

**Draft Outline and Recommendations for Governance**

**12-12-2016**

**I. Blue Ribbon Committee Report Back: A Plan for Prescott Park - Outline**

A. Introduction to Report Back by Blue Ribbon Committee

**B. \*Weston & Sampson Final Deliverable**

**I. Introduction**

**II. Existing Conditions Narrative (with report as an appendix)**

**III. Process Description**

**IV. Park First Approach**

**V. Design Tenets**

**VI. The Preferred Plan**

**VII. Park Usage and Capacity Guidelines**

**VIII. Design Guide for Fixtures and Amenities**

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C. Blue Ribbon Committee Recommendations for Governance

I. Governance Framework

II. Recommendations for Governance Moving Forward

III. Principles for Future License Agreements

IV. Recommended Provisions for License Agreements

V. Other recommendations

**\*Content to come from Weston & Sampson**

**II. Governance Framework (Summary)**

1. The City Council is the policy making body of the City of Portsmouth and controls City-owned land and its uses
2. The City of Portsmouth owns the land that makes up Prescott Park
3. The Portsmouth City Charter Article V; section 5.3, charges the City Manager to oversee all City property

4. Deed restrictions establish the eligible uses of the property (“parks and recreational purposes”)
5. The Will of Josie F. Prescott establishes a Trust (financial) whose income “shall be used for the maintenance” of the Park.
6. Current proceeds from the Trust are insufficient to fund the annual operating costs of the Park (full and part time salaries, supplies, and maintenance costs, etc.).
7. The City’s Trustees of Trust Funds oversee the Trust (financial) in their role as defined in State statute.
8. The City’s Trustees of Trust Funds have provided the supervision and oversight in the Park as a matter of tradition as opposed to a requirement of any document or law.
9. The Charitable Trust Division at the State of NH Attorney General’s Office oversees Trusts and property held in trust to ensure they are used in a manner consistent with the intent of the maker of the Trust.

### **III. Recommendations for Park Governance going Forward**

1. The Blue Ribbon Committee on Prescott Park (BRC PP) recommends governance practices be carried out in a manner consistent with the deeds for the park parcels and city ordinances.
2. BRC PP Recommends the City Council commit to implementing the Master Plan, which should be identified in the City’s Capital Improvement Plan.
3. BRC PP Recommends Prescott Park come under the management control of the City Manager as set forth in the City Charter effective upon adoption of this report. As a result, the City Manager would be responsible for the day-to-day operations and maintenance of the Park facility (including upkeep of fountains, lawns, gardens, trees, paved surfaces, buildings, drainage and electrical systems and all other structures and facilities); negotiation and implementation of license (i.e. currently known as operating) agreements; on-site management; management of dock operations and reservations Four Tree Island and weddings); the development of administrative and personnel structures necessary for the operations; general oversight of licensed activities within the Park; and, in coordination with the City’s Legal

and public safety departments, ensure the enforcement of City policies, ordinances, and compliance with applicable deed restrictions and life, safety, and health codes.

4. The BRC PP recommends the City Manager assume the duties of the Trustees of Trust Funds as referenced in existing agreements and leases.
5. BRC PP recommends the City Manager work immediately with park licensees (those with leases, operating agreements and other formal agreements) and the community to plan for 2017 in the Park (during which time new park licenses will be negotiated). As examples, the planning would include addressing areas of schedule and frequency of Park activities, impacts on the neighborhood, signage, and general compliance by licensees and all users with park polices, deed restrictions, and City ordinances.

The BRC PP Committee recommends the City establish a separate Special Revenue Fund, which will reflect the costs of running Prescott Park and show the various revenue sources available to support park operating costs

6. BRC PP Committee recommends the City assess a variety of models for ensuring desired activities and services within the Park (i.e. maritime history & culture; visual and performing arts; and refreshments/food, etc.). This may include the City providing programming; authorizing programming through contracts, licenses, and/or vendor permits with qualified entities; or a combination of both or some other method. Examples include operation of concession stand for a longer number of hours or revisiting the model whereby one organization programs the Park for all arts and culture activities.
7. BRC PP Committee recommends replacing existing operating agreements with Park Licenses to be entered into with effective dates beginning no later than January 1, 2018. The City Council will approve park licenses.

BRC PP Recommends the Mayor appoint a *Blue Ribbon Prescott Park Policy Advisory Committee* (Advisory Committee) soon after the adoption of this Report to advise the City Manager with respect to park policies; events, activities, and services in the Park; and operations of licensees as well as to serve as a communication forum. Representation on the Advisory Committee should be made up of a member of the City's Trustees of Trust Funds, a City Councilor, two residents of the City (at least one of whom resides in the area surrounding the park), and a member of the City's Cultural Commission, Art-Speak; The City Manager shall appoint up to two staff advisers.

Recommended charge for the *Blue Ribbon Prescott Park Policy Advisory Committee*: Using the 2017 Final Report of the Blue Ribbon Committee on the Prescott Park Master Plan as a guide, provide advice to the City Manager with respect to park policies, events, activities, and services in the Park; operations of licensees; serve as a communication forum.

