State Requirement



Address Public Health or Safety Need



Alleviates Substandard Conditions or Deficiencies



Eligible for Matching Funds with Limited Availability



Timing or Location Coordinate with Synergistic Project



Identified in a Planning Document or Study



Improves Quality of or Provides Added Capacity to Existing Services



Reduces Long-Term Operating Costs



Provides Incentive to Economic Development



Responds to a Citywide Goal or Submitted Resident Request



Funding Sources

- General Fund**
Funded by Capital Outlay Funds (Pay as you go funding)

- Federal/State**
Federal or State Funded Sources

- Bond/Lease/SRF**
Bond/Lease/State Revolving Fund Loan Program
(Borrowing)

- Other**
Other Non-Operating Budget Funding such as Rolling Stock
or Information Technology Non-Operating Funds

- Revenues**
Revenues from Special Revenue Funds or Enterprise Funds
(Special Revenue Funds - Parking/Prescott
Park/Stormwater/Community Campus/Indoor Pool)
(Enterprise Funds - Water/ Sewer)

- PPP (Public Private Partnership)**
Partnership funding through a private entity or donations

THE CIP PROCESS HAS NO FINANCIAL COMMITMENT

1

Project Proposed

Funding Proposed
(Estimated Cost & Proposed Funding Source)

No financial commitment.

2

CIP Reviewed & Adopted by Planning Board

No financial commitment.

3

CIP Reviewed & Adopted by City Council

No financial commitment.

4

Projects for the Next Fiscal Year Move to the Proposed Annual Budget.

No financial commitment.



5

The Budget is Adopted.

Limited Financial Commitment

Adoption of the CIP
DOES NOT commit
the City to any
project or
appropriation.

Project Funding

(Upon the Adoption of the Annual Budget)

Capital Outlay



Pay-as-you-go Funding ("Cash")

City Goal is to allocate up to 2% of the City's Prior Year General Fund Budget for Capital Outlay.

Appropriated upon the start of the new fiscal year (and the adoption of the budget)

Bond Issuance



Funding through Borrowing

Bonded projects require a separate public hearing and vote of the City Council (AFTER the CIP and Budget are Adopted)

The City's Net Debt Service as a Percentage of the General Fund Budget Target is 10%

PUBLIC INPUT OPPORTUNITIES

Project Submission

Have a project that meets the CIP Project criteria? Submit it to the City Online or in the Planning Department at City Hall
DEADLINE: September 30th



Planning Board CIP Public Hearing

The Planning Board holds a public hearing following the CIP Presentation in December.



City Council CIP Public Hearing

The City Council holds a Public Hearing on the Capital Improvement Plan in February



City Council Budget Public Hearing

The City Council holds at least one Public Hearing on the City's Budget which will include relevant projects from the CIP.





- **August/September**
 - Process kickoff
 - Citizen Request forms accepted
(DUE September 30th)

- **October**
 - Citizen Requests are reviewed
 - City Departments submit project requests
 - The CIP financials are prepared and the document is assembled

- **January/February/March**
 - City Council reviews, holds a public hearing, and adopts the CIP

CIP PROCESS TIMELINE

HOW THE CIP GOES FROM PROJECTS TO THE BUDGET....



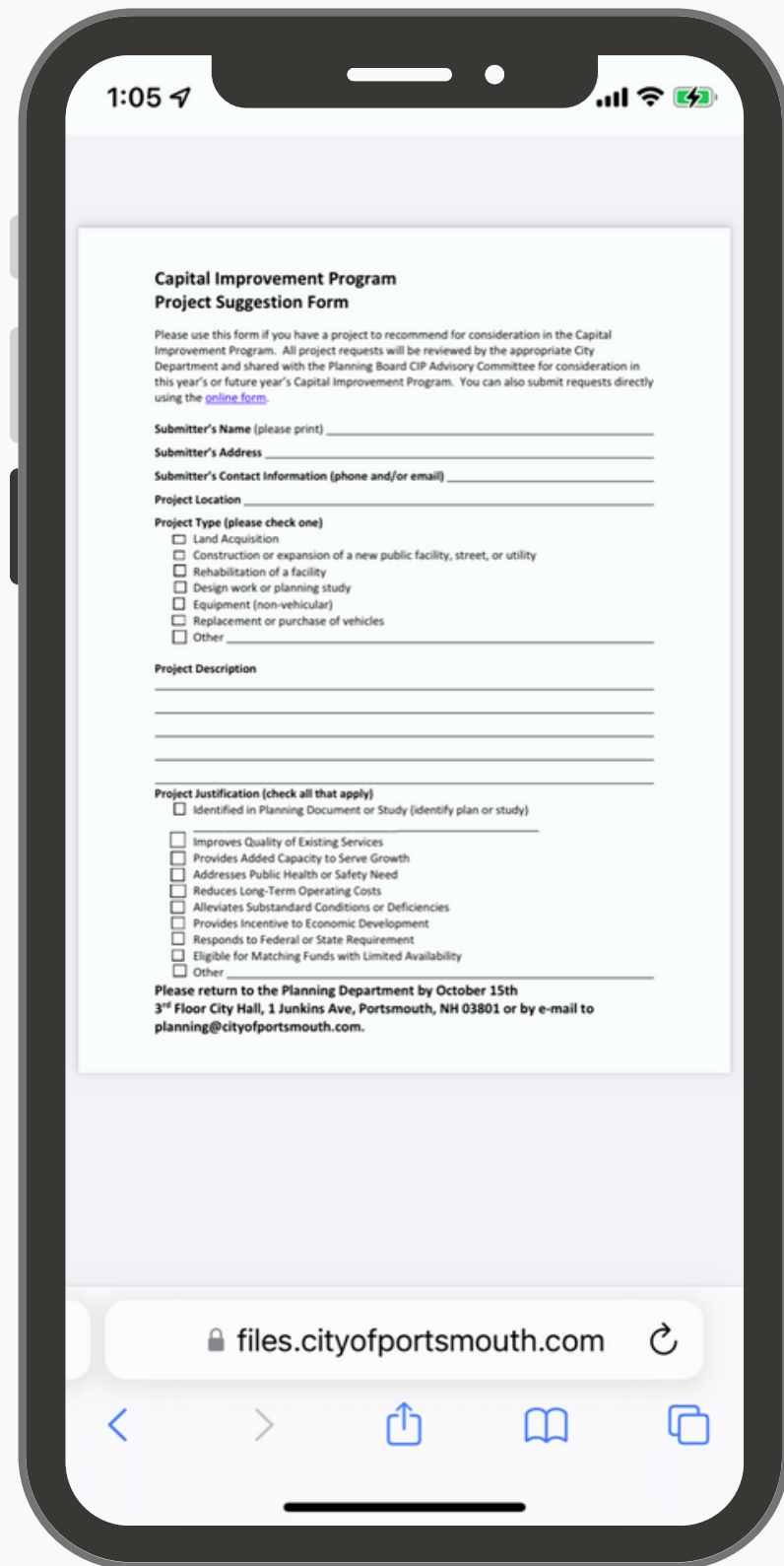
- **April/May/June**
 - Capital Projects for the upcoming Fiscal Year are incorporated in the Proposed Annual Budget



- **November/December**
 - Planning Board reviews, holds a public hearing, and votes to recommend the adoption of the CIP by the City Council



How to Submit a Project



1:05

**Capital Improvement Program
Project Suggestion Form**

Please use this form if you have a project to recommend for consideration in the Capital Improvement Program. All project requests will be reviewed by the appropriate City Department and shared with the Planning Board CIP Advisory Committee for consideration in this year's or future year's Capital Improvement Program. You can also submit requests directly using the [online form](#).

Submitter's Name (please print) _____
Submitter's Address _____
Submitter's Contact Information (phone and/or email) _____
Project Location _____

Project Type (please check one)

- Land Acquisition
- Construction or expansion of a new public facility, street, or utility
- Rehabilitation of a facility
- Design work or planning study
- Equipment (non-vehicular)
- Replacement or purchase of vehicles
- Other _____

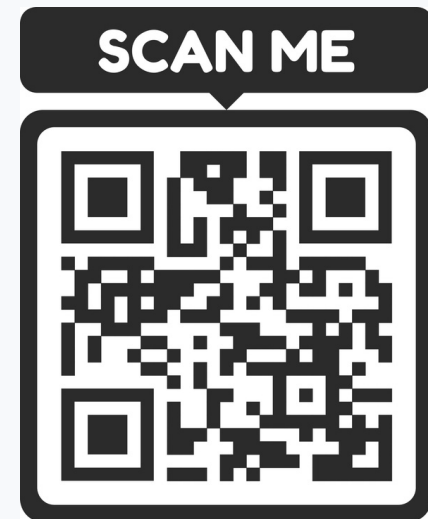
Project Description

Project Justification (check all that apply)

- Identified in Planning Document or Study (identify plan or study)
- Improves Quality of Existing Services
- Provides Added Capacity to Serve Growth
- Addresses Public Health or Safety Need
- Reduces Long-Term Operating Costs
- Alleviates Substandard Conditions or Deficiencies
- Provides Incentive to Economic Development
- Responds to Federal or State Requirement
- Eligible for Matching Funds with Limited Availability
- Other _____

Please return to the Planning Department by October 15th
3rd Floor City Hall, 1 Junkins Ave, Portsmouth, NH 03801 or by e-mail to planning@cityofportsmouth.com.

files.cityofportsmouth.com



Deadline - September 30th.

[CityofPortsmouth.com/planportsmouth/capital-improvement-plan](https://www.cityofportsmouth.com/planportsmouth/capital-improvement-plan)

- 1) Review that one or more of the CIP Project Qualifications are met
- 2) Submit your project idea through one of the following methods:
 - a. Utilize the CIP Citizen Project Suggestion Form (a fillable PDF) located online - email it to CIP@cityofportsmouth.com
 - b. Come into the City's Planning Department and fill out a form in person.

What is the next step?

- Projects are reviewed
- Projects are then either moved forward as its own unique project, combined with an existing project, or deemed unqualified as a CIP project.
- All Citizen requests are listed (including City Staff Review Comments) in the CIP in Appendix I.

Conservation Commission
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

August 11, 2022

City Councilors
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

Dear Council Members;

Through the submission of a wetland's dredge and fill application, the Conservation Commission recently became aware of plans to completely renovate the Peirce Island swimming pool, pump house and systems to bring the facility up to current health and safety requirements. These rehabilitation efforts include replacement of the pool's vinyl liner, gutter, underground surge tank, concrete pool deck, and stormwater drainage system.

Peirce Island itself includes salt marsh, tidal pools, meadows, rocky cliffs providing vistas of the surrounding areas and *Iva frutescens* (Marsh elder), a threatened species in NH. Approximately one third of the total project impacts will occur within the Tidal Buffer Zone, including permanent impact to the rocky shore.

Beyond the deterioration expected in this heavily utilized resource, the pump house needs to be moved because it is within the Tidal Buffer Zone, within the 100 foot flood zone and below projected sea level rise. The pool itself is within the flood zone and has previously been inundated with water from the Piscataqua River. The chlorinated contents of the pool are an obvious danger for the natural systems of the Island and the river. Meanwhile, the proposed upgrades do not include renewable resources, such as solar/solar thermal energy systems, or consideration of alternative treatment methods.

We would appreciate reconsideration by the Council of this information before proceeding with the plan to rehabilitate the entire pool and associated systems. By having the foresight to consider the potential for flooding, further destruction of natural resources can be avoided. Including renewable energy resources in this plan would be a positive step in consideration of the future climate action plan. A superior long-term investment might be to move the pool to a more convenient, less resource-sensitive area within the City.

The Peirce Island pool is a heavily utilized and appreciated resource in the City of Portsmouth. Rebuilding the pool in the same location without looking for strategies to make the pool more sustainable and more resilient does not seem to be in line with the efforts of our future climate action plan, and will ultimately have detrimental effects on the patrons of the pool, residents of Portsmouth, and Peirce Island, which in itself is a great natural resource for the community.

Sincerely,

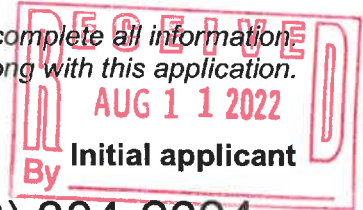
Barbara McMillan, Chair
On behalf of the Conservation Commission



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: Cable Commission

Name: Luis Rodriguez Telephone: (860) 304-2604

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

Street address: 49 Odiorne Point Rd. Portsmouth, NH 03801

Mailing address (if different): _____

Email address (for clerk's office communication): luis@rosaniadmd.com

How long have you been a resident of Portsmouth? 7 Years

Occupational background:

Office Manager/IT - Seacoast Periodontics and Dental Implants

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

I have extensive experience working in the information technology sector. I am very familiar with the technology used in the various businesses the Cable Commission is hoping to work with to support and improve the quality of service for Portsmouth residents. I have also shared frustrations with the current state of data coverage and feel this issue should be addressed immediately as it could potentially pose a risk to safety.



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: _____

To improve the quality of service by data providers in our area. Deficiencies in these services could pose a safety risk to some of our residents. I hope to use my expertise to help guide the committee while working with the data providers

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

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

1) Mike Snow, 213 South St. Portsmouth, (315) 212-3501

Name, address, telephone number

2) Kyle Pine, 75 Odiorne Point Rd. Portsmouth, (734) 262-8861

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
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5. Application will be kept on file for one year from date of receipt.

Signature: Luis Rodriguez Date: 8/8/2022

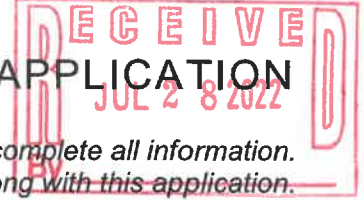
If you do not receive the appointment you are requesting, would you be interested in serving on another board or commission? Yes _____ No

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



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 Blue Ribbon Initial applicant
Committee

Name: TOREY L. BROOKS Telephone: 603-707-0916

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

Street address: 737 Woodbury Ave, Portsmouth NH 03801

Mailing address (if different): _____

Email address (for clerk's office communication): toreylee.brooks@gmail.com

How long have you been a resident of Portsmouth? 3 Years

Occupational background:

Structural Engineer & Sustainability consultant
at Oak Point Associates in Portsmouth NH

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

Volunteered on the CAP subcommittee and
for the GHG inventory subcommittee. Attended
Sustainable Practices meetings in past.

➔ 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 believe more could be done in our city to reduce our environmental footprint.

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

Structural Engineers of NH - Sustainable Design Committee

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

1) John Carty, 324 Hanover St, Portsmouth 508-397-3300
Name, address, telephone number

2) Emma Ward, 8 Woodman Park Dr, Dover NH 603-661-9952
Name, address, telephone number

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5. Application will be kept on file for one year from date of receipt.

Signature:  Date: 7/26/22

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

Torey Lee Brooks

(603)707-0996 toreylee.brooks@gmail.com

WORK EXPERIENCE

- Structural Engineer & Sustainability Coordinator** July 2020- Current
Oak Point Associates, Portsmouth NH
- Conducts structural design and analysis of public and private projects, including new and renovated structures.
 - Manages green building design objectives on projects to meet LEED, carbon accounting, and federal sustainability goals.
 - Leads company sustainability initiatives including SE2050, AIA 2030, and GHG footprinting commitments.
- Project Engineer** Aug 2019- June 2020
JSN Associates LLC, Portsmouth NH
- Facilitated the structural design and construction of diverse project types throughout the seacoast of New Hampshire.
 - Worked on new and renovated steel, timber, concrete, and masonry structures with guidance from senior engineers.
- Teaching Assistant** Aug 2017- May 2019
Civil Engineering Department - University of New Hampshire
- Lead studio for a green building course focused on concept design & graded for a junior level engineering materials course.
- Engineering & GIS Intern** Summer 2017
Public Work Department - Town of Exeter NH
- Completed an independent project on town assets and setback analysis that was accepted by the Town Board of Selectmen.

EDUCATION

- MEng Structural Engineering** May 2019
University of New Hampshire
- Completed courses in timber, steel, reinforced concrete, and sustainable design, as well as matrix and dynamic analysis.
 - Defended a master's topic on the reinforcement of mass timber members in structural and architectural applications.
- BS Civil Engineering & International Affairs** May 2018
University of New Hampshire
- Spent a semester abroad at Lund University in Sweden focused on integrated architectural & structural design.
 - Presented a senior engineering project based on urban planning of a multi-use commercial center in Manchester, NH.

