

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, MARCH 19, 2012 TIME: 7:00PM

## AGENDA

6:30PM – ANTICIPATED “NON-MEETING” WITH COUNSEL - RSA: 91-A:2, I (b-c)

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

### PROCLAMATION & PRESENTATION

1. USS Virginia – Assistant Mayor Robert Lister

V. ACCEPTANCE OF MINUTES – MARCH 5, 2012

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARINGS

- A. ORDINANCE AMENDING CHAPTER 10 – ZONING ORDINANCE, ARTICLE 4 – ZONING DISTRICTS AND USE REGULATIONS, SECTION 10.440 – TABLE OF USES – RESIDENTIAL, MIXED RESIDENTIAL, BUSINESS AND INDUSTRIAL DISTRICTS THAT WOULD ALLOW ASSISTED LIVING CENTERS AS A PERMITTED USE IN OFFICE RESEARCH DISTRICTS AND ALLOW CLUB, FRATERNAL OR SERVICE ORGANIZATIONS BY SPECIAL EXCEPTIONS IN THOSE DISTRICTS

ADDITIONALLY AMEND ARTICLE 5 – DIMENSIONAL AND INTENSITY STANDARDS, SECTION 10.531 – TABLE OF DIMENSIONAL STANDARDS – BUSINESS AND INDUSTRIAL DISTRICTS TO REDUCE MINIMUM LOT DIMENSIONS IN OFFICE RESEARCH DISTRICTS SO THAT LOT AREA WOULD BECOME 2 ACRES, CONTINUOUS STREET FRONTAGE 200 FEET, DEPTH 200 FEET, AND MINIMUM SIDE YARD 50 FEET

- B. ORDINANCE AMENDMENT TO CHAPTER 1, ARTICLE XIV, SECTION 1.14 – MUNICIPAL FUND BALANCE BY THE DELETION OF THE TERMINOLOGY *UNDESIGNATED* THROUGHOUT THE ORDINANCE WITH THE REPLACEMENT OF THE TERMINOLOGY **UNASSIGNED**
- C. RESOLUTION AUTHORIZING THE ISSUANCE OF REFUNDING BONDS TO REFINANCE CERTAIN OUTSTANDING BONDS OF THE CITY SO AS TO REDUCE INTEREST COSTS AND TO PAY ALL COSTS INCIDENTAL AND RELATED THERETO. THE CITY IS AUTHORIZED TO ISSUE REFUNDING BONDS IN THE AMOUNT OF UP TO TWENTY MILLION DOLLARS (\$20,000,000.00)

- D. 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 FOR COSTS RELATED TO THE LONG TERM CONTROL PLAN (LTCP) IMPLEMENTATION NOT TO EXCEED TWELVE MILLION FIVE HUNDRED THOUSAND (\$12,500,000.00) DOLLARS

## VIII. APPROVAL OF GRANTS/DONATIONS

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

## IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Proposed Ordinance Amendment to Chapter 6, Article XVI, Section 6.16 – Magazine Subscription Solicitors by amending Section 6.1604 – License Fee – The fee for such license shall be determined on an annual basis by the City during its budget process
- B. First reading of Proposed Ordinance Amendment to Chapter 5, Article VIII, Section 5.8 – Alarm Systems Monitored by the City - Section 5.802 by removing service charge to service fee and adding such amounts as may be determined on an annual basis by the City during its budget process. The service fee may be graduated to increase based upon an increasing number of unfounded emergency calls. In addition, amending Section 5.803 – Permissible Unfounded Emergency Calls by replacing service charge with service fee and sub-section A - replacing Police Offices with Police Department and sub-section B – replacing Fire Officials with Fire Department
- C. First reading of Proposed Ordinance Amendment to Chapter 6, Article VII – Dogs and Other Pets, Section 6.708 License by the addition of the following language – The fee for this license shall be set at the maximum amount permitted by state law
- D. Second reading of Proposed Ordinance Amendment Chapter 10 – Zoning Ordinance, Article 4 – Zoning Districts and Use Regulations, Section 10.440 – Table of Uses – Residential, Mixed Residential, Business and Industrial Districts that would allow Assisted Living Centers as a Permitted Use in Office Research Districts and allow Club, Fraternal or Service Organizations by Special Exceptions in those Districts