8. Because Blue Ribbon Committees expire with the City Council two-year term, the Committee recommends the City Council evaluate the Advisory Committee structure in December of 2017. Examples of questions, which may be asked at that time, could include: Should the Committee continue to be organized as a Blue Ribbon Committee? Should the Committee's duties be joined with other City Committees? Should the Committee be created via ordinance?
9. BRC PP recommends construction of park improvements and facilities be planned, funded (acknowledging a combination of funding sources including grants and private donations) and owned by the City in conformance with this Master Plan, including compliance with *Park Usage and Capacity Guidelines* in the 2017 Weston & Sampson Final Report and duly adopted future updates. Participation by private donors or organizations is not intended to convey ownership or control.
10. BRC PP Committee recommends the City encourage and permit a variety of formal programs within the Park. Priority should be given to programs

which celebrate the visual and performing arts, the City's maritime connection and history; history & culture one event or combination of events should fit within the Park's overall and overarching use as park.

11. BRC PP Committee recognizes the value and function of the Public Forum area in Prescott Park and recommend it be retained and be improved to make the area more attractive.
12. BRC PP Committee recommends the City provides and/or permits others to provide amenities, which directly enhance users' experience of Prescott Park as a park; including availability of restrooms and food and refreshments (this does not include alcohol, which is prohibited via Ordinance and deed restriction).
13. BRC PP Committee recognizes the value and purpose of open green spaces and urban parks as places of respite, recreation and enjoyment. Maintaining this special status includes limiting commercialization, which unchecked, can disrupt the park atmosphere. In this vein, the City Manager should apply the following criteria when negotiating the terms of financial transactions in the park by licensees for three types of transactions (food and refreshments; services; other goods):
  1. Exchange of funds for goods and services should be limited.
  2. Exchanges of funds for food, goods or services which are permitted should be expressly addressed in license agreements (the type of items for sale shall be enumerated in the agreement) including area where transactions are permitted.
  3. Any proposed sale of goods should enhance the experience of the user in the park and not detract from a park atmosphere.
  4. Each proposal for the sale of goods or services should be reviewed through the lens of ensuring a high quality presentation in keeping with the aesthetic goals of the park.
14. BRC PP recommends the City Manager develop formal materials (such as park user request forms, guidelines for users, and other documents) to

assist the City administration and potential users who may seek to hold events in Prescott Park. Documentation may vary for different types of events e.g. major users that operate/reserve space in the park on a regular basis; occasional user requiring designated space (e.g., yoga), informal/spontaneous use (no approvals needed).

15. BRC PP Committee recommends the City Manager evaluate City ordinances (such as prohibition on bicycles in the park) in light of the adopted Master Plan and propose recommended ordinance changes accordingly.

### **Principles for Future License Agreements**

1. License agreements should be in compliance with this Master Plan (narrative, recommendations, and physical space plan) and consistent with the Governance recommendations above, including *Park Usage and Capacity Guidelines* as well as all governance related recommendations above including but not limited to limiting transactions in the Park.
2. License should clearly outline the benefit to the public for the proposed use (public benefit) and Licensee's use and operation within the Park is consistent with Trust language
3. License agreements shall make plain all City ordinances will apply (in addition to deed restrictions).
4. License agreements should require that unimpeded pedestrian access through the park be maintained at all times
5. Revenues generated through agreements/activities in the park should be used to fund maintenance costs and capital improvements for the Park.
6. In programming the use of the stage, City policies for the stage and/or license agreements for scheduling the stage should address the expectation and terms for use of the stage by community-based performance groups seeking to perform on the stage. Examples of requirements of sub-agreements with community groups include: address number of community-based performance groups who will provide access to the stage; description of the time the stage should be made available; process

for making selections; description of artistic standards criteria; terms of sharing revenues of any type.

7. The stage facility shall be controlled by the municipality and shall not be established as a public forum.

## **VI. Recommended Provisions of License Agreements**

1. Explanation of public benefit
2. Description of areas to be used, including dimensions of indoor and outdoor areas
3. Provisions for public access
4. Nature and schedule of activities (type, frequency, # per day, etc.)
5. Hours of operation
6. Plan for compliance with *Park Usage and Capacity Guidelines*
7. Responsibilities of the tenant
8. Responsibilities of the City
9. Sound/noise
10. Liability/insurance
11. Limitations or prohibitions
12. Signage approval protocol
13. Enforcement mechanisms and penalties
14. Risk Assessment and Plans for managing risk (public and weather emergencies; risk of non-compliance with City ordinances by patrons; other risks)
15. Required reports/Evaluation of Licensee's performance on License terms.
16. Rent/Payments/Fees, clear explanation of the basis for the value of the rent/payments. (i.e. public benefit to the City, operating costs of the park; impacts of the use on the park; value of real estate)
17. Term (duration)
18. Requirements for sub-agreements (relationships with/accommodations for/supports for other users)
19. Other terms and provisions agreed to by the parties.

## **VII. Other Recommendations**

1. Work closely with adjacent property owners to implement concepts in this plan and coordinate future improvements to maximize the adjacency of key parcels. This includes coordination with Strawberry Banke on the future of the Marcy Street frontage nearest the Park.

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