CERTIFICATIONS & ACCOMPLISHMENTS

- Carbon Footprinting Certificate** Expected Fall 2022
Professional Development- University of New Hampshire Sustainability Institute
- LEED AP BD+C** July 2021
US Green Building Council
- Certified Engineer In Training** Aug 2018
National Council of Examiners for Engineers and Surveyors
- Finalist of NH Social Innovation Challenge** Nov 2018
Peter T. Paul School of Business - University of New Hampshire

EXTRACURRICULARS

- Structural Engineers of NH** Fall 2021- Current
Associate Member
- Involved in young member group as well as the newly formed sustainability committee.
- ACE Mentor Program of America** Nov 2019 - Aug 2020
Student Mentor - NH Chapter
- Served as a mentor to high school students to promote future careers in architecture, construction, and engineering.



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: Trees and Public Greenery

Name: Patricia Bagley Telephone: 617-680-7136

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

Street address: 213 Pleasant Street

Mailing address (if different): _____

Email address (for clerk's office communication): Patbagley@aol.com

How long have you been a resident of Portsmouth? 14 years

Occupational background:

Marketing Finance (SK&F now GSK)
Retired educator (Weston Middle School Library)

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

Completed tree ID and Landscape maintenance courses at Harvard/
Radcliffe using the Arnold Arboretum for field study, followed by
lectures, webinars offered by Arnold Arboretum, New England
Grows, Ecological Landscape Alliance and talking with any arborist
willing to share their knowledge. Have also gardened for decades.



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: It has been an honor to serve on this committee for three years. Would like to continue as a way of giving back to our community.

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

Portsmouth Athenaeum, Proprietor and member of Lecture Series Comm.
Portsmouth Women's City Club
Memberships - Arnold Arboretum, American Conifer Society, ELA, Strawberry Bank, Portsmouth Historical Society, Historic New England

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

- 1) Barbara Bowler 170 Dennett St #2 Portsmouth 603 557 4620
Name, address, telephone number
- 2) ~~Mike Riestenberg~~ 36 Edgewood Rd Portsmouth NH (858) 752-9691
Name, address, telephone number

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- 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: Peterson Bayley Date: July 11, 2022

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

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

6/27/2012

New term exp. 9-3-2025 # of meetings (2021) 12 original appt. # of Absent: 0 9-3-2019



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: Zoning Board of Adjustment Initial applicant

Name: Jeffrey Mattson Telephone: 336-3633

Could you be contacted at work? YES NO If so, telephone# 336-3633

Street address: 86 Emery Street

Mailing address (if different): _____

Email address (for clerk's office communication): jeffrey.m.mattson@gmail.com

How long have you been a resident of Portsmouth? Born and Raised, 34 years

Occupational background:

I have a PhD in Mechanical Engineering and I design/build custom homes.

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

I represented myself for the land use boards when designing/building my own home

and Accessory Dwelling Unit. I know the 2015 IBC Building Code and our Zoning

Ordinance. I stay up to date with urban planning experts and current best land use

practices. I follow current Zoning Board of Adjustment meetings and am aware of the

time commitment involved.



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 both willing and able to give back to my community in this capacity and I am
passionate about making Portsmouth the best place to live, work, and play.

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

Building Code Board of Appeals Alternate, Portsmouth Smart Growth, Strong Towns,
Portsmouth Listens, Workforce Housing Coalition of the Greater Seacoast,
Portsmouth Athenaeum, East Coast Greenway

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

1) Alec McEachern, 81 Cottage Street, 436-3110

Name, address, telephone number

2) Iain Moodie, 62 Portsmouth Ave, 969-2115

Name, address, telephone number

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3. This application may be forwarded to the City Council for consideration at the Mayor's discretion; and
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5. Application will be kept on file for one year from date of receipt.

Signature: Jeffrey Mattson  Date: 1/25/2022

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

Jeffrey M. Mattson
jeffrey.m.mattson@gmail.com

Education

Ph.D., Mechanical Engineering - Boston University, Boston, Massachusetts: GPA 3.77/4.0	Summer 2017
M.S., Biomechanics - University of Delaware, Newark, Delaware: GPA 4.0/4.0	Fall 2011
B.S., Biomedical Engineering - Rensselaer Polytechnic Institute, Troy, New York: GPA 3.46/4.0	Spring 2009
Victoria University, Melbourne, Australia - Engineering Semester Abroad	Fall 2007

Experience

Self-Employed, Portsmouth, New Hampshire	
Designing and building custom homes in coastal New Hampshire	Fall 2017 – Current
Boston University, Boston, Massachusetts	
Ph.D. Dissertation: “Mechanical and Structural Contributions of Extracellular Matrix Constituents to Vascular Mechanics”	Fall 2012 – Summer 2017
Graduate Teaching Fellow - Mentored 46 groups of students with semester-long projects that demonstrated the engineering design process	Fall 2012 – Spring 2013
University of Delaware, Newark, Delaware	
Research Engineer - Assisted in establishing and maintaining a laboratory via protocols, inventory, equipment/data management, and overseeing the laboratory website	Fall 2011 – Fall 2012
M.S. Thesis: “Identification of Scapular Kinematics Using Surface Mapping”	Summer 2009 – Fall 2011
Rensselaer Polytechnic Institute, Troy, New York	
Senior Design Project - Led a six member team to develop an anterior multi-level cervical fixation plate that resulted in a provisional patent submission via 501(k) clearance	Spring 2009
Birse Construction, Portsmouth, New Hampshire	
Laborer – Learned hardscaping and landscape improvement	Summer 2007
Urban Forestry Center, Portsmouth, New Hampshire	Summers 2005-2006
Laborer - Restored and maintained historical buildings and grounds	

Professional Activities

Boston University, Boston, Massachusetts	
Lab Safety Officer	2013 – 2017
Mentor for a Research in Science & Engineering (RISE) high school student	Summer 2016
Host of Summer Pathways Program for young women and minorities considering STEM	Summers 2013 – 15
University of Delaware, Newark, Delaware	
Supervised summer scholars in the Human Performance Lab	Summers 2010 – 11

Awards

National Institutes of Health T32 Cardiovascular Training Program	2015 – 2017
SB ³ C PhD Student Paper Competition Finalist	2016
Dean’s List for all completed semesters	2005 – 2014
Rensselaer Leadership Award	2005 – 2009
Portsmouth Creek Athletic Club Scholarship	2005

August 18, 2022

Peter and Barbara,

I regret to inform you that for personal reasons I have decided to resign from my post on the City of Portsmouth Conservation Commission, effective immediately. I will be away from Portsmouth for an extended period of time and will be unable to attend meetings and site walks. I know a lot of things can be done remotely but I feel the site walks are a critical element of the process. Please let me know if I need to submit a formal letter of resignation and to whom I should address it. Thanks so much. I enjoyed working with you both and all of the commission members.

Sincerely,
Henry Mellynychuk

August 10, 2022

Dear Mayor McEachern,

I sadly wish to request to resign from the Covid response task force committee. When I attended the meeting on Tuesday there was additional meeting times and potential extension of the committee that unfortunately I will not be able to commit to. I do not want to hinder the important work of this committee with frequent absences. Additionally, two weeks ago I tore a tendon in my foot and am in a boot undergoing rehabilitation, further cementing my decision to resign. I am truly sorry for the inconvenience and hope to be able to be of service in some capacity for the city of Portsmouth in the future.

Best to you,
Andrea Ardito



New Hampshire Department of
**BUSINESS AND
ECONOMIC AFFAIRS**



April 29, 2022

New Hampshire Executive Council
State House
Concord, NH 03301

RE: InvestNH item

Dear Councilors,

During the April 20 Council meeting, we had a robust discussion on the InvestNH program to bring \$100 million to address the workforce housing crisis in New Hampshire. At that meeting we discussed many aspects of the proposal and in the end, the Council clearly expressed a desire to see more program details. To be thorough, I subsequently followed up with each of you, offering to take on any new or additional written questions. Although I have not received any additional questions to date, I am pleased to provide you the detail included herein.

This document provides additional specific details related to program functionality for each of the four grant programs we've proposed. I have also assembled a question and answer section to get at some of the specific issues that came up at the meeting on April 20.

I look forward to having an opportunity to discuss this with you again at your next meeting on May 4. I appreciate your desire for these details and am hopeful that you reach a point that allows you to support our request to obligate these resources to address the current housing crisis. I cannot emphasize enough that time is of the essence here as we move to have this program available for the upcoming construction season while remaining mindful of the relatively short window we have under the ARPA rules.

Please don't hesitate to contact me if you have further questions.

Respectfully,

A handwritten signature in blue ink, appearing to read 'T. Caswell'.

Taylor Caswell
Commissioner

CAPITAL GRANT PROGRAM – Project Specific Funding

TOTAL OBLIGATION.

\$60 million including \$10 million to NH Housing Finance Authority (NHHFA) programming

PROGRAM DESCRIPTION.

Flexible supplemental funding available for development of new multifamily rental housing units in the State. This program is intended to accelerate unit production in projects already using other private and/or public funding sources.

ELIGIBLE ACTIVITIES.

- Construction and other hard costs such as
 - Infrastructure upgrades necessary for project
 - Environmental remediation (hard costs)
 - Construction
 - ADA required upgrades
- NOT eligible:
 - Soft costs such as permitting costs, engineering, legal, or architecture
 - Land acquisition
 - Landscaping
 - Financing costs
 - Developer fees

ELIGIBLE APPLICANTS.

- Responsible project developer and/or owner of multifamily rental housing project of 3 or more units per structure
 - Must add to housing stock (no rehab of existing housing)
 - Housing must be used for long term residential and not for short term or seasonal rentals.
- In order to apply, local permits must be completed and construction eligible to be underway. Conditioned permits are allowed as long as the conditions are solely related to pending action from the State of New Hampshire.
- Applicant must identify the reason for funding and demonstrate a matching dollar for dollar investment of requested award

PROGRAM OPERATION SUMMARY.

- Applicants for projects with more than 15 units or over \$3 million in total development cost must demonstrate an affordability commitment. Eligible confirmation of this would include:
 - Project funding must include other grants, loans, or tax credits that include a requirement that units be available for rent by individuals or families with incomes at or below 80% of area median income.
 - A minimum of 20% of the project units are reserved for people with limited income as defined by the permitting municipality. Rent restrictions will be in place for at least five years.
- Applicants for projects with 15 units or fewer or less than \$3 million in total development costs will be subject to a rent cap below the maximum rent affordable to 80% of the average median income applicable in the area of the property. Grant recipients would agree to maintain that rent level (adjusted annually) for a minimum of five years.
- Cap of \$3 million per project.
- Program is envisioned to run on 6-week application cycles. Initial rounds will be limited to nonprofit developers and for those with less than 10 units
- Applications will open Monday, June 20, 2022 through Friday, June 30, 2023. Projects must aim to be complete within 18 months.

- Funds would be issued on a reimbursement basis.
- Applications will undergo analysis that may include the following:
 - Project costs and request are reasonable
 - Projected rents meet housing needs as proven by data about housing needs in area of project
 - All sources of project financing are committed
 - To the extent practicable, InvestNH funds are not substituted for non-federal financial support

MUNICIPAL PER UNIT GRANT

TOTAL OBLIGATION.

\$30 million

PROGRAM DESCRIPTION.

Flexible grants for municipalities that issue permits for eligible housing within six months of initial application.

ELIGIBLE ACTIVITIES.

- Flexible grant to municipality. Limited restrictions on use (follow SLFRF revenue replacement guidelines).
- Grants made on a per-unit basis for housing that have five or more rental units and add to local housing stock.
 - To be eligible under this program, units must meet the same criteria as the capital grant program.

ELIGIBLE APPLICANTS

- NH municipalities
- Local permits must be complete at least six months from initial application. Conditioned permits are allowed as long as the conditions are solely related to pending action from the State of New Hampshire.

PROGRAM OPERATION POINTS.

- Rolling applications until funds are gone
- Grant award = \$10,000 per unit.
 - Cap of \$1m per project.
 - Limited to \$1m per municipality
 - Waivers can be issued to this cap for units that otherwise fit the requirements of the program but are specifically for units built to Universal Design standards

MUNICIPAL ZONING GRANT

TOTAL OBLIGATION.

\$5 million

PROGRAM DESCRIPTION.

Grant program to municipalities to support and study zoning or regulatory causes of a lack of affordable housing, identify potential changes to zoning rules and regulations, and/or establish or update those rules and regulations in response to those findings.

ELIGIBLE ACTIVITIES

- Grant funds are for some or all of the following services:
 - work with the municipality and local community to identify its housing needs and understand development options
 - review current regulations
 - re-write or create new zoning regulation
- Stated primary goal of the request must be to *increase* housing stock.

ELIGIBLE APPLICANTS.

Incorporated cities and towns.

PROGRAM OPERATION POINTS.

- Rolling applications until funds are depleted.
- Funds must be obligated by December 2023 and completely spent by September 2024.

MUNICIPAL DEMOLITION GRANT

TOTAL OBLIGATION

\$5 million

PROGRAM DESCRIPTION.

Grant funding for demolition of vacant or dilapidated buildings.

ELIGIBLE ACTIVITIES

- Demolition of vacant or dilapidated buildings and any associated environmental abatement measures.
 - Portion of buildings allowed.
- Municipality requesting demolition certifies that:
 - The project or portion of the project is obsolete as to physical condition, location, or other factors, making it unsuitable for housing purposes; and
 - No reasonable program of modifications is cost-effective to return the project or portion of the project to useful life.
- Demolition must be paired with greening or other lot improvements as part of a revitalization strategy.
- Permit review requirement costs are eligible (environmental, historic review, etc).
 - Reimbursement basis

ELIGIBLE APPLICANTS

- Incorporated cities or towns.
- All necessary permits and certifications must be in place to request funds

PROGRAM OPERATION POINTS.

- Must demonstrate how use of this program will improve housing situation
- Preference for projects that will directly result in a housing development project
- Cap of \$500,000 per grant
 - Under some circumstances and with defined approvals, the cap could be exceeded in rare cases if there are sufficient funds.
 - Funds must be expended by December 31, 2024

QUESTIONS AND ANSWERS

Q: How will InvestNH guarantee that funding will get to low- and moderate-income tenants?

InvestNH applicants must demonstrate that units in their projects will only be available to tenants at 80% or below the area median income (AMI) or have rent restrictions that do not exceed the maximum affordable rent for tenants at or below 80% AMI.

Q: How does using existing funding programs guarantee affordability?

Programs that fund affordable housing always require the recipient to use specific limits on the incomes of the renter or of the rent cost of the unit. InvestNH grants to projects over 15 units or \$3m in development cost must also be using one or more of these existing affordable housing funding programs. This will guarantee that the projects InvestNH is funding will always include affordability commitments. For projects smaller than that, applicants will be required to commit to a rent cap below the maximum rent affordable to 80% of the average median income applicable in the area of the property.

Q: What types of projects could use the capital fund?

- Mixed income development
- Mixed use development (commercial and residential)
- Small-scale conversions of large single family homes to apartments

Q: What are examples of these rents in NH communities?

A full chart is attached, but the capital grant program would require rents be affordable for a family of 3 at 80% of AMI. According to HUD standards, these rents could not be higher than:

Manchester:	\$1,820
Nashua:	\$2,200
Portsmouth – Rochester:	\$2,100
Grafton County:	\$1,600
Cheshire County:	\$1,630
Coos County:	\$1,260

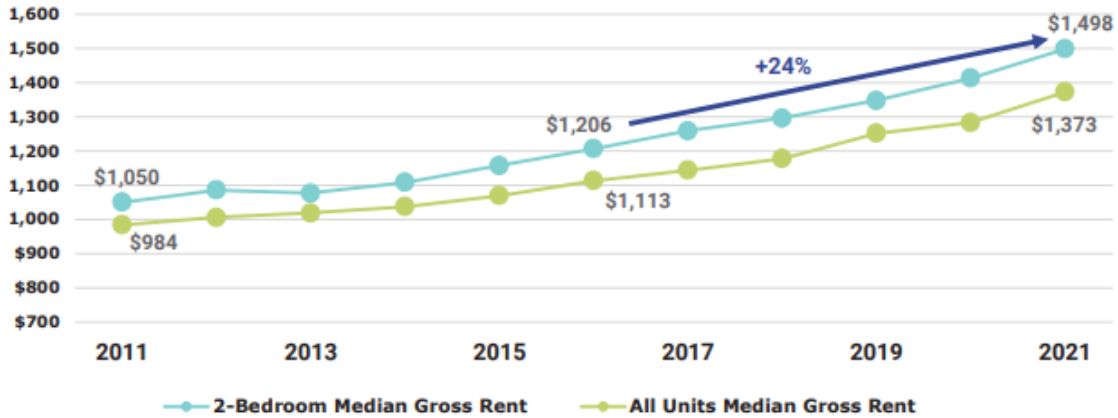
Q: Are there examples of projects that have seen funding gaps after funding was secured?

Conway:	Avesta Housing project cost increase of \$1.2 million
Rochester:	Champlin Place gap of \$812,000 (65 units)
Salem:	Depot & Main gap of \$1,000,000 (74 units)
Milford:	Milford Senior Housing gap of \$1.2m (88 units)
Concord:	The Rail Yard gap of \$1.2m (96 units)
Swanzey:	Swanzey West gap of \$1.2m (84 units)

Q: What are the needs in New Hampshire regarding availability and affordability of housing?