Additionally Amend Article 5 – Dimensional and Intensity Standards, Section 10.531 – Table of Dimensional Standards – Business and Industrial Districts to reduce Minimum Lot Dimensions in Office Research Districts so that Lot Area would become 2 acres, Continuous Street Frontage 200 feet, Depth 200 feet, and Minimum Side Yard 50 feet

- E. Second reading of Proposed Ordinance Amendment to Chapter 1, Article XIV, Section 1.14 – Municipal Fund Balance by the deletion of the terminology *Undesignated* throughout the Ordinance with the replacement of the terminology **Unassigned**
- F. Adoption of Resolution Authorizing the Issuance of Refunding Bonds to Refinance Certain Outstanding Bonds of the City so as to Reduce Interest Costs and to Pay all Costs Incidental and Related Thereto. The City is authorized to issue refunding bonds in the amount of up to Twenty Million Dollars (\$20,000,000.00)

- G. 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 for Costs Related to the Long Term Control Plan (LTCP) Implementation not to exceed Twelve Million Five Hundred Thousand (\$12,500,000.00) Dollars

**X. CONSENT AGENDA**

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

- A. 2012 Omnibus Sidewalk Obstruction Renewals – See Attached Listing (***Anticipated action – move to refer to the City Manager with power***)
- B. Letter from Jay Diener, Seacoast Half Marathon, requesting permission to hold the 7<sup>th</sup> Annual Seacoast Half Marathon on Sunday, November 11, 2012 (***Anticipated action – move to refer to the City Manager with power***)
- C. Letter from Doug Bates and Joan Chawziuk, Greater Portsmouth Chamber of Commerce, requesting permission to hang Portsmouth Harbour Trail Flags at 24 key sites for the 2012 season (***Anticipated action – move to refer to the City Manager with power***)
- D. Letter from Kelly Lemos, New Hampshire SPCA, requesting permission to place 2 Paws Walk Posters and Brochures at the Mill Pond Dog Park (***Anticipated action – move to refer to the City Manager with power***)
- E. Request for Renewal of Boarding House Permit for Brian Hogan, Bach Realty, LLC, 21 Brewster Street (***Anticipated action – move to authorize the City Manager to issue the Boarding House Permit for Brian Hogan, Bach Realty, LLC, 21 Brewster Street***)
- F. Request for a License from Tom Holbrook, owner of River Run Bookstore on Fleet Street for property located at 142 Fleet Street to install a projecting sign on an existing bracket (***Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Tom Holbrook, owner of River Run Bookstore on Fleet Street to install a projecting sign at 142 Fleet Street and, further, authorize the City Manager to execute a 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 the projecting sign, for any reason, will be done at no cost to the City; and***

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

- G. Request for Approval of Pole License to install/replace 1 pole located on Fernald Court **(Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes)**

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

- A. Letter from Dyanna Smith, Red Eft Project, requesting permission to install 3 sculptural pieces of art on Friday, May 11, 2012 through Sunday, May 13, 2012 at the following locations:
- Corner of Market Street (where the ant and moose were located)
  - Grassy area where City Hall exits onto Junkins Avenue
  - Park across the street from City Hall, near corner of Junkins Avenue and South Street

**(Sample motion – move to refer to Art-Speak for report back)**

- B. Letter from Peter Somssich and Josh Denton, “Welcome Home, Iraqi Veterans” Parade Committee, requesting permission to hold a “Welcome Home, Iraqi Veterans” Parade on Sunday, July 8, 2012 and further, request that the City of Portsmouth assume the costs involved with the police details and insurance **(Sample motion – move to refer to the Veteran Committee (Assistant Mayor Lister and Councilor Smith) for report back)**

- C. Letter from Attorney Malcolm McNeill, Representing Commerce Way, LLC, regarding Commerce Way Conditional Road Layout and Betterment Assessment **(Sample motion – move to refer to the Planning Board for report back)**

- D. Letter from Kit Clews requesting permission to install an interactive sculpture in Market Square

## XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

### A. CITY MANAGER

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

1. Consideration of First Reading of Proposed Resolution and Ordinance Amendments:
  - 1.1 First reading of Proposed Ordinance Amendment to Chapter 6, Article XVI, Section 6.16 – Magazine Subscription Solicitors by amending Section 6.1604 – License Fee – The fee for such license shall be determined on an annual basis by the City during its budget process (**Action on this matter should take place under Section IX of the Agenda**)
  - 1.2 First reading of Proposed Ordinance Amendment to Chapter 5, Article VIII, Section 5.8 – Alarm Systems Monitored by the City - Section 5.802 by removing service charge to service fee and adding such amounts as may be determined on an annual basis by the City during its budget process. The service fee may be graduated to increase based upon an increasing number of unfounded emergency calls. In addition, amending Section 5.803 – Permissible Unfounded Emergency Calls by replacing service charge with service fee and sub-section A - replacing Police Offices with Police Department and sub-section B – replacing Fire Officials with Fire Department (**Action on this matter should take place under Section IX of the Agenda**)
  - 1.3 First reading of Proposed Ordinance Amendment to Chapter 6, Article VII – Dogs and Other Pets, Section 6.708 License by the addition of the following language – The fee for this license shall be set at the maximum amount permitted by state law (**Action on this matter should take place under Section IX of the Agenda**)
2. Public Hearing/Second Reading of Proposed Ordinance Amendments:
  - 2.1 Public Hearing/Second reading of Proposed Ordinance Amendment Chapter 10 – Zoning Ordinance, Article 4 – Zoning Districts and Use Regulations, Section 10.440 – Table of Uses – Residential, Mixed Residential, Business and Industrial Districts that would allow Assisted Living Centers as a Permitted Use in Office Research Districts and allow Club, Fraternal or Service Organizations by Special Exceptions in those Districts

Additionally Amend Article 5 – Dimensional and Intensity Standards, Section 10.531 – Table of Dimensional Standards – Business and Industrial Districts to reduce Minimum Lot Dimensions in Office Research Districts so that Lot Area would become 2 acres, Continuous Street Frontage 200 feet, Depth 200 feet, and Minimum Side Yard 50 feet (**Action on this matter should take place under Section IX of the Agenda**)

- 2.2 Public Hearing/Second reading of Proposed Ordinance Amendment to Chapter 1, Article XIV, Section 1.14 – Municipal Fund Balance by the deletion of the terminology *Undesignated* throughout the Ordinance with the replacement of the terminology **Unassigned** (**Action on this matter should take place under Section IX of the Agenda**)
3. Public Hearing/Adoption of Proposed Resolutions:
  - 3.1 Public Hearing and Adoption of Resolution Authorizing the Issuance of Refunding Bonds to Refinance Certain Outstanding Bonds of the City so as to Reduce Interest Costs and to Pay all Costs Incidental and Related Thereto. The City is authorized to issue refunding bonds in the amount of up to Twenty Million Dollars (\$20,000,000.00) (**Action on this matter should take place under Section IX of the Agenda**)
  - 3.2 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 for Costs Related to the Long Term Control Plan (LTCP) Implementation not to exceed Twelve Million Five Hundred Thousand (\$12,500,000.00) Dollars (**Action on this matter should take place under Section IX of the Agenda**)

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

1. Adoption of Capital Improvement Plan (CIP) FY2013-2018
2. Policy Regarding Use of City Property for Sidewalk Cafes Providing Alcohol Service
3. Approval of Guiding Parking Principles Re: Central Business District
4. Request for Approval of Pro Portsmouth Settlement Agreement
5. Request for Acceptance of Land Exchange with the State of New Hampshire Relating to General Sullivan Bridge Reconstruction

#### **Informational Items**

1. Events Listing
2. Various Zoning Amendments
3. Peirce Island Wastewater Treatment Facility Open House
4. African Burying Ground Trust Donations

## **B. MAYOR SPEAR**

1. Appointments to be Considered:
  - Appointment of David Rheame as a regular member to the Zoning Board of Adjustment
  - Appointment of David Rheame as a regular member to the Building Code of Appeals filling the unexpired term of Chester Keefe
  - Reappointment of MaryAnn Blanchard to the Conservation Commission
2. Appointment to be Voted:
  - Appointment of Christopher Mulligan as a regular member to the Zoning Board of Adjustment
3. Reappointment of Peter Loughlin to the Pease Development Authority as (Co-Representative with the Town of Newington) until March, 2015

## **C. COUNCILOR SMITH**

1. Parking and Traffic/Safety Committee Meeting Action Sheet and Minutes from March 8, 2012 meeting (***Sample motion – move to approve and accept the Action Sheet and Minutes of the March 8, 2012 Parking and Traffic/Safety Committee meeting***)

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

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

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

*\*Indicates Verbal Report*


## **INFORMATIONAL ITEMS**

1. Notification that the Zoning Board of Adjustment Minutes of December 13, 2011 meeting are available on the City's website for your review
2. Notification that the Historic District Commission Minutes of the December 14, 2011 meeting are available on the City's website for your review

**NOTICE TO THE PUBLIC WHO ARE HEARING IMPAIRED:** Please contact Dianna Fogarty at 603-610-7270 one-week prior to the meeting for assistance.