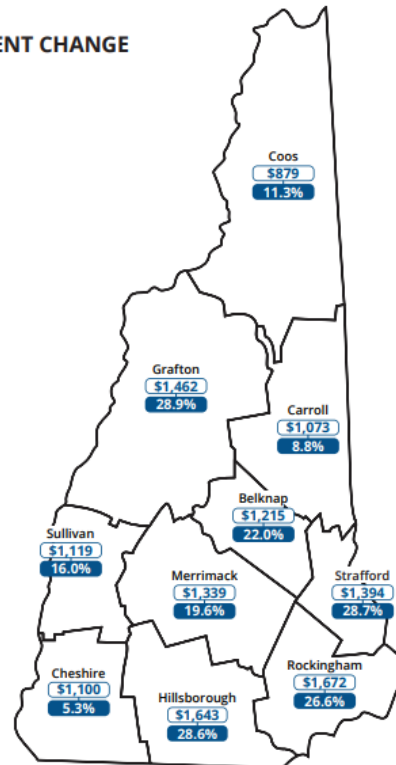
MONTHLY MEDIAN GROSS RENTS, 2-BEDROOM & ALL UNITS (STATEWIDE, 2011 - 2021)
Includes utilities

The statewide median gross rent (including utilities) for a 2-bedroom unit has increased over 24% in the past 5 years.

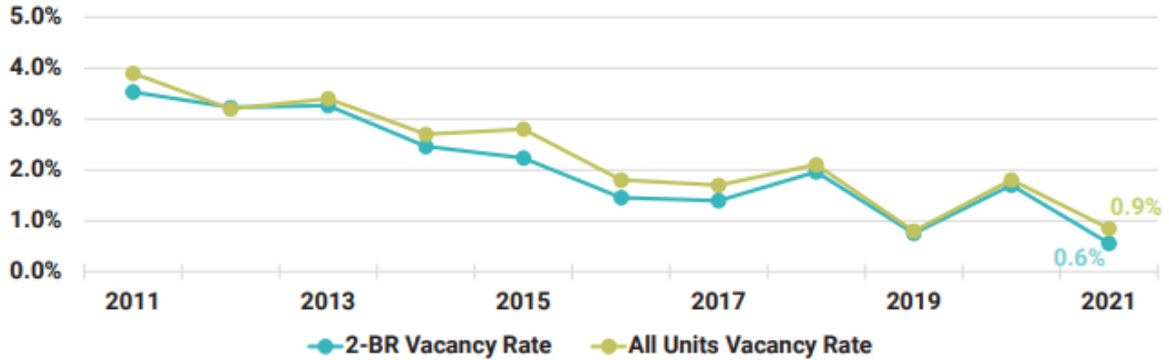


2021 MEDIAN MONTHLY GROSS RENT AND PERCENT CHANGE BY COUNTY FOR 2-BEDROOM UNITS, 2016 - 2021

The statewide median gross rent for a 2-bedroom unit in 2021 was \$1,498. Eighty percent of the rental units surveyed are in the southern tier (Hillsborough, Rockingham, Merrimack, and Strafford counties) and they have the highest median gross rents. The rental costs seen here in Grafton County are driven by the market in the Hanover/Lebanon area.



STATEWIDE VACANCY RATES, 2-BEDROOM & ALL UNITS (2011 - 2021)



VACANCY RATES FOR ALL UNITS (STATEWIDE & COUNTY)

	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020	2021
STATEWIDE	3.5%	3.2%	3.3%	2.5%	2.2%	1.5%	1.4%	2.0%	0.8%	1.8%	0.9%
Belknap County	8.9%	3.3%	7.5%	5.3%	1.2%	4.9%	4.6%	4.0%	2.0%	1.0%	1.2%
Carroll County	11.3%	5.1%	3.1%	3.6%	3.9%	1.4%	0.0%	*N/A	*N/A	2.7%	0.7%
Cheshire County	6.4%	7.1%	2.5%	3.7%	3.2%	4.5%	1.0%	1.7%	0.9%	1.9%	1.7%
Coos County	15.2%	12.6%	9.5%	7.9%	9.2%	6.9%	10.7%	3.7%	1.0%	1.7%	0.6%
Grafton County	7.6%	7.5%	3.0%	3.9%	2.7%	3.0%	3.0%	3.9%	0.3%	2.8%	1.1%
Hillsborough County	2.2%	2.2%	2.6%	2.1%	2.3%	0.9%	1.2%	1.8%	1.0%	2.3%	0.9%
Merrimack County	4.8%	2.7%	3.3%	2.5%	1.7%	1.2%	1.1%	2.5%	0.5%	1.2%	0.4%
Rockingham County	2.7%	3.2%	3.4%	2.1%	1.9%	1.0%	1.1%	1.0%	0.3%	0.9%	0.8%
Strafford County	3.3%	3.6%	4.9%	2.1%	2.3%	1.4%	1.2%	2.6%	0.8%	2.1%	0.9%
Sullivan County	5.7%	7.4%	7.3%	5.8%	2.7%	6.4%	2.2%	0.9%	0.0%	0.0%	0.5%



MEMORANDUM

TO: CITY COUNCIL
FROM: BETH MOREAU, CITY COUNCILOR
SUBJECT: LAND USE COMMITTEE UPDATE | REGULATORY AMENDMENTS PENDING
DATE: AUGUST 17, 2022

Background

On February 7, 2022, the City Council established the Land Use Committee to look at diversifying land use regulations within the City. As part of the first package of amendments, the Land Use Committee has focused on advancing the citywide housing goals identified by City Council in their 2022-2023 Goals. These objectives were refined on February 27, 2022 and include:

1. Increase diversity of housing types and price points;
2. Remove regulatory barriers for housing diversification in neighborhoods (ADUS) – context sensitive design and consideration to impacts to traffic, on street parking and other infrastructure impacts;
3. Restructure incentives to deliver greater public benefit in workforce housing construction; and
4. Identify and maximize partnerships, coalitions, and funding opportunities to deliver affordable housing.

Regulatory Amendment Work Plan

On April 9, 2022, the Land Use Committee approved transmittal of the draft 2021 Regulatory Amendment Work Plan to City Council. The City Council approved the Regulatory Work Plan on April 18, 2022. The work plan consists of three phases:

1. Phase 1: Code Clean-Up – Building Height Standards.

Purpose: Improve regulatory implementation and align with legislative intent. Eliminate ambiguous sections that result in unintended consequences.

2. Phase 2: Accessory Dwelling Unit Amendments

Purpose: Remove barriers and expand the number of eligible properties for ADUs and Senior Housing Facilities.

3. Phase 3: Incentive Amendments

Purpose: Adjust incentives to place a higher emphasis on Workforce Housing.

Phase 1 Amendments Timeline

- **April 18, 2022.** The City Council approved proposed Phase 1 amendments to the Planning Board for review and a recommendation.
- **May 05, 2022.** The Planning Board held a work session to review proposed Phase 1 amendments. At that time, staff presented a revised document that was developed in consultation with the City Attorney's office. Public input was provided and revisions were requested by the public and the Planning Board.
- **May 19, 2022.** The Planning Board held a public hearing. Revised documents were presented, additional comments were provided, and additional clarification was requested by the Planning Board.
- **June 23, 2022.** The public hearing was continued to the August meeting with a request that staff schedule an additional work session to review the proposed amendments.
- **August 8, 2022.** The Planning Board held a work session to review updated draft amendments.
- **August 18, 2022.** The Planning Board continued the public hearing and considered Phase 1 amendments to the Zoning Ordinance. Staff anticipates a recommendation to be approved. The amendments with Staff background and commentary currently under consideration by the Planning Board are attached.
- **September 19, 2022-** City Council to conduct first reading of the Phase 1 Amendments

Phase 2 Amendments Timeline – Accessory Dwelling Unit Regulatory Updates.

Phase 2 Amendments are in development and are expected to be transmitted to the City Council on September 19, 2022. At that time, staff will be requesting that the amendments be forwarded to the Planning Board for a public hearing and further refinement if needed.

The Land Use Committee has worked closely with staff and Professional Services Consultant Rick Taintor to develop the draft amendments. Below is a summary of project milestones.

- **June 9-16, 2022.** Small Focus Group Meetings. Four meetings took place over the course of two weeks from June 9th to June 15th. Staff and a representative/moderator from the Land Use Committee met with representatives from four groups of stakeholders: Previous applicants, Architects, Engineers, and Neighborhood representatives.
- **June 10- June 30, 2022.** ADU Direct Abutter Survey. A survey was distributed to over 200 direct abutters of approved ADUs built within the last five years.
- **July 11, 2022.** Staff provide a Public Involvement Summary Report to City Council identifying key themes that have emerged through public outreach efforts.
- **August 5, 2022.** Draft ADU amendments were reviewed by the Land Use Committee – public comment was received requested updates to the draft ADU were requested.
- **September 2, 2022.** Land Use Committee will review revised ADU amendments and updated Assisted living use table and invite further public input.
- **September 19, 2022.** City Council to review Phase 2 Amendments from Land Use Committee for a referral to the Planning Board.

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

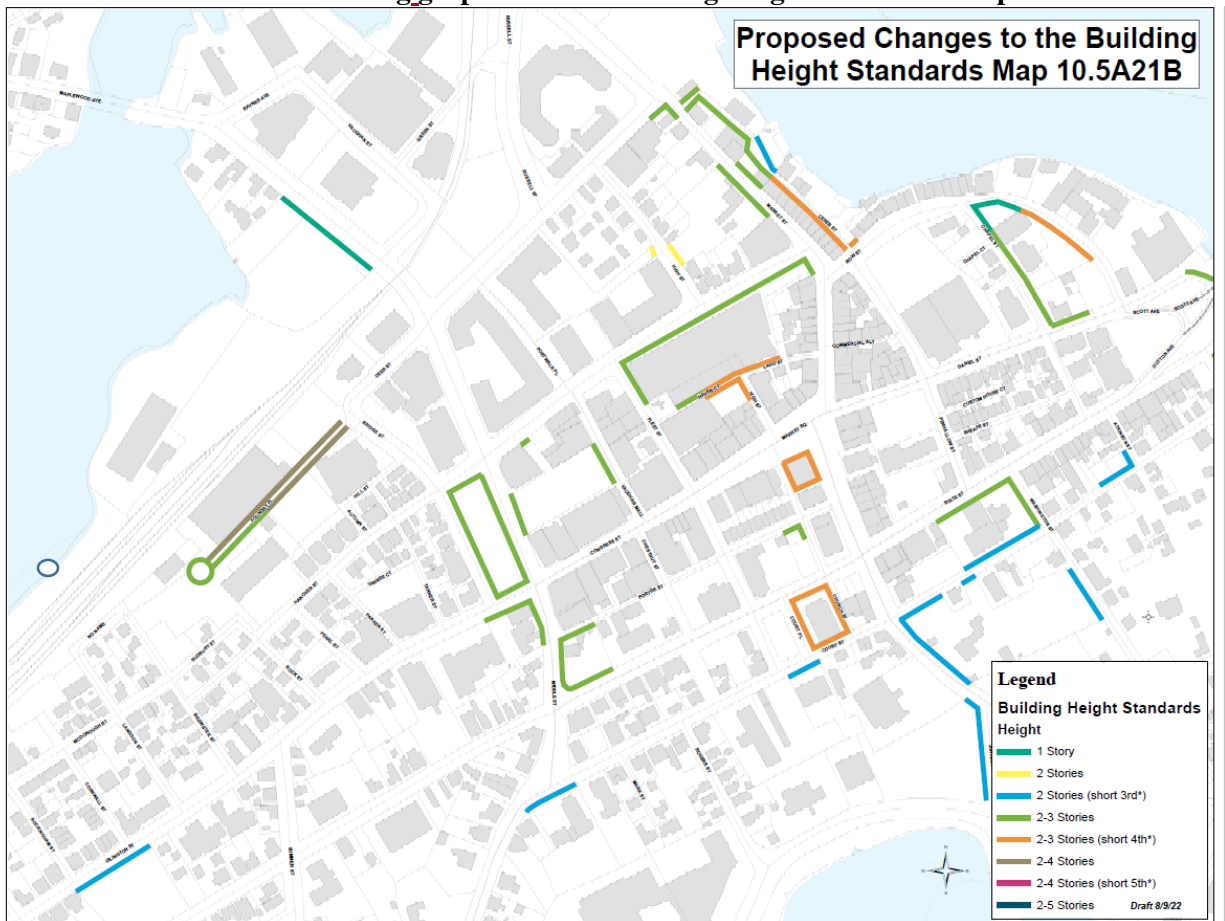
That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, be amended as follows:

Amend Article 5A Character Based Zoning: Section 10.5A21.10: Contents of Regulating Plan – Map 10.5A21B; Section 10.5A21.20 -Building Height Standards; Section 10.5A20.50 – Civic Districts; and, Article 15, Section 10.1530 - Definitions as follows:

Deletions from existing language ~~stricken~~; additions or changes to Building Height Map shown in color, modifications to existing language colored and underlined; remaining language unchanged from existing:

5) Amend Section 10.5A21B - Building Height Standards Map as follows:

a. Add the following graphics to the Building Height Standards Map 10.5A21B:



STAFF COMMENTS - BUILDING HEIGHT MAP:

Purpose:

1. To add building height standards for civic and municipal properties that are consistent with the abutting building height standards and existing conditions.

2. To add building height standards for Foundry Place in order to provide a building height standard for 66 Rock Street.
3. To modify the building height standard for a small portion of High Street and Haven Court to match the surrounding buildings and their associated building height standard.

Background – These changes will help ensure that new buildings, additions or alterations to existing buildings within the municipal and civic properties would be better aligned within their surrounding context. The Existing Building Height Map (shown in Exhibit 1), shows that there are no building height standards for Civic or Municipal properties within the Character District zoning area. As a new public street, Foundry Place would be added to the Building Height Map and be consistent with the building heights supported by the North End Vision Plan and the recently approved projects along Foundry Place. The building height standard on High Street and Haven Court will be more consistent with the building height standard of the existing abutting properties. Exhibit 2 shows the proposed changes to the Building Height Map while Exhibit 3 shows both the existing and proposed changes as a revised Building Height Map.

Updates– As discussed briefly at the 6-23-22 meeting, in order to retain the existing building height standards along the Hill and Hanover Street properties, the proposed building height standard along Foundry Place along the rear yard of the Heinemann property is recommended to be lowered to 2-3 stories or 40 to match the existing height standard for this property. Additionally, the building height standard for the South Church is recommended to be increased to 2-3 stories (short 4th) or 45’ to match the existing height of the church. Note that all other civic buildings would be in conformance with the proposed building height standards.

THE FOLLOWING REVISION IS A RESPONSE TO THE FEEDBACK RECEIVED IN THE PLANNING BOARD MEETING HELD ON AUGUST 8, 2022.

Cemeteries – To better align with the existing use of the properties, the proposed changes to the building height standards map have been updated to lower the building height standards along the cemeteries to 1 story or 20’; the lowest building height standard.

b. Amended the following note on Map 10.5A21B as follows:

Incentive Overlay Districts

Within the Incentive Overlay Districts, certain specified development standards, including height, density and parking, may be modified pursuant to Section 10.5A476.

STAFF COMMENTS - OVERLAY DISTRICT REFERENCE:

Purpose – To correct an incorrect reference.

Background – 10.5A47 does not exist in the code and was intended to be listed as 10.5A46.

6) Amend Article 5 - Section 10.5A21.20 - Building Height Standards (deletions from existing language ~~stricken~~; additions to existing language colored and underlined; remaining language unchanged from existing):

- a. Amend Section 10.5A21.21 as follows:

10.5A21.21 Assignments for specific **building height** require a building to have no more than the designated maximum number of **stories** or the maximum height in feet (whichever is lower) and no less than the designated minimum number of **stories**. Subject to Section 10.635.70 – Review Criteria, within the Historic District, the approved **building height** may be lower than the maximum designated number of **stories** or the maximum height in feet provided in Section 10.5A43.30 but shall be not lower than the minimum designated number of **stories** or the minimum height in feet provided.

STAFF COMMENTS - HISTORIC DISTRICT COMMISSION:

***Purpose** – To make it explicit that within the Historic District the HDC has jurisdiction over height, scale, and massing of any new construction and can require, as part of its approval process, a building height less than the maximum permitted.*

***Background** - Like building placement or design, the height of the building must be determined to be appropriate by the HDC so the building height standard(s) for the property set the range of permitted building heights subject to HDC approval.*

- b. Amend Section 10.5A21.21 as follows:

10.5A21.22 When a **lot** is assigned to more than one **building height** standard the **lot** shall be apportioned as follows:

- (a) A **building height** standard designated along ~~the a front lot line~~ ~~or on a street~~ **public place** shall apply to the portion of the **lot** that is 50 feet or less from such ~~lot line~~ ~~or street~~ **along a public place**.
- (b) A **building height** standard designated along a water body shall apply to the portion of the **lot** that is 100 feet or less from the mean high water line.
- (c) More than 50 feet from a **front lot line** ~~or along a street~~ **public place** and more than 100 feet from a water body, the **building height** may increase to the highest **building height** standard designated for the **lot**.
- (d) Where a **lot** has less depth from ~~the a front lot line~~, ~~street~~, **along a public place** or water body than the required minimum distances stated above, the lowest **building height** standard for the **lot** shall be applied to the required linear distance from the **lot line**, ~~street~~, **public place**, or water body.

STAFF COMMENTS - BUILDING HEIGHT ON CORNER, THROUGH OR WATERFRONT LOTS:

***Purpose** – To remove any ambiguity that the maximum building height is assigned to all lot lines fronting on a public place and that corner, through or waterfront lots allow for limited encroachment of a higher building height provided the taller sections of the building are located at least 50 feet from a lot line along a public place with a lower building height standard.*

***Background** – This change will remove any ambiguity as to how building heights are apportioned on corner, through or waterfront lots.*

7) **Amend Article 5 – Section 10.5A50: Civic Districts (deletions from existing language stricken; additions to existing language colored and underlined; remaining language unchanged from existing):**

a. Amend Section 10.5A52.40 as follows:

10.5A52.40. Provided all uses remain civic, nNew structures, alterations and expansions of existing structures in the Civic district ~~are exempt from the requirements of 10.5A42 and 10.5A43 provided all uses remain civic~~shall only conform to the Building Placement, Building and Lot Occupation, and Building Form Standards for Principal and Outbuildings listed in 10.5A41.10 C.

STAFF COMMENTS - DIMENSIONAL STANDARDS IN THE CIVIC DISTRICT:

Purpose – To assign basic dimensional standards to Civic properties.

Background – In contrast to Civic properties outside the Character District Zoning Area, all 9 properties within the Civic District currently have no dimensional controls including, but not limited to, building height, setbacks, or building footprint size. The CD4 development standards are proposed. Notably, this amendment proposes no use change to the Civic Districts and all Civic properties comply with and are well below these dimensional standards. As an alternative to the CD4 Development Standards, a new set of Development Standards could be also be established for the Civic District or, the existing blanket exemption could remain in place.

8) **Amend Article 15 – Definitions - Section 10.1530: Terms of General Applicability (deletions from existing language stricken; additions to existing language colored and underlined; remaining language unchanged from existing):**

Lot line, front

A boundary of a lot that separates the lot from ~~a street or~~ a public place. A corner lot, ~~or a through lot or a waterfront lot~~ shall have ~~two multiple~~ front lot lines. In the case of a corner lot, through lot or a waterfront lot, the front lot line-principal front yard shall be the line bordering ~~a street~~ a public place on which the lot has its address as defined by the City.

STAFF COMMENTS - FRONT LOT LINE:

Purpose – To clarify that corner, through or waterfront lots can have multiple front lot lines and the property address only determines the principle front lot line.

Background – This avoids any ambiguity as to how building heights are allocated on corner, through or waterfront lots.

Public place

A street way, park, pedestrian alleyway or community space that provides public access.

STAFF COMMENTS - PUBLIC PLACE:

Purpose – To add a definition for a public place.

Background – Public places include, but are not limited to the existing community space types (i.e. pedestrian alleyways, greenways, squares or plazas) that provide public access.

Urban districts

For the purposes of grade definitions and **building height** determinations, the **urban districts** are defined as the Character and Civic Districts.

STAFF COMMENTS – URBAN DISTRICTS:

***Purpose** – To add a new definition for **Urban districts** so building height can be measured along the street-facing façade of the building versus the entire perimeter of the building.*

***Background** – In urban districts this will prevent new buildings from using the existing or finished grades behind the building to raise the overall average height of the building along the street.*

Average existing grade

For all buildings located outside the **urban districts**, the **average existing grade** shall be the average ground levels adjoining the **building** at all exterior walls measured every five feet around the perimeter of the **building**. For all buildings located inside the **urban districts**, the **average existing grade** shall be the average existing ground level measured every five feet along the street-facing **facade** of all **lot lines** adjoining a **public place** (see also **building height**).

STAFF COMMENTS - AVERAGE EXISTING GRADE:

***Purpose** – To add a new definition for **Average Existing Grade** in order to minimize fill areas from being used to elevate the height of a proposed building.*

***Background** – Outside the Urban Districts, building height will continue to be measured from the average existing grade around the entire perimeter of the building. Within the Urban Districts it will only be measured along the street-facing façade(s) of the building.*

Average finished grade

For all buildings located outside the **urban districts**, the **average finished grade** shall be the average ground levels adjoining the **building** at all exterior walls measured every five feet around the perimeter of the **building**. For all buildings located inside the **urban districts**, the **average finished grade** shall be the average finished ground level measured every five feet along street-facing **facade** of all **lot lines** adjoining a **public place** (see also **building height**).

STAFF COMMENTS - AVERAGE FINISHED GRADE:

***Purpose** – To add the definition for **Average Finished Grade** in order to address cuts (or earth removal) being used to elevate the height of a building.*

***Background** – Outside the Urban Districts, this change will continue to use the average finished grade around the entire building to measure the average building height. Inside the Urban Districts, the average building height will be measured only along the street-facing façade(s) of the building.*

Building height

The greatest vertical measurement between ~~two reference points~~ the lower and upper reference points as defined below. This measurement shall be the **building height** for the purposes of this Ordinance.

- (a) For buildings located outside the **urban districts** the lower reference point shall be the **average existing grade** or **average finished grade**, whichever is lower, measured along the

perimeter of the entire building. For buildings located inside the **urban districts** the lower reference point shall be established from the **average existing grade** or **average finished grade**, whichever is lower, along street-facing facade of all lot lines adjoining a public place. In the case of a corner lot, ~~or~~ through lot or waterfront lot the provisions of Section 5A.21.21 shall apply. The vertical distance between the lower and upper reference points shall not exceed the maximum number of stories or **building height**.

STAFF COMMENTS - BUILDING HEIGHT:

Purpose – Within the Non-Urban Districts the building height will continue to be measured around the entire perimeter of the building. In contrast, in Urban Districts building height will only be measured along the street-facing facades adjoining a public place.

Background – Inside the Urban Districts several recent projects have included podium-type construction resulting in an additional story being added and thereby artificially increasing the average grade plane of the land around the building.

- (b) The upper reference point shall be any of the following:
- (1) For a flat or flat-topped **mansard roof**, the highest point of the roof surface;
 - (2) For a pitched gable, gambrel, hip, ~~roof~~, hip-topped mansard roof, or penthouse~~or gambrel roof~~, the elevation midway between the level of the eaves or, floor in the case of a penthouse, and highest point of the roof. For this purpose, the “level of the eaves” shall mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves, but at no time shall this level be lower than the floor level of the uppermost **story** or **attic**.

STAFF COMMENTS - MANSARD ROOFS:

Purpose – To clarify and differentiate how building height is measured between a flat- and hip-topped (or sloped) mansard roofs.

Background – The existing requirements for measuring hip-topped roofs are in conflict with the diagram currently in the code. In the end, a primary objective of the code is to encourage new buildings to have sloped roofs and to minimize flat-topped buildings.

- (c) A **parapet wall**, fence, railing, decorative cornice, or similar structure that extends more than four ~~two~~ feet above the roof surface shall be included in the determination of the **building height**, but shall not be included if it does not extend more than two ~~four~~ feet above the roof surface.-

STAFF COMMENTS - ROOF APPURTENANCES:

Purpose – This would allow for taller roof edge treatments along the edge of the roof surface on a flat-topped building.

Background – This would support adding a stronger roof edge treatment like a raised cornice or parapet wall. The current restriction of two feet along the roof edge of a 50-60 foot building has proven largely ineffective in achieving architectural interest along the roof edge.

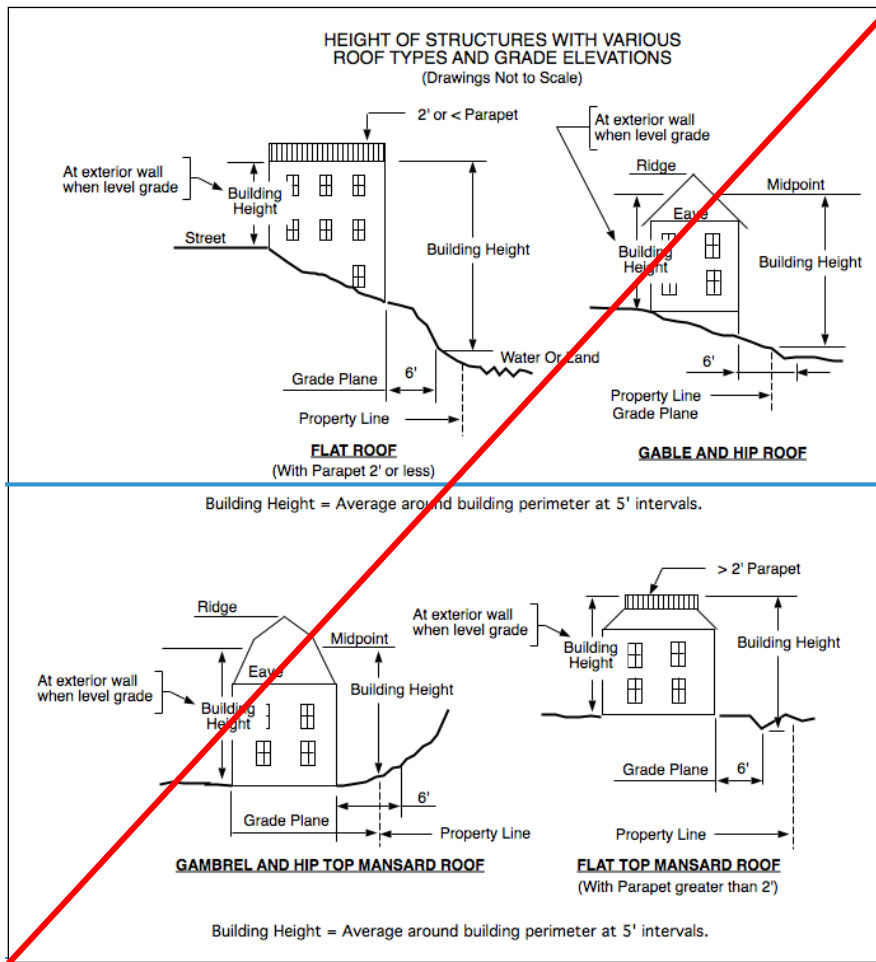
(d) To determine **building height**, measurements shall be taken at least every 5 feet around the entire perimeter of the **building**. The average is calculated from these figures and that figure shall be the **building's** height for purposes of this Ordinance.

(See also: **average existing grade and average finished grade, parapet wall, mansard, penthouse and urban districts**)

STAFF COMMENTS – BUILDING HEIGHT GRAPHIC:

Purpose – To delete this section and its reference to the building height diagram in order to remove existing inconsistencies on how building height is measured for some roof types and to reduce confusion in how building height is measured in urban and non-urban districts..

Background – The existing building height diagram illustrates how building height is currently measured. It exclusively relies on the finished grade. The proposed code amendments will separate urban districts from non-urban districts and consider both existing and finished grades.



STAFF COMMENTS - BUILDING HEIGHT GRAPHIC:

Purpose – To remove the diagram to avoid confusion and conflicts in how building height is measured inside and outside urban districts.

Penthouse

A habitable space within the uppermost portion of a **building** above the **cornice** which is set back at least ~~15-20~~ feet from all edges of the roof adjoining a public place and at least 15 feet from all other edges. ~~and~~ The total floor area of the penthouse shall not exceed 50% of the area of the **story** below and the height of the penthouse shall not exceed 10 feet above the story below for flat roof surface or 14 feet for a gable, hip, or hip-topped mansard roof surface. Except for elevator or stairwell access allowed under Section 10.517, no other roof appurtenances shall exceed the maximum allowed height of a penthouse. For internal courtyards at least 40 feet from a street or vehicular right-of-way or easement, the **penthouse** shall be setback at least 8 feet from the edge of the roof of the story below. (see also building height)

STAFF COMMENTS - PENTHOUSES:

Purpose – To modify the dimensional standards for penthouses to minimize public views from a public place and bring penthouses into parity with the height requirements for other attic areas.

Background – The proposed dimensional standards will increase the setback of a penthouse along a public place and encourage the use of sloped roofs. This will also allow a penthouse to be fully treated like an attic space by using the mid-point of its height to calculate the overall height of the building.

Mansard roof

A building with either a flat- or hip-topped mansard roof as follows:

- a) Flat-topped mansard - a four-sided flat-top mansard roof or hip-topped topped roof characterized by ~~two one~~ slope on each side of its sides ~~with where~~ the sloped roof may be punctured by dormer windows and the higher roof surface is a flat roof;
- a) ~~b)~~ Hip-topped mansard – a roof characterized by two slopes on each side with the lower slope punctured by dormer windows. The upper slope of the roof may not be visible from **street** level when viewed from close to the **building**. and the highest roof structure shall not be a flat roof as defined herein.

STAFF COMMENTS - MANSARD ROOF:

Purpose – More clearly differentiate the difference between a flat- and hip-topped mansard roof.

Background – A flat-topped mansard roof is analogous to a flat-topped building whereas a hip-topped mansard roof is similar to a sloped roof or attic (like a gable, gambrel or hip roof).

Short story

Either (1) a top story that is below the cornice line of a sloped roof and is at least 20% shorter in height than the story below; or (2) a story within a flat-topped mansard roof with a pitch no greater than 30:12.

STAFF COMMENTS - SHORT STORY:

Purpose – Address the existing conflict between how flat- and hip-topped mansard roofs are measured in terms of building height.

Background – Flat-topped mansards are measured the same as flat-roofed buildings. In contrast, hip-topped mansard roofs are measured like sloped roof buildings where the mid-point between the ridge and eave is averaged. This amendment remove the conflict as to how the building height of a hip-topped mansard roof is measured.

THE FOLLOWING REVISION IS A RESPONSE TO THE FEEDBACK RECEIVED IN THE PLANNING BOARD MEETING HELD ON AUGUST 8, 2022.

5) Amend Article 5 – Section 10.5A43.32: Building and Story Heights (deletions from existing language stricken; additions to existing language colored and underlined; remaining language unchanged from existing):

a. Amend Section 10.10.5A43.32 (b) as follows:

- (a) All **roof appurtenances** and other features that exceed the allowed **building height** for the zoning district shall not exceed 33 percent of the total roof area of the **structure** and, except for elevators, ~~and~~ stair towers, and decorative railings no taller than four feet in height, shall be set back at least 10 feet from any edge of the roof.