**CITY OF PORTSMOUTH  
PORTSMOUTH, NH 03801**

**Office of the City Manager**

**Date:** March 15, 2012  
**To:** Honorable Mayor Eric Spear and City Council Members  
**From:** John P. Bohenko, City Manager   
**Re:** City Manager's Comments on March 19, 2012 City Council Agenda

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*6:30 p.m. – Non-meeting with counsel.*

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

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

**1. Consideration of First Reading of Proposed Resolution and Ordinance Amendments:**

- 1.1 **First Reading of Proposed Ordinance Amendment to Chapter 6, Article XVI, Section 6.16 – Magazine Subscription Solicitors by amending Section 6.1604: License Fee.** As a result of the March 5<sup>th</sup> City Council meeting, under Section IX of the Agenda, I am bringing back the aforementioned Ordinance amendment.

The Ordinance amendment reflects the following additional language:

“The fee for such license shall be determined on an annual basis by the City during its budget process.”

There is no reference to a License fee in the current Ordinance so the City is unable to charge a fee, which is currently listed in the Fee Resolution for \$50.00 per license. This is a housekeeping issue to bring the ordinance in line with the Fee Resolution and allow for the collection of the fee.

*I would recommend the City Council move to pass first reading and schedule a public hearing and second reading on the proposed Ordinance amendment, at the April 2, 2012 City Council meeting. Action on this matter should take place under Section IX of the Agenda.*



- 1.2 **First Reading of Proposed Ordinance Amendment to Chapter 5, Article VIII, Section 5.8 – Alarm Systems Monitored by the City by amending Section 5.802: Service Fee and Section 5.803: Permissible Unfounded Emergency Calls.** As a result of the March 5<sup>th</sup> City Council meeting, under Section IX of the Agenda, I am bringing back the aforementioned Ordinance amendment.

The current ordinance needs to be amended to reference the fee for false alarms. The fees are adopted each year during the budget adoption process through the Fee Resolution. This is a housekeeping issue.

*I would recommend the City Council move to pass first reading and schedule a public hearing and second reading on the proposed Ordinance amendment, at the April 2, 2012 City Council meeting. Action on this matter should take place under Section IX of the Agenda.*

- 1.3 **First Reading of Proposed Ordinance Amendment to Chapter 6, Article VII, Section 6.7 – Dogs and Other Pets by amending Section 6.708: License.** As a result of the March 5<sup>th</sup> City Council meeting, under Section IX of the Agenda, I am bringing back the aforementioned Ordinance amendment.

The license and fee are in accordance with New Hampshire RSA 466. The Ordinance amendment reflects the following additional language:

“The fee for this license shall be set at the maximum amount permitted by state law.”

This allows for the local governing body to charge an additional \$1.00 for dog licenses, which will not be effective until the April 2013 licensing season. In addition, this allows ample time for notification to residents of the additional charge.

*I would recommend the City Council move to pass first reading and schedule a public hearing and second reading on the proposed Ordinance amendment, at the April 2, 2012 City Council meeting. Action on this matter should take place under Section IX of the Agenda.*

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

- 2.1 **Public Hearing/Second Reading of Proposed Zoning Ordinance Amendments – Office Research District.** As a result of the February 21st City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the attached proposed Zoning Ordinance amending Chapter 10 – Zoning Ordinance – Article 4 - Zoning Districts and Use Regulations, Section 10.440 – Table of Uses – Residential, Mixed Residential, Business and Industrial Districts and Article 5 – Dimensional and Intensity Standards, Section 10-531 Table of Dimensional Standards – Business and Industrial Districts. Also attached is a memorandum from Rick Taintor, Planning Director, dated January 27, 2012, which was originally submitted to the City Council. Further, I have attached a memorandum from Rick Taintor, dated February 15, 2012 which is supplemental information that the City Council requested at the last

meeting regarding the subject matter. Please note the Planning Board voted unanimously on October 20, 2011 to recommend that the Zoning Ordinance be amended as requested.