STAFF COMMENTS – ROOF APPURTENANCES (DECORATIVE RAILINGS):

***Purpose** – To allow for decorative railings up to 4 feet in height to be located along the roof edge.*

***Background** – Currently, all roof appurtenances (including decorative rail systems) are required to be located at least 10 feet from the edge of the roof. This will allow for better use of the roof surface and the opportunity to allow for decorative rail systems to add interest to the edge of the roof and the overall skyline of the city.*

EXHIBIT 2 – PROPOSED AMENDMENTS TO THE BUILDING HEIGHT STANDARDS MAP

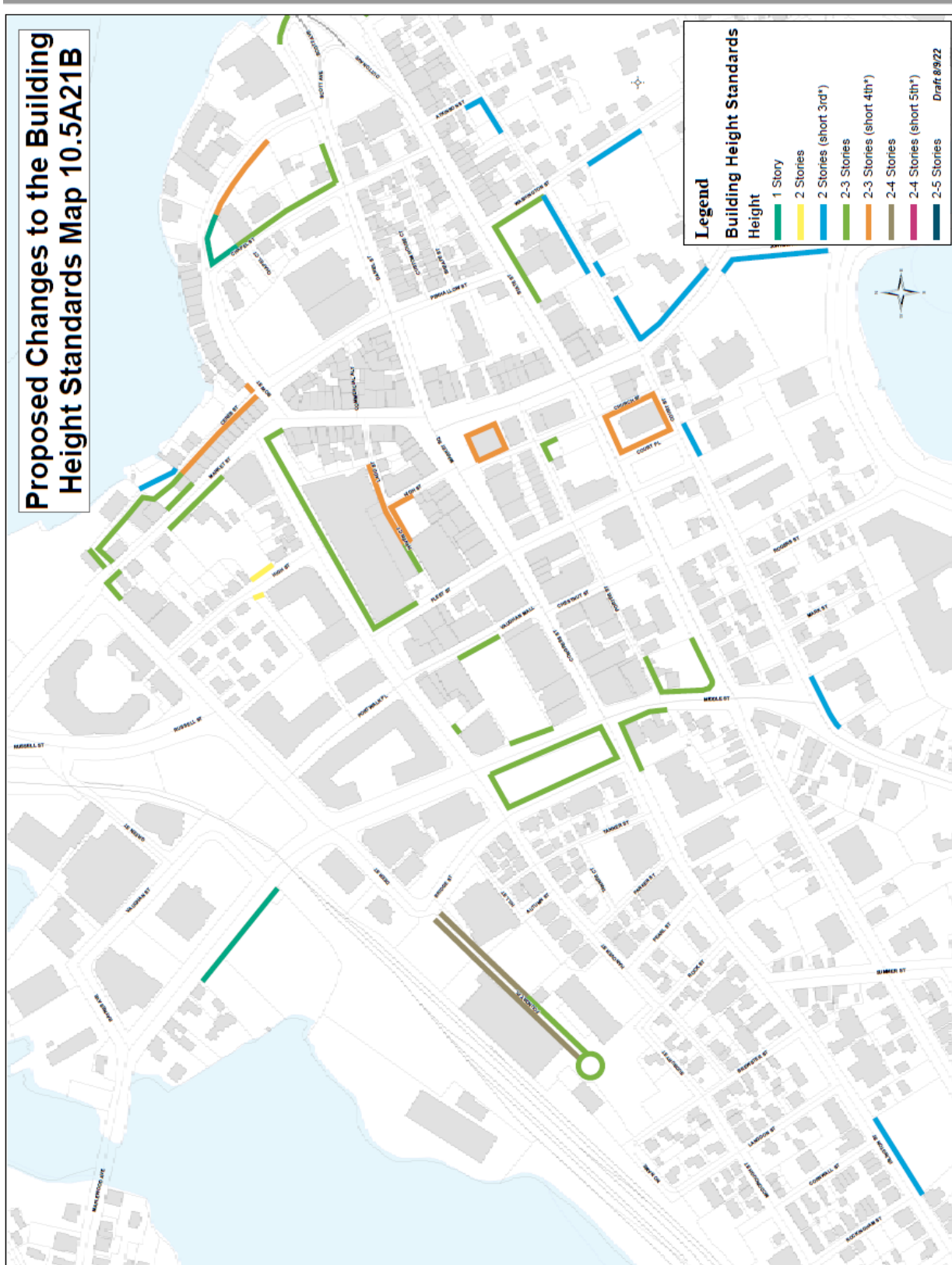
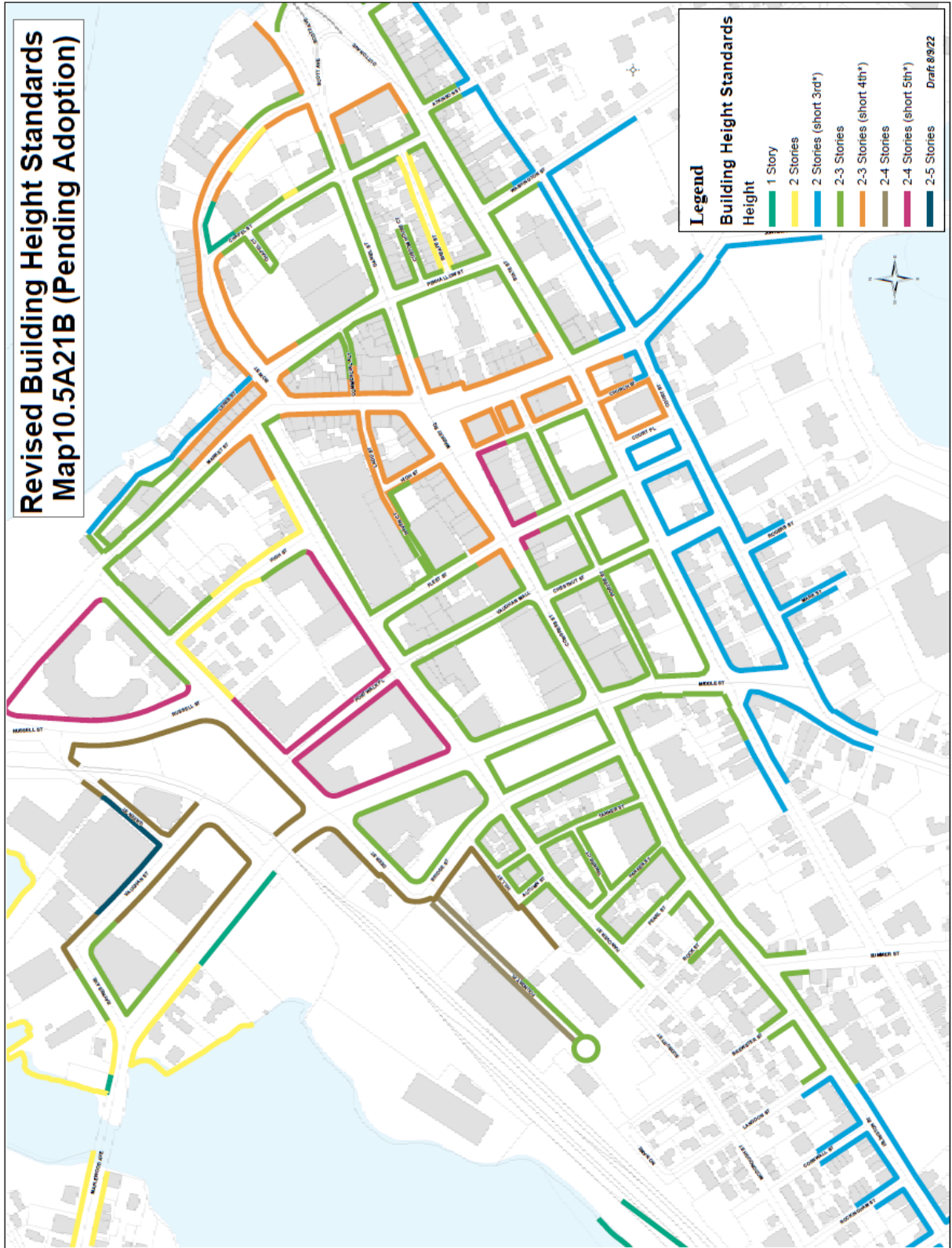


EXHIBIT 3 – REVISED BUILDING HEIGHT STANDARDS MAP SHOWING THE EXISTING AND PROPOSED BUILDING HEIGHTS STANDARDS



PARKING and TRAFFIC SAFETY COMMITTEE

ACTION SHEET

8:30 A.M. – August 4th, 2022
Conference Room A

PRESENT: **Members:** Mary Lou McElwain, Mark Syracuse, Harold Whitehouse, Police Captain Mike Maloney, Deputy Fire Chief Bill McQuillen, City Manager Karen Conard

City Staff: City Engineer Eric Eby, Parking Director Ben Fletcher, Associate Engineer Tyler Reese

ACTION ITEMS FOR CITY COUNCIL

- Daniel Street, request for 15-minute spaces at 22 Daniel Street, by business owner: **Voted** to approve two 15-minute spaces in front of 22 Daniel Street. **Voted** to change three existing 15-minute spaces on south side of Daniel Street to regular Zone A spaces.

1. **Roll Call**
2. **Financial Report:** **Voted** to accept and place on file Financial Report dated June 30, 2022.
3. **Public Comment Session:** There were five speakers: **Mark Bodi** regarding 15 minute parking on State Street; **Carl Diemer, Stanley Ketchel, Trisha Anderson, and Debora Mayer; Kelly Shaw** concerning trucks on Banfield Road.
4. **Woodbury Avenue, request for RRFB at Woodbury Manor, by resident:** **Voted** to refer to staff for evaluation and report back.
5. **South Street, request for DO NOT BLOCK box at driveway to 169 Lafayette Road, by resident:** **Voted** to install a DO NOT BLOCK sign on South Street outbound at driveway.
6. **Maplewood Avenue, request to slow traffic at Prospect Street, by resident:** **Voted** to refer to staff for evaluation and report back.
7. **State Street, request to move 15-minute space from 148 State Street to 121 State Street, by building owner:** **Voted** to refer to staff for evaluation of State Street 15-minute spaces between Pleasant Street and the bridge and report back.
8. **Daniel Street, request for 15-minute spaces at 22 Daniel Street, by business owner:** **Voted** to approve two 15-minute spaces in front of 22 Daniel Street. **Voted** to change three existing 15-minute spaces on south side of Daniel Street to regular Zone A spaces.
9. **Harding Road, report back on speed study:** **Voted** to place the item on file.
10. **Market Street, request for crosswalk between Deer Street and Hanover Street, by business owner:** **Voted** not to add a crosswalk on this block and place on file.

11. **Little Harbor Road, report back on speed study:** Voted to place item on file.
12. **Pannaway Manor, request for speed tables, by resident. Report back on speed study:**
Voted to place item on file.
13. **Monthly Accident Report:** *Informational; no action required.*
14. **Middle Road RRFB installation update:** *Informational; no action required.*
15. **NHDOT Route 1 Improvement Project:** *Informational; no action required.*
16. **Adjournment:** On unanimous roll call 6-0, voted to adjourn 9:36 AM

Respectfully submitted by: Leila Birr

PARKING and TRAFFIC SAFETY COMMITTEE
PORTSMOUTH, NEW HAMPSHIRE

CONFERENCE ROOM A
CITY HALL, MUNICIPAL COMPLEX, 1 JUNKINS AVENUE

*Members of the public also have the option to join the meeting over Zoom
(See below for more details)**

8:30 AM

August 4th, 2022

MINUTES

I. CALL TO ORDER

City Manager Karen Conard called the meeting to order at 8:30 a.m.

II. ATTENDANCE

Members Present:

City Manager Karen Conard
Police Captain Mike Maloney
Harold Whitehouse
Mary Lou McElwain
Mark Syracuse
Deputy Fire Chief William McQuillen

Absent:

Chairman Andrew Bagley
Steve Pesci
Erica Wygonik (Alternate)
Public Works Director Peter Rice

City Staff Present:

Parking Director Ben Fletcher
City Engineer – Parking, Transportation and Planning Eric Eby
Associate Engineer Tyler Reese

III. FINANCIAL REPORT

Harold Whitehouse moved to accept the Financial Report dated June 30, 2022, and place it on file, seconded by Mary Lou McElwain. On a unanimous vote, motion passed 6-0.

IV. PUBLIC COMMENT (15 MINUTES)

This is the time for all comments on any of the agenda items or non-agenda items.

[00:06:04] Mark Bodi spoke regarding changing the location of a 15-minute parking spot on State Street.

[00:14:30] Carl Diemer, Stanley Ketchel, Trisha Anderson, and Debora Mayer all residents of Aldrich Road spoke regarding the need for traffic calming measures.

[00:25:55] Kelly Shaw of Banfield Road spoke with concerns for future tractor trailer activity due to expected new construction on Banfield Road.

V. PRESENTATIONS

None

VI. NEW BUSINESS

(No public comment during Committee discussion without Committee approval.)

A. [00:30:30] Woodbury Avenue, request for RRFB at Woodbury Manor crosswalk, by a resident.

Mark Syracuse moved to refer to staff for evaluation and report back, seconded by Harold Whitehouse. **On a unanimous vote, motion passed 6-0.**

B. [00:31:36] South Street, request for DO NOT BLOCK box at driveway to 169 Lafayette Road, by resident.

Eric Eby, City Engineer, advised that DO NOT BLOCK boxes are not typically used for residential driveways. He suggested a sign.

Mark Syracuse moved to install a DO NOT BLOCK DRIVEWAY sign on South Street outbound at driveway, seconded by Harold Whitehouse. **On a unanimous vote, motion passed 6-0.**

C. [00:33:55] Maplewood Avenue request to slow traffic at Prospect Street, by a resident.

Mark Syracuse moved to refer to staff for evaluation and report back, seconded by Mary Lou McElwain. **On a unanimous vote, motion passed 6-0.**

D. [00:36:17] Request to move 15-minute space from 148 State Street to 121 State Street, by building owner.

Harold Whitehouse moved to refer to staff for evaluation of State Street between Pleasant Street and the bridge and report back, seconded by Mary Lou McElwain. **On a unanimous vote, motion passed 6-0.**

VII. OLD BUSINESS

- A. [00:40:46] Daniel Street, request for 15-minute space in front of #22 Daniel Street, by business owner.

Mark Syracuse moved to approve two 15-minute spaces in front of 22 Daniel Street, seconded by Mary Lou McElwain. **On a unanimous vote, motion passed 6-0.**

Mary Lou McElwain moved to change three existing 15-minute parking spaces on the south side of Daniel Street to regular Zone A spaces, seconded by Mark Syracuse. **On a unanimous vote, motion passed 6-0.**

- B. [00:46:42] Associate engineer Tyler Reese reported back on the Harding Road speed study.

Mark Syracuse moved to place on file, seconded by Mary Lou McElwain. **On a unanimous vote, motion passed 6-0.**

- C. [00:50:29] Request for crosswalk on Market Street between Deer Street and Hanover Street, by business owner.

Mary Lou McElwain moved to not put a crosswalk on this block and to place on file, seconded by Mark Syracuse. **On a unanimous vote, motion passed 6-0.**

- D. [00:56:27] Associate engineer Tyler Reese reported back on the Little Harbor Road speed study.

Mark Syracuse moved to place this information on file, seconded by Mary Lou McElwain. **On a unanimous vote, motion passed 6-0.**

- E. [00:59:] Associate engineer Tyler Reese reported back on the speed study regarding the Pannaway Manor request for speed tables, by resident.

Mark Syracuse moved to place this item on file, seconded by Mary Lou McElwain. **On a unanimous vote, motion passed 6-0.**

VIII. INFORMATIONAL

- A. [01:01:25] Monthly Accident Report from Police

Police Captain Mike Maloney commented that there were 86 crashes in May. Of that, 54 of them were reportable. There were no accidents involving a bike, and one involving a flagger.

- B. [01:02:39] City Engineer Eric Eby gave an update on the Middle Road RRFB installation. He will report back on speed data observations.

IX. MISCELLANEOUS

- A. [01:03:14] Eric Eby requested a representative from the Parking and Traffic Safety Committee for the Public Advisory Committee to the NHDOT Route 1 Improvement Project. Mary Lou McElwain and Mark Syracuse expressed interest in getting more information on what this would entail.
- B. [01:07:40] Eric Eby gave an update on Aldrich Road. The speed bumps will be installed. They are in the Capital Improvement Plan. The timetable has not yet been established. Speed data shows that the number of vehicles driving over 30 MPH has decreased in recent years.

X. ADJOURNMENT

Mary Lou McElwain moved to adjourn at 9:36 a.m., seconded by Mark Syracuse. **On a unanimous vote, motion passed 6-0.**

Respectfully submitted,

Leila Birr,
Administrative Assistant, Department of Public Works

**Members of the public also have the option to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser:*

https://us06web.zoom.us/webinar/register/WN_xjurgSbqRA2S8Uw3KnUkw

VII.A. Daniel St.

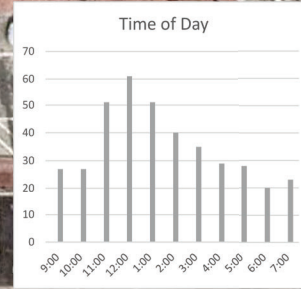
Current space utilization rates.
25 minutes or less, during enforcement hours.
Thursday 7/7 through Tuesday 7/12.

#22
Moe's

39%

25%

26%



Existing 15-min spaces per Ordinance

Proposed 15-min spaces

GRANT AGREEMENT

The State of New Hampshire and the Grantee
hereby Mutually agree as follows:
GENERAL PROVISIONS

1. Identification and Definitions.

1.1. State Agency Name Department of Environmental Services		1.2. State Agency Address 29 Hazen Drive Concord, NH 03301	
1.3. Grantee Name City of Portsmouth		1.4. Grantee Address 680 Peverly Hill Road Portsmouth, NH 03801	
1.5 Grantee Phone # 603-766-1496	1.6. Account Number 177463-B001	1.7. Completion Date	1.8. Grant Limitation \$4,238
1.9. Grant Officer for State Agency Dean F. Robinson II		1.10. State Agency Telephone Number 603-271-2047	
If Grantee is a municipality or village district: "By signing this form we certify that we have complied with any public meeting requirement for acceptance of this grant, including if applicable RSA 31:95-b."			
1.11. Grantee Signature 1		1.12. Name & Title of Grantee Signor 1	
Grantee Signature 2		Name & Title of Grantee Signor 2	
Grantee Signature 3		Name & Title of Grantee Signor 3	
1.13 State Agency Signature(s)		1.14. Name & Title of State Agency Signor(s) Robert R. Scott, Commissioner	
1.15. Approval by Attorney General (Form, Substance and Execution) (if G & C approval required)			
By:		Assistant Attorney General, On: / /	
1.16. Approval by Governor and Council (if applicable)			
By:		On: / /	

2. **SCOPE OF WORK:** In exchange for grant funds provided by the State of New Hampshire, acting through the Agency identified in block 1.1 (hereinafter referred to as "the State"), the Grantee identified in block 1.3 (hereinafter referred to as "the Grantee"), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT B (the scope of work being hereinafter referred to as "the Project").

3. AREA COVERED. Except as otherwise specifically provided for herein, the Grantee shall perform the Project in, and with respect to, the State of New Hampshire.
4. EFFECTIVE DATE: COMPLETION OF PROJECT. This Agreement, and all obligations of the parties hereunder, shall become effective on the date on the date of approval of this Agreement by the Governor and Council of the State of New Hampshire if required (block 1.16), or upon signature by the State Agency as shown in block 1.14 ("the Effective Date").
- 4.1. Except as otherwise specifically provided herein, the Project, including all reports required by this Agreement, shall be completed in ITS entirety prior to the date in block 1.7 (hereinafter referred to as "the Completion Date").
- 4.2. GRANT AMOUNT: LIMITATION ON AMOUNT: VOUCHERS: PAYMENT.
5. The Grant Amount is identified and more particularly described in EXHIBIT C, attached hereto.
- 5.1. The manner of, and schedule of payment shall be as set forth in EXHIBIT C.
- 5.2. In accordance with the provisions set forth in EXHIBIT C, and in consideration of the satisfactory performance of the Project, as determined by the State, and as limited by subparagraph 5.5 of these general provisions, the State shall pay the Grantee the Grant Amount. The State shall withhold from the amount otherwise payable to the Grantee under this subparagraph 5.3 those sums required, or permitted, to be withheld pursuant to N.H. RSA 80:7 through 7-c.
- 5.3. The payment by the State of the Grant amount shall be the only, and the complete payment to the Grantee for all expenses, of whatever nature, incurred by the Grantee in the performance hereof, and shall be the only, and the complete, compensation to the Grantee for the Project. The State shall have no liabilities to the Grantee other than the Grant Amount.
- 5.4. Notwithstanding anything in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made, hereunder exceed the Grant limitation set forth in block 1.8 of these general provisions.
- 5.5. COMPLIANCE BY GRANTEE WITH LAWS AND REGULATIONS. In connection with the performance of the Project, the Grantee shall comply with all statutes, laws regulations, and orders of federal, state, county, or municipal authorities which shall impose any obligations or duty upon the Grantee, including the acquisition of any and all necessary permits and RSA 31-95-b.
6. RECORDS and ACCOUNTS.
7. Between the Effective Date and the date seven (7) years after the Completion Date, unless otherwise required by the grant terms or the Agency, the Grantee shall keep detailed accounts of all expenses incurred in connection with the Project, including, but not limited to, costs of administration, transportation, insurance, telephone calls, and clerical materials and services. Such accounts shall be supported by receipts, invoices, bills and other similar documents.
- 7.1. Between the Effective Date and the date seven (7) years after the Completion Date, unless otherwise required by the grant terms or the Agency pursuant to subparagraph 7.1, at any time during the Grantee's normal business hours, and as often as the State shall demand, the Grantee shall make available to the State all records pertaining to matters covered by this Agreement. The Grantee shall permit the State to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, data (as that term is hereinafter defined), and other information relating to all matters covered by this Agreement. As used in this paragraph, "Grantee" includes all persons, natural or fictional, affiliated with, controlled by, or under common ownership with, the entity identified as the Grantee in block 1.3 of these provisions PERSONNEL.
8. The Grantee shall, at its own expense, provide all personnel necessary to perform the Project. The Grantee warrants that all personnel engaged in the Project shall be qualified to perform such Project, and shall be properly licensed and authorized to perform such Project under all applicable laws.
- 8.1. The Grantee shall not hire, and it shall not permit any subcontractor, subgrantee, or other person, firm or corporation with whom it is engaged in a combined effort to perform the Project, to hire any person who has a contractual relationship with the State, or who is a State officer or employee, elected or appointed.
- 8.2. The Grant Officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grant Officer, and his/her decision on any dispute, shall be final.
- 8.3. DATA; RETENTION OF DATA; ACCESS.
9. As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations,
- 9.2. computer programs, computer printouts, notes, letters, memoranda, paper, and documents, all whether finished or unfinished.
- 9.3. Between the Effective Date and the Completion Date the Grantee shall grant to the State, or any person designated by it, unrestricted access to all data for examination, duplication, publication, translation, sale, disposal, or for any other purpose whatsoever.
- 9.4. No data shall be subject to copyright in the United States or any other country by anyone other than the State.
- 9.5. On and after the Effective Date all data, and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason, whichever shall first occur.
10. The State, and anyone it shall designate, shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, all data.
- 10.1. CONDITIONAL NATURE OR AGREEMENT. Notwithstanding anything in this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability or continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available or appropriated funds. In the event of a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Grantee notice of such termination.
11. EVENT OF DEFAULT: REMEDIES.
- 11.1. Any one or more of the following acts or omissions of the Grantee shall constitute an event of default hereunder (hereinafter referred to as "Events of Default"):
- 11.1.1 Failure to perform the Project satisfactorily or on schedule; or
- 11.1.2 Failure to submit any report required hereunder; or
- 11.1.3 Failure to maintain, or permit access to, the records required hereunder; or
- 11.1.4 Failure to perform any of the other covenants and conditions of this Agreement. Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:
- 11.2.1 Give the Grantee a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Grantee notice of termination; and
- 11.2.2 Give the Grantee a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the Grant Amount which would otherwise accrue to the Grantee during the period from the date of such notice until such time as the State determines that the Grantee has cured the Event of Default shall never be paid to the Grantee; and Set off against any other obligation the State may owe to the Grantee any damages the State suffers by reason of any Event of Default; and
- 11.2.3 Treat the agreement as breached and pursue any of its remedies at law or in equity, or both.
12. TERMINATION.
- 12.1. In the event of any early termination of this Agreement for any reason other than the completion of the Project, the Grantee shall deliver to the Grant Officer, not later than fifteen (15) days after the date of termination, a report (hereinafter referred to as the "Termination Report") describing in detail all Project Work performed, and the Grant Amount earned, to and including the date of termination. In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall entitle the Grantee to receive that portion of the Grant amount earned to and including the date of termination.
- 12.2. In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall in no event relieve the Grantee from any and all liability for damages sustained or incurred by the State as a result of the Grantee's breach of its obligations hereunder.
- 12.3. Notwithstanding anything in this Agreement to the contrary, either the State or, except where notice default has been given to the Grantee hereunder, the Grantee, may terminate this Agreement without cause upon thirty (30) days written notice. CONFLICT OF INTEREST. No officer, member of employee of the Grantee, and no representative, officer or employee of the State of New Hampshire or of the governing body of the locality or localities in which the Project is to be performed, who exercises any functions or responsibilities in the review or
- 13.

- approval of the undertaking or carrying out of such Project, shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof. GRANTEE'S RELATION TO THE STATE. In the performance of this Agreement the Grantee, its employees, and any subcontractor or subgrantee of the Grantee are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Grantee nor any of its officers, employees, agents, members, subcontractors or subgrantees, shall have authority to bind the State nor are they entitled to any of the benefits, workmen's compensation or emoluments provided by the State to its employees.
14. ASSIGNMENT AND SUBCONTRACTS. The Grantee shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State. None of the Project Work shall be subcontracted or subgranted by the Grantee other than as set forth in Exhibit B without the prior written consent of the State.
15. INDEMNIFICATION. The Grantee shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Grantee or subcontractor, or subgrantee or other agent of the Grantee. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.
16. INSURANCE. The Grantee shall, at its own expense, obtain and maintain in force, or shall require any subcontractor, subgrantee or assignee performing Project work to obtain and maintain in force, both for the benefit of the State, the following insurance:
- 17.1.1 Statutory workers' compensation and employees liability insurance for all employees engaged in the performance of the Project, and
- 17.1.2 General liability insurance against all claims of bodily injuries, death or property damage, in amounts not less than \$1,000,000 per occurrence and \$2,000,000 aggregate for bodily injury or death any one incident, and \$500,000 for property damage in any one incident; and
- 17.2. The policies described in subparagraph 17.1 of this paragraph shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Grantee shall furnish to the State, certificates of insurance for all renewal(s) of insurance required under this Agreement no later than ten (10) days prior to the expiration date of each insurance policy.
18. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of any provisions hereof. No such failure of waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of the Grantee.
19. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses first above given.
20. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Council of the State of New Hampshire, if required or by the signing State Agency.
21. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the law of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assignees. The captions and contents of the "subject" blank are used only as a matter of convenience, and are not to be considered a part of this Agreement or to be used in determining the intent of the parties hereto.
22. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.
23. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.
24. SPECIAL PROVISIONS. The additional or modifying provisions set forth in Exhibit A hereto are incorporated as part of this agreement.

EXHIBIT A
Special Terms and Conditions

1. The State reserves the right to audit the Grantee's expenditures for the Project and to retract and/or seek reimbursement for Grant Monies paid to the Grantee whenever, subsequent to payment of Grant Monies, it becomes known that any of the terms and conditions of this agreement were, in fact, not fulfilled.

2. Paragraph 15 of the General Provisions is amended in that the parties intend the Grantee to retain a Contractor in accordance with Exhibit A of this agreement.

EXHIBIT B
Scope of Services

1. The Grantee shall conduct the collection portion of its Project for **Portsmouth, Greenland, and Newington** in accordance with the terms and conditions of a contract which incorporates, at a minimum, all of the provisions set forth in Section 3 below between the Grantee and its contracted permitted hazardous waste transporter (the contractor). For purposes of this agreement, the contractor shall mean the primary contractor and the Subcontractor means all additional contractors that the contractor hires for participating in the Project.
2. The Grantee shall spend its grant monies solely for the purpose of paying the Project's contractor and/or for paying the expenses associated with conducting the Project's educational component, as required under the NH Hazardous Waste Rules Env-Hw 1003.07.
3. The Grantee shall enter into a contract with a contractor to perform the household hazardous waste collection project that includes, as a minimum, the following provisions:
 - a. That the contractor shall handle all household hazardous wastes collected at the project site as hazardous wastes, and shall comply with all state and federal laws and regulations governing hazardous waste, including but not limited to, the provisions of RSA 147-A and Chapter Env-Wm 100 through Chapter Env-Hw 1000 involving hazardous waste safety standards, transportation requirements, and requirements for proper generation, treatment, storage, and disposal of hazardous wastes. Said requirements shall include RSA 147-A, Chapter Env-Hw 100 through Chapter Env-Wm 1000, and those of the state(s) through which and to which the waste has been sent;
 - b. That the contractor must act as the generator of the hazardous wastes that it collects at the project site and that the contractor must sign the Project's manifest forms as such generator;
 - c. That the contractor must have all necessary permits and licenses to handle and transport hazardous wastes in New Hampshire and other states associated with the conduct of the project;
 - d. That the contractor may not assign or subcontract any of the duties to be performed under the contract without prior written approval by the Grantee and by the Department. Further, that any additional Subcontractor must also have all necessary permits and licenses to carry out the functions that are the subject of the subcontract;
 - e. That the contractor shall, at its sole expense, obtain and maintain in force, and shall require all Subcontractors to obtain and maintain in force, comprehensive public liability insurance against all claims of bodily injuries, death, or property damage, in amounts and terms complying with, at a minimum, all applicable state requirements for hazardous waste transporters, including NH Code of Administrative Rules Env-Hw 603.12. Such policies shall cover the State and the Grantee as additional insured parties and shall comply, in form and substance, with all applicable provisions of the NH Liability Insurance Act, RSA Ch. 412, and the rules thereunder;
 - f. That the contractor shall transport all household hazardous wastes collected at the project site to an authorized treatment, storage, or disposal facility. Said facility shall be in compliance with appropriate state and federal requirements.

EXHIBIT B continued

- g. That the Grantee shall not pay the contractor until after (1) the Department has received copies of all Project manifest forms required under Part Env-Hw 510, including Copy #2 of all Project manifest forms signed by the operator of the permitted hazardous waste facility or facilities to which the Project's collected hazardous wastes were delivered, and (2) the Department has reviewed the Project's collection, handling, transportation, storage, treatment, recycling and disposal of hazardous waste for compliance with applicable state and federal requirements. The Department's payment of funds to the Grantee shall not be construed as a waiver of any past, present or future right, claim, or cause of action related to the performance of this agreement or the enforcement of any applicable State or federal law;
 - h. That the contractor shall adhere to a work plan and a site safety plan, such plans may be reviewed by the Department.
 - i. That the Department may exercise its authority to modify, suspend or terminate the Project if it decides that the Project poses a threat to human health or the environment; and
4. The Grantee shall conduct public education activities regarding household hazardous waste in accordance with the provisions of RSA 147-B:6, I-a and Section Env-Hw 1003.07. Said activities shall include those set forth in the Grantee's application for Grant Monies, as approved by the Department.
5. The Grantee shall keep a count of persons participating in the Project and to conduct a questionnaire of said persons incorporating, at a minimum, the questions set forth on the Participant Exit Survey.
6. The Grantee shall conduct the collection portion of its project on or before the completion date shown in Section 1.6 of the contract. Failure to do so may result in termination of this agreement.
7. The Grantee shall allow the Department to have access to and conduct any monitoring of the Project deemed necessary by the Department to ensure its compliance with the terms of the contract and with state and federal statutes and regulations.

EXHIBIT C
Price and Payments

1. The State agrees to pay the Grantee the Grant Monies upon the successful completion of the Project. Successful completion shall mean that (1) the Grantee has fulfilled the terms and conditions of this agreement, (2) the Grantee's accounting records, submitted to the Department have been reviewed by the Department, (3) the contractor has fulfilled the terms and conditions of its contract with the Grantee, and (4) the State has received and reviewed all Project manifest forms required in accordance with this contract and all applicable state and federal requirements. No Grant Monies shall be paid to the Grantee until the Department has determined that all the Project's collected hazardous wastes have been delivered to a permitted hazardous waste facility and the Department has reviewed the handling, transportation, and storage, treatment, recycling and/or disposal of the Project's collected hazardous wastes for compliance with applicable state and federal requirements. Said requirements shall include RSA 147-A, Chapter Env-Wm 100 through Chapter Env-Wm 1000, and those of the state(s) through which and to which the waste has been sent. However, the payment of funds to the Grantee shall not be construed as a waiver by the Department of any past, present or future right, claim or cause of action related to the performance of this agreement or the enforcement of all applicable state or federal laws.

2. Upon fulfillment of the terms and conditions of this contract, including all of the conditions of a successful completion of the Project, the Department shall pay to the Grantee Grant Monies in the amount not to exceed **\$4,238**. This amount is based on a rate of **\$0.15775 cents per capita** and on a population base of **26,860** to be made to the Grantee within 30 days of either the Department's receipt of the Grantee to be served by this Project. However, in no case shall the Department pay more than fifty percent (50%) of the total costs of the Project. All invoices must be submitted no more than 45 days past the completion date of the contract. Invoices greater than 180 days past the completion date will not be accepted or paid. Payment shall be made to the Grantee within 30 days of either the Department's receipt of the Grantee's invoice or the Department's determination that the Project has been successfully completed in accordance with this contract, whichever is later.

3. Grantee expenses not directly associated with the Project shall not be reimbursable by the Department. Only costs that otherwise would not have been spent by the Grantee were it not for the Project, and the Grantee's coordination thereof, shall be reimbursed by the Department. Nonreimbursable items shall include, but not be limited to, the following: employee benefits, payroll taxes, insurance, rent, utilities, dues, and depreciation.

4. The Grantee agrees to expend monies on the Project in an amount not less than the Project's Grant Monies, in fulfillment of the matching requirement set forth in RSA 147-B:6, I-a and in Part Env-Wm 1003.

5. The Grantee agrees to pay for all Project costs beyond the amount of Grant Monies.

6. Prior to the Department's awarding of the Grant Monies specified in this agreement, the Grantee agrees to provide the Department with records showing an accounting for all monies spent and/or costs incurred from the Project, including the Project's Grant Monies. Further, the Grantee agrees that no Grant Monies shall be paid by the Department unless and until the Department has reviewed and determined that such costs or expenditures qualify for funding under the terms of this agreement, and all applicable state and federal requirements; provided that the Department's payment of funds to the Grantee shall not be construed as a waiver of any past, present or future right, claim or cause of action related to the performance of this agreement or any applicable state or federal law.

7. The Grantee agrees to submit an invoice to the State for the Grant Monies specified in this agreement. Said invoice shall be submitted to the NH Department of Environmental Services, 29 Hazen Drive, Concord, NH 03301-6509.