City staff will give a short presentation regarding this matter.

*I would recommend the City Council move to pass second reading and schedule a third and final reading on the proposed ordinance amendment, as presented, at the April 2, 2012 City Council meeting. Action on this item should take place under Section IX of the Agenda.*

- 2.2 **Public Hearing/Second Reading of Proposed Ordinance Amendment to Chapter 1, Article XIV, Section 1.14 – Municipal Fund Balance by the deletion of the terminology Undesignated throughout the Ordinance with the replacement of the terminology Unassigned.** As a result of the March 5th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the aforementioned proposed Ordinance amendment (see attached). As part of the budget presentation at the City Council retreat held on January 28, 2012, the Finance Director, Judie Belanger described the new fund balance model in conformity with Governmental Accounting Standards Board (GASB) Statement No. 54.

As you know, the City currently has a Municipal Fund Balance Ordinance Chapter 1, Article XIV, Section 1.14 – which addresses the use and maintenance of the Undesignated portion of the fund balance. The new fund balance model changes the terminology of Undesignated Fund Balance to Unassigned Fund Balance. Therefore, the terminology change makes it necessary for the City to amend the current City ordinance to reflect the new terminology.

City staff will give a short presentation regarding this matter.

*I would recommend the City Council move to pass second reading and schedule third and final reading on the proposed Fund Balance Ordinance, at the April 2, 2012 City Council meeting. Action on this matter should take place under Section IX of the Agenda.*

3. **Public Hearing/Adoption of Proposed Resolutions:**

- 3.1 **Public Hearing and Adoption of Resolution Authorizing the Issuance of Refunding Bonds to Refinance Certain Outstanding Bonds of the City so as to Reduce Interest Costs and to Pay all Costs Incidental and Related Thereto. The City is authorized to issue refunding bonds in the amount of up to Twenty Million Dollars (\$20,000,000)** As a result of the March 5th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and adoption the aforementioned proposed Resolution (see attached). As part of the budget presentation at the City Council retreat held on January 28, 2012, a refunding (refinancing) opportunity was discussed which may result in substantial savings to the City.

The City issued a \$46,640,000 bond on September 15, 2002. The majority of the proceeds (\$38 Million) financed the construction/renovation of the High School. The original bond terms included a call provision which allows the issuer the option to pay off bonds prior to the maturity date by issuing another bond at a lower interest rate.

The average coupon rate (interest) for the remaining life of the bond is 4.47%. The City, by opting to refinance this bond in the current market, could experience an average interest rate below 2% resulting in substantial savings of approximately \$2.2 Million in total debt service or in excess of \$200,000 per year, net of all issuance costs, over the remaining life of the bond.

Keeping in mind that interest rates are subject to change, the table below demonstrates the comparison of the existing debt service with the estimated new debt along with the projected savings for the remaining life of the bond.

<u>Fiscal Year</u>	<u>Existing Debt Service</u>	<u>New Debt Service</u>	<u>Savings</u>
2013	\$3,679,587.50	\$3,473,237.50	\$206,350.00
2014	\$2,728,875.00	\$2,521,175.00	\$207,700.00
2015	\$2,633,875.00	\$2,424,125.00	\$209,750.00
2016	\$2,538,875.00	\$2,333,125.00	\$205,750.00
2017	\$2,443,875.00	\$2,238,175.00	\$205,700.00
2018	\$2,348,875.00	\$2,139,375.00	\$209,500.00
2019	\$2,263,375.00	\$2,054,293.75	\$209,081.25
2020	\$2,186,187.50	\$1,977,725.00	\$208,462.50
2021	\$2,106,625.00	\$1,901,943.75	\$204,681.25
2022	\$2,024,687.50	\$1,819,812.50	\$204,875.00
2023	<u>\$1,941,562.50</u>	<u>\$1,736,437.50</u>	<u>\$205,125.00</u>
Total	\$ 26,896,400.00	\$ 24,619,425.00	\$ 2,276,975.00

City staff will make a short presentation regarding this matter.