PORTSMOUTH POLICE COMMISSION

MEMORANDUM

DATE: AUGUST 16, 2022
TO: KAREN CONARD, CITY MANAGER
FROM: STEFANY SHAHEEN, PORTSMOUTH POLICE COMMISSION CHAIR
MARK D. NEWPORT, CHIEF OF POLICE
RE: GRANTS

At the July 28th, 2022 Police Commission meeting, the Board of Police Commissioners approved and accepted the following grants:

- a. A grant in the amount of \$700,000 from the Department of Justice through the American Rescue Plan Act for the New Hampshire Internet Crimes Against Children Task Force.**
- b. A grant in the amount of \$7,500 from the USPCA AKC Reunite K9 Organization**

We submit the information to you pursuant to City Policy Memorandum #94-36, for the City Council's consideration and approval at their August 22nd, 2022 meeting. We respectfully request this item be placed on the City Council meeting agenda for the August 22nd, 2022 regular City Council meeting.

Respectfully submitted,



Jacqueline D. Burnett
Office of the Chief

copies: Board of Police Commissioners
Business Asst. Patti Smallwood
Business Ops. Mgr. Karen Senecal

CITY OF PORTSMOUTH**LEGAL DEPARTMENT****MEMORANDUM**

DATE: August 16, 2022
TO: KAREN S. CONARD, CITY MANAGER
FROM: ROBERT P. SULLIVAN, CITY ATTORNEY
RE: PRESCOTT PARK PUBLIC FORUM ISSUES



Commencing during the summer of 2021 and becoming more noticeable this year, there have been nearly daily public displays of support in Prescott Park on behalf of conservative, political causes and the candidacy of Donald J. Trump for President in 2024. Citizen complaints concerning these activities have been constantly increasing. For this reason, you have requested that the Legal Department inquire into the situation and report its findings and recommendations. This memorandum will be the response to your direction.

GENERAL

The initial observations by staff/Legal Department of the demonstrations were made by Code Enforcement Officer Jason Page. He confirmed that a pro-Trump group was regularly meeting in Prescott Park and demonstrating in support conservative causes. Although the gatherings were occurring on a nearly daily basis, the hours were staggered so that it was not a constant, predictable event. On July 7th, I received word from Prescott Park that individuals engaged in the political expression were doing so at that time. Assistant City Attorney Trevor McCourt and I went to Prescott Park where we spent the better part of an afternoon observing the conduct about which complaints had been received and speaking with the individuals who were engaged in it. The leader of the group seemed to be a gentleman named Mark Brenner, of whom I was aware from prior contact. Mr. Brenner was accompanied by three (3) others, one of whom provided a name and contact information; two (2) of whom chose to remain anonymous. During our discussions, all four (4) individuals were polite, respectful and cooperative. Trevor and I did note, however, that the exchange of viewpoints between the conservative group and the decidedly more liberal passersby, was nearly constant, spirited and often not respectful.

PUBLIC FORUM

The important observation is that the conduct of the conservative group was within or near an area which has been identified by the City for many years as a "Public Forum". A Public Forum is an area which has acquired a Constitutionally protected status which allows a broad latitude of expressive conduct protected by the First Amendment of the United States

Constitution. The Public Forum at Prescott Park has acquired that status by express designation, commencing with the Trustees of Trust Funds at the time when they operated the Park and continuing to this date, when the Park is operated by the City Administration. The Public Forum is designed to allow freedom of speech in the Park but to keep it separate from the more quiet, pastoral uses which might be expected in the Park.

Decisions of the United States Supreme Court have indicated that within a public forum the government may not discriminate as to what type of expressive conduct is allowed based upon the content of that expression. However, the government may adopt reasonable time, place, and manner of regulations over the activities in the public forum area so long as those regulations are content-neutral as to the viewpoints being expressed. The individuals who were expressing themselves in the Park during our visit seemed well aware of the foregoing principles. Attached hereto is a copy of a 2-page memorandum addressed to "Dear City of Portsmouth" dated July 12, 2022, which was received from Mr. Brenner and illustrates that point.

THE DEBATE OF JULY 7, 2022

During our visit, Trevor McCourt and I explained the rules of the Public Forum. These included that although virtually any public expression was protected, and even a certain amount of amplification was allowed, the expressive conduct must all be kept within the Public Forum area and no placement of signs, flags, or the like was permitted either outside of the Public Forum area or to be left unattended or attached to fences or objects.

At this point in our discussion, a debate arose concerning the location of the Public Forum area. I indicated that the Public Forum area as I know it was limited to the end of the parking lot closest to the Piscataqua River. At this point the group of speakers produced media evidence that other, more liberal, groups had been allowed to expand beyond the indicated area to include the portion of Prescott Park adjacent to the parking lot near the quay wall. They showed photos to this effect in which groups such as Moms Demand Action and Planned Parenthood had been allowed to engage in expressive conduct in a larger area. Moreover, Mr. Brenner indicated that an unidentified City employee had told him that his choice of location was within the Public Forum area. The group stated that to not allow them to engage in expressive conduct in areas where other groups had been allowed to do so was not content-neutral regulation and, in fact, was discrimination based upon the content of the speech being expressed. They stated words to the effect that the City was generally liberal in its politics and thus allowed groups sharing that viewpoint to express themselves in ways in which this conservative group was being denied.

Faced with that evidence and argument, Trevor McCourt and I withdrew from the Park indicating that we would have to engage in further research in order to make a final determination.

Our further research demonstrated that the City has been inconsistent in its description of the area which is the Public Forum at Prescott Park. Attached hereto you will find four (4) different maps or diagrams produced at different times by different City-related entities. You will note that each one shows a different location for the Public Forum area. There are others. The

group in question on July 7th was outside of the parking lot but within the Public Forum area as shown on certain of the attached diagrams produced by the City.

ANALYSIS AND RECOMMENDATION

The First Amendment of the United States Constitution is designed to limit the ability of government, in this case the City, to control the freedom of expression of its citizens. Where the Public Forum Doctrine is at play, the first important consideration is the actual description of the Public Forum. As the attachments to this memorandum show, the City has been inconsistent in defining the Public Forum at Prescott Park. Therefore, the first recommendation is that the City Council, as the policy-making body of the City, carefully and clearly define the area to be utilized as a public forum in the future.

The second major point of concern involves the reasonable time, place and manner regulations which might be applied to the Public Forum on a content-neutral basis. Attached to this memorandum is a "Public Forum Policy" adopted by the Trustees of Trust Funds in 2013. It is this policy which is currently being applied to the Public Forum area at Prescott Park, albeit loosely. Again, it is recommended that the City Council, as the policy-making body of the City, either adopt or amend this Policy as the Council deems appropriate. The major limitation on that policy imposed by the Constitution is that the amended policy needs to be reasonable and may only regulate time, place and manner of public expression. It must, of course, be content-neutral in its application.

A third recommendation is for the City to adopt a method of monitoring compliance with the Public Forum rules so that there is not a creeping expansion of Public Forum use beyond that authorized by the Council, as appears to have happened in the past.

OTHER PUBLIC FORA

Prescott Park is not the only public forum in the City. Even more noteworthy is the area in front of the North Church on Market Square, which is highly desired as a place of public expression. There is also a public forum in the Vaughan Mall. Argument could be made that other areas in the City have also become public fora as a result of the fact that the public has been allowed to use those places for public expression without control or interference from the municipal government.

At such time as the City Council considers what action which it might take with regard to the Public Forum area at Prescott Park, these other areas might also be considered by the Council.

RPS/smr

Attachments

cc: Susan G. Morrell, City Attorney
Trevor P. McCourt, Assistant City Attorney
Jason Page, Zoning Officer
Mr. Mark Brenner

Mark Brenner - Portsmouth Resident - 7/12/2022 - 603-234-4878

Prescott Park – Traditional Public Forum - Boundaries

Dear City of Portsmouth,

On July 7th, 2022 I was shocked to be approached inside of the traditional public forum at Prescott Park by two city attorneys. As a patriotic American, I consistently come to this forum to express my continued support of our country and to discuss important issues with other visitors to the public forum. Our country is in a difficult time right now and I want to engage with people of all belief systems to promote patriotism and help spread awareness of important issues. I also enjoy engaging with young visitors to instill some sense of pride in them about our nation. I provide refreshments and seats for those who would like to come and visit at my own cost. I do my best to maintain composure and kindness, never to instigate any problems.

Erroneously, my efforts have also now come under some scrutiny. I was told that my presence in the current area was not correct and that the boundary was restricted specifically to in front of the pier and parking area by City attorney Robert Sullivan and Trevor McCourt. This information was presented to me at the same time that I was told someone had complained to the City Council about my expressive conduct at Prescott Park.

This new boundary that was suggested is incorrect by the City's own documentary admissions and prior use indicates through photographic and video media all over the internet of the use of the Prescott Park Public Forum as encompassing a much larger area (That I am within). I have done my own due diligence as to previous advisement to where I should set up my expressive conduct in order to be within the boundary line. Now I have done more. I can confidently say that I am within the boundaries of the public forum. I have been the entire time and will continue to follow the exact guidelines as provided in evidence to you... which are included in the supporting evidentiary documents included. (See p. 5 for map1, See p. 7 for map2).

The City's own Legal Memorandum dated April 18th, 2013, which fully executes Portsmouth's permanent filing regarding the Prescott Park Public Forum Policy, clearly and succinctly indicates that I was sitting within the boundaries afforded to us for protected expressive conduct within this traditional public forum when visited on July 7th, 2022. You can find the map on included documents p. 5. You can find a description of the area including the green painted cement in the previous Master plan on included documents p. 6, greatly extending the area than what I was told yesterday. You can find an aerial boundary map, reflecting the exact same boundary on the map from the 2013 Legal Memorandum on p. 7, which is from the 2017 Master Plan. Both maps include the shaded grass area that I was setup in as part of the traditional public forum where my expressive conduct is protected. There are also 8 media snippets and photographs taken from protests ranging from 2013 - 2021 showing this exact same area used as a public forum (p. 9 - 17).

In the interest of justice, fairness, and not feeling that my Constitutional Rights as outlined under the definition of a traditional public forum (which this area is, see p. i-ii) are in jeopardy, if there is any other issues on the matter I ask to be contacted promptly if anyone needs to discuss this further as I have every intention to meeting the law. I also want to comment that any changes to this traditional public forum boundary to keep my expressive conduct away from other visitors... suddenly after someone complained about my legitimate and reasonable expressive conduct because they don't like the constitutionally allowed content, would be tantamount to regulation of the content of my speech not within the City's purview and is viewpoint discrimination. The city would have to show a new compelling interest under strict scrutiny if you are going to move forward with a sudden alteration of the zone to a very small area, separate from any complaint about my protected speech. Given the huge course of history of this space used to even a larger expanded area than the one I am rightfully set up in, it would be difficult to show a new compelling interest to just that one small area of the park (Examples can be found from p. 9 - 17).

I was also disappointed to see that there is no current map of the public forum to view on the city of Portsmouth website... instead it mistakenly points to a wedding map when clicked... that is not helpful at all and does not reflect the "red" area indicated on the same page (See p. 1-4). I would suggest perhaps using the map I included from the 2013 memorandum to allow other individuals a better idea of where the public forum is located so we can avoid further issues in the future being brought erroneously against law abiding citizens.

Thank you for your time and attention in this manner and I appreciate your concern to make sure we follow the law. I will continue to follow the law to the best of my ability and information.

All the best,

Longtime Portsmouth Resident, Business Owner, Property Owner
Mark Brenner

This is a traditional Public Forum
with at least 9 years of expressive conduct in the exact
place. Map reflects the same. Expressive conduct on 7/7/22
is within public forum boundary.

LII > Wex > forums

forums

Overview

A forum in First Amendment law refers to the place in which a speaker speaks. The First Amendment's protections regarding the right to speak and assemble will vary based on the speakers' chosen forum. In Perry Educ. Ass'n v. Perry Educators' Ass'n, 460 U.S. 37 (1983), the Supreme Court divided forums into three types: traditional public forums, designated forums, and nonpublic forums. ^{p. 5}

★ Traditional Public Forums - ^{p. 8-17} Photographic evidence goes back to 2013, map as of 2013, ^{aerial map} p. 7

Traditional public forums include public parks, sidewalks and areas that have been traditionally open to political speech and debate. Speakers in these areas enjoy the strongest First Amendment protections. In traditional public forums, the government may not discriminate against speakers based on the speakers' views. Doing so is called viewpoint discrimination, which is prohibited under the First Amendment. The government may, however, subject speech to reasonable, content-neutral restrictions on its time, place, and manner. When considering government restrictions of speech in traditional public forums, courts use strict scrutiny. When the government restricts speech in a traditional public forum, strict scrutiny dictates that restrictions are allowed only if they serve a compelling state interest and are narrowly tailored to meet the needs of that interest.

~~Current forum boundary has served city well for 9 plus years.~~

~~Designated Public Forums~~ - ^{municipal theaters, meeting rooms at state universities}

Sometimes, the government opens public property for public expression even though the public property is not a traditional public forum. These are designated public forums. After opening a designated public forum, the government is not obligated to keep it open. However, as long as the government does keep the forum

open, speech in the forum receives the same First Amendment protections as speech in traditional public forums. Examples of designated public forums include municipal theaters and meeting rooms at state universities.

Limited Forums

A limited forum is a type of a designated public forum. Here, the government limits access to a designated public forum to certain classes or types of speech. In *Good News Club v. Milford Central School*, 533 U.S. 98 (2001), the Supreme Court held that in a "limited forum," the government may discriminate against classes of speakers or types of speech. However, the government is still prohibited from engaging in viewpoint discrimination. For example, the government may limit access to public school meeting rooms by only allowing speakers conducting school-related activities. It may not, however, exclude speakers from a religious group simply because they intend to express religious views.

Nonpublic Forums

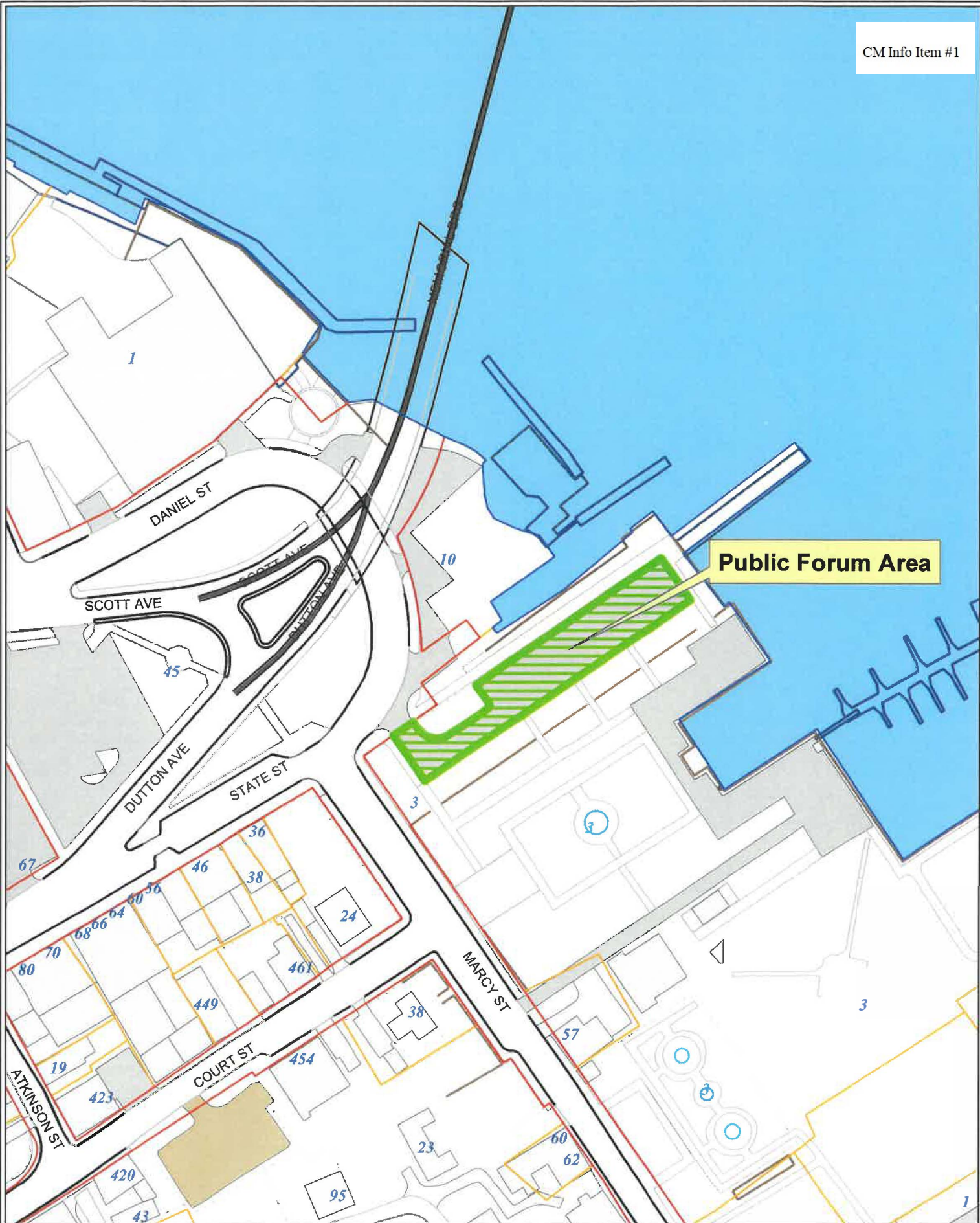
Nonpublic forums are forums for public speech that are neither traditional public forums nor designated public forums. According to the Supreme Court in *Minnesota Voters Alliance v. Mansky*, 585 U.S. ___ (2018), in a nonpublic forum, the Government may restrict contents of a speech, as long as the restriction is reasonable and the restriction does not discriminate based on speakers' viewpoints. Examples of nonpublic forums include airport terminals, a public school's internal mail system, and a polling place.

Finally, some public property is not a forum at all, and thus is not subject to this forum analysis. For example, public television broadcasters' are not subject to forum analysis when they decide what shows to air.

Further Reading

For more on forums, see this [University of Florida Faculty Scholarship article](#), this [Fordham Law Review article](#), and this [University of Virginia Law Review article](#).

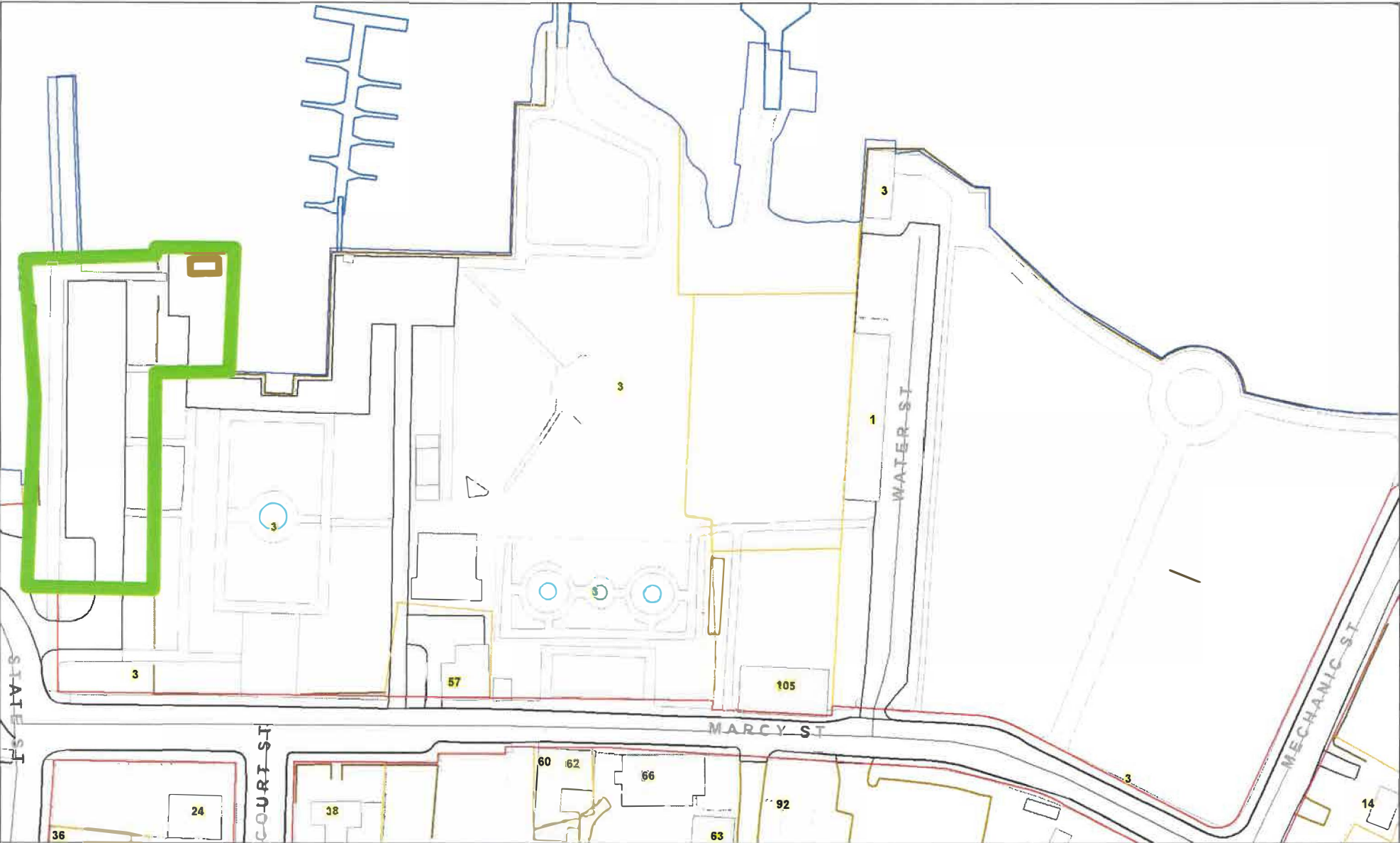
- [wex](#)
 - [CIVICS](#)
 - [the Constitution](#)
 - [constitutional law](#)
 - [wex articles](#)
- Keywords
 - [freedom of speech](#)
 - [free speech](#)
 - [freedom of association](#)
 - [freedom of assembly](#)



Public Forum Area

**Public Forum Area
Prescott Park**





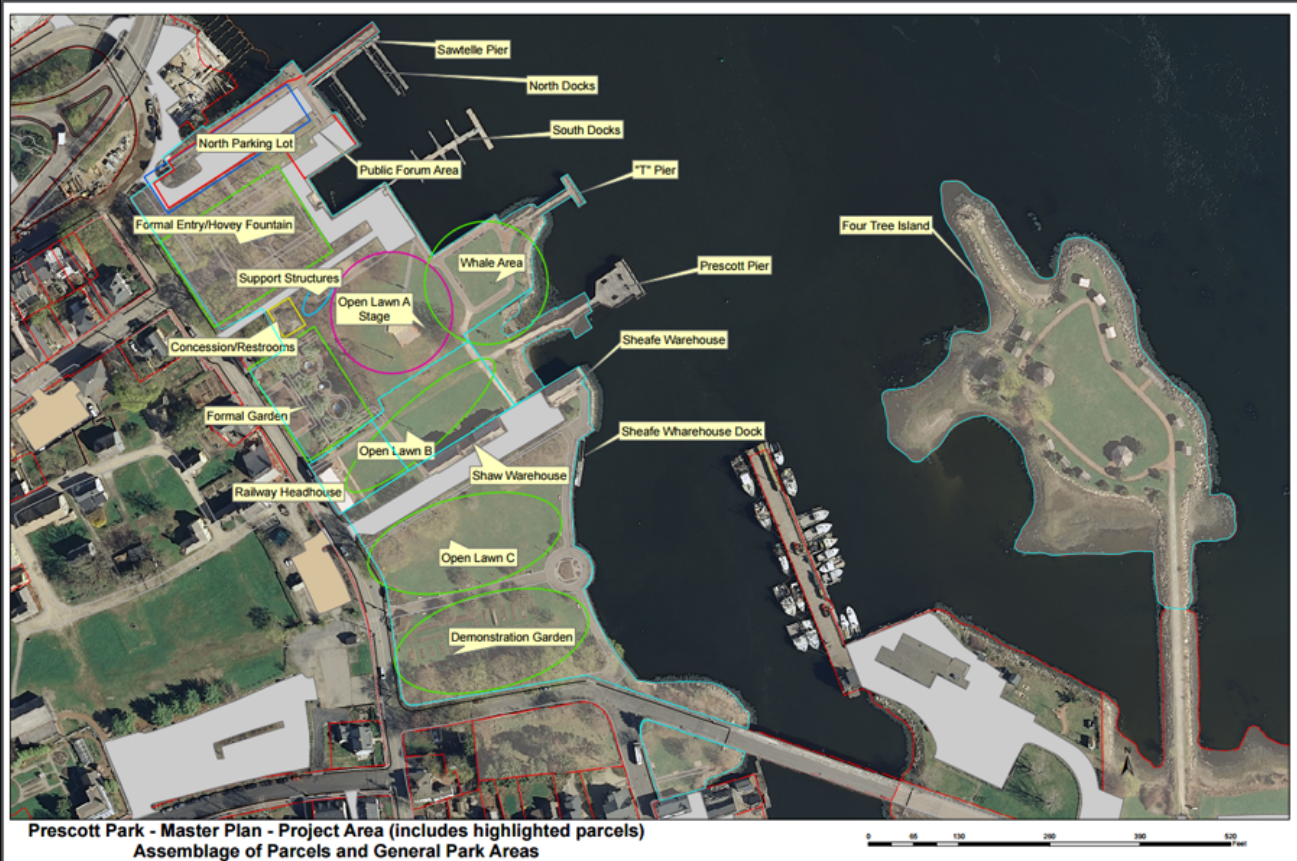
**Public Forum Area at Prescott Park
Portsmouth, New Hampshire**
Map prepared by Portsmouth Department of Public Works

 Public Forum Area
 Stage

1 inch = 60 feet
0 60 120 Feet

Print Date: 08/28/2012





from proposed
redevelop. of
P. Park
7/11/20



PHASE 1 PROJECT LIMITS

PHASE 1A
PROJECT LIMITS

MECHANIC STREET

WATER STREET

MARCY STREET

LIBERTY
LAWN

HOVEY
FOUNTAIN

FORMAL
GARDEN

PERFORMANCE
LAWN

THE SHAW
ADDITION
STAGE

THE
SHEAFE

GARDENS

PUBLIC
FORUM

WATERFRONT

BOARDWALK

WHALE
SCULPTURE

ART

ART

PUBLIC FORUM POLICY

STATEMENT OF POLICY:

The Trustees of Trust Funds of the City of Portsmouth desire to accommodate the public policy and constitutional considerations which support the use of some portion of Prescott Park for the purpose of protected expressive activity while at the same time maintaining the Park as a place for the public to quietly enjoy its lawns, gardens and scenic attractions. This policy is adopted to accomplish those goals.

FORUM AREA:

The area shown on the attached Exhibit A is hereby designated a public forum in which individuals may engage in expressive activities subject to the following rules:

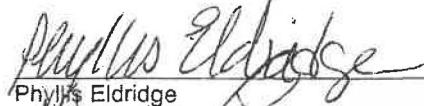
1. There shall be no distribution of handbills, fliers or other items, which might be prone to litter.
2. There shall be no electronic amplification of sound for the period commencing ninety (90) minutes prior to any performance in the Park and continuing until the completion of the performance.
3. If, in the determination of the Trustees of Trust Funds, any particular activity creates an inordinate risk of liability, the person or entity engaging in the activity may be required to provide a Certificate of Insurance indicating the existence of liability insurance protecting the City in an amount and type approved by the City Attorney.
4. In the event that any particular activity creates an inordinate risk to the public safety, the person or entity engaging in that activity may be required to provide an appropriate police detail at the expense of that person or entity.
5. No more than one (1) fixed sign shall be allowed, which may be no larger than 4' X 8'. All other signs must be handheld.
6. The largest number of expected or actual number of attendees allowed in the public forum area for any permitted event or activity shall be limited to 3,000. Any events or activities with expected or anticipated number of attendees over 3,000 will not be scheduled or permitted in the public forum area in Prescott Park.
7. Any permitted event or activity in the public forum area with expected or anticipated number of attendees of 1,000 or more shall be required to provide crowd separation barriers through the city public works department. The person(s) or entity engaging in the activity shall pay all costs associated with the placement and removal of the barriers.
8. Neither Prescott Park nor the Public Forum area shall be used for the solicitation of funds.
9. The Trustees of Trust Funds may deem other reasonable time, place and manner regulations as necessary.

NON-FORUM AREA:

The remaining areas of Prescott Park and Four-Tree Island are designated as being not a public forum, and therefore those areas are not available to be used for expressive purposes.

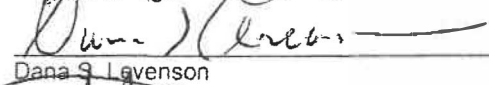
TRUSTEES OF TRUST FUNDS:

Dated: 4/18/13



 Phyllis Eldridge

Dated: 4/18/13



 Dana S. Levenson

Dated: 4/18/2013



 Thomas R. Watson

REPAIRS:

- A CHINK VOIDS IN GRANITE QUAYWALL
- B REHABILITATE RIPRAP (REPLACE MISSING STONES AND FILL VOIDS).

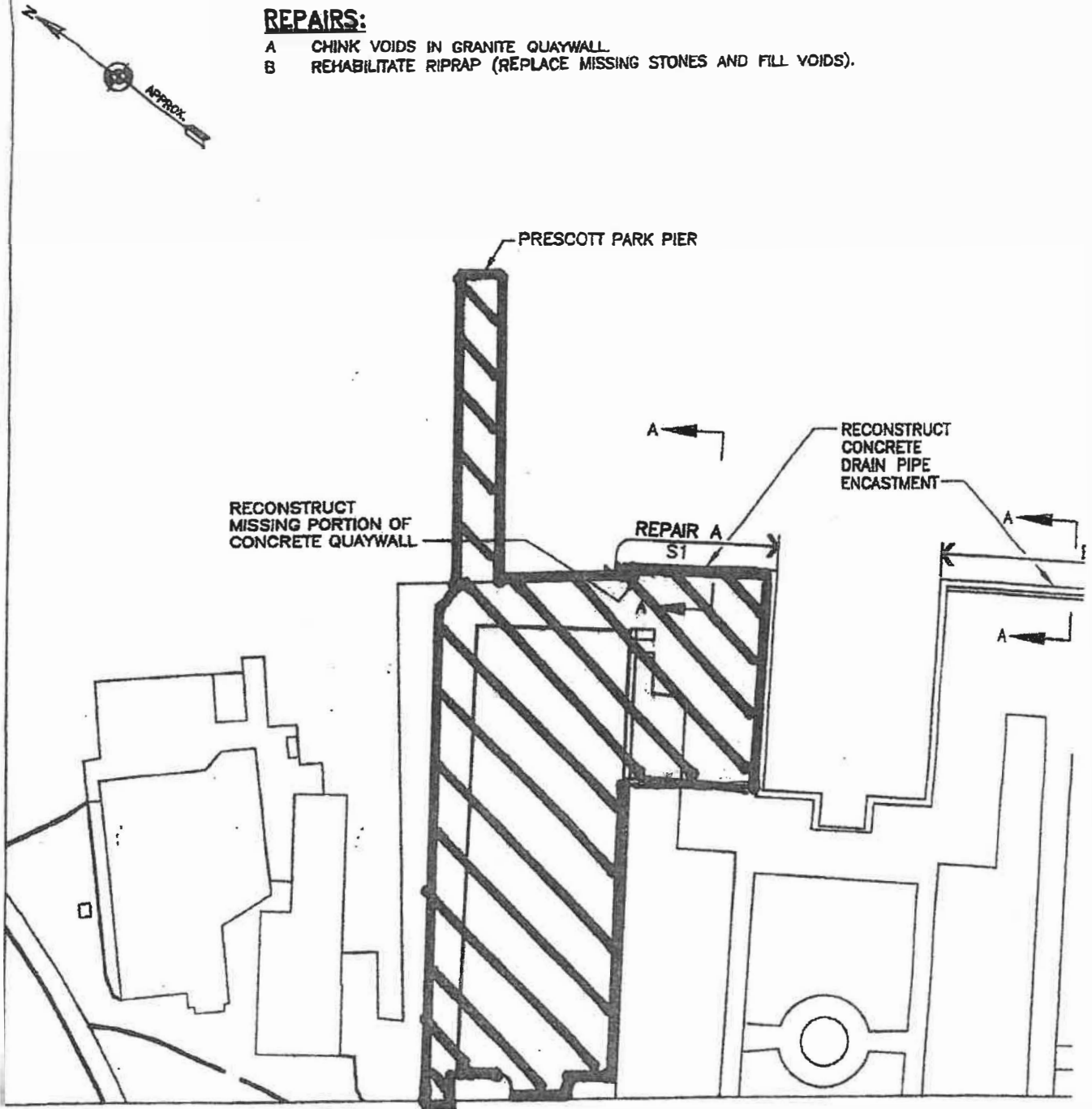


Exhibit "A"

PUBLIC FORUM AREA

*Per Public Forum Policy for Prescott Park
 Voted by the Trustees of Prescott Park: July, 2007
 603.431.8748*