*I would recommend the City Council move to adopt a proposed Refunding Resolution of up to Twenty Million Dollars (\$20,000,000) as presented. (The Refunding Resolution requires two readings and a public hearing with two-thirds vote of the City Council.) Action on this matter should take place under Section IX of the Agenda.*

- 3.2 **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 for Costs Related to the Long-Term Control Plan (LTCP) Implementation not to exceed Twelve Million Five Hundred Thousand (\$12,500,000) Dollars.** As a result of the March 5th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and adoption of the aforementioned proposed Resolution (see attached). As you are aware, for the past 2 1/2 years the City has been working under a Consent Decree that dictates schedules for various projects related to the wastewater collection and treatment system. The projects related to the collection system improvements are defined in the City's Long-Term Control Plan. That plan, which was updated during the Wastewater Master Plan process, outlines a series of sewer separation projects that are designed to reduce the occurrences of combined sewer overflows (CSO's).

The consent decree included 6 CSO projects; three of those are referred to as the Lincoln 3 planning area, two as the Islington planning area and one as the Court/State planning area. To date, State Street and the first Islington project have been completed. The first phase of the Lincoln projects (referred to as Lincoln 3A) will be completed this spring. The other three projects need to be constructed over the next 2 1/2 years. Those projects are Lincoln 3B and Cass Street, followed by Lincoln 3C. The three remaining project areas are shown on the attached maps.

The estimated sewer related costs for the three projects is \$12.5 million. The Sewer Division will be requesting authorization to borrow up to \$12.5 million to fund these projects. The cost of these projects has been included in the current rate model.

City staff will give a short presentation regarding this matter.

*I would recommend the City Council move to adopt a Bond Resolution for the aforementioned long-term control plan, as presented. (The Refunding Resolution requires two readings and a public hearing with two-thirds vote of the City Council.) Action on this matter should take place under Section IX of the Agenda.*

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

1. **Request for License to install a Projecting Sign.** Attached under Section X of the Agenda is the following request for a projecting sign license (see memorandum from Rick Taintor, Planning Director):

- Tom Holbrook, owner of River Run Bookstore for property located at 142 Fleet Street

*I would recommend the City Council move to approve the aforementioned Projecting Sign License as recommended by the Planning Director and, further, authorize the City Manager to execute a License Agreement for this request. Action on this matter should take place under Section X of the Agenda.*

2. **Request for Approval of Pole License.** Attached under Section X of the Agenda is the following request for a PSNH Pole License Agreement (see attached memorandum from Tom Richter, Engineering Technician, Public Works Department):

- a) License to install/replace 1 pole located on Fernald Court.

*I would recommend the City Council move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes. Action on this matter should take place under Section X of the Agenda.*

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

1. **Adoption of Capital Improvement Plan (CIP) FY 2013 – FY 2018.** As you will recall, in February, the City Council conducted a work session regarding the proposed Capital Improvement Plan for FY2013-2018. In addition, in accordance with 7.7 of the City Charter, the City Council conducted a public hearing on this proposed Capital Plan on Monday, March 5, 2012. At both of these meetings, a presentation of the proposed Capital Plan was made by the City staff. Also, copies of the Plan were made available to the public, as well as put on file with the City Clerk's Office and the Public Library. Further, the CIP for FY2013-2018 is available on the City's website.

As I indicated at the public hearing, the City Council is required, in accordance with Section 7.8 of the City Charter, to adopt the Capital Plan subsequent to the Public Hearing and before the City Manager submits the budget to the City Council. I anticipate that I will be transmitting my proposed FY2013 budget to you on or about April 11, 2012. Given that projected date, I am suggesting the City Council adopt the proposed Capital Improvement Plan at Monday's meeting. In accordance with the Charter, you could adopt the CIP no later than your April 2nd meeting. Please bring your Capital Improvement Plan with you. If you need another copy, please let me know.

Also, attached is a letter of support from the Economic Development Commission, regarding the 2013-2018 Capital Improvement Plan.

*I would recommend the City Council adopt the Capital Improvement Plan for FY 2013 – FY 2018 with any appropriate amendments.*

2. **Policy Regarding Use of City Property for Sidewalk Cafes Providing Alcohol Service.** As you know, at the March 5, 2012 City Council meeting, the Council voted to bring back for action at the March 19, 2012 City Council meeting the attached Policy Regarding Use of City Property for Sidewalk Cafes Providing Alcohol Service. Note that item 1 in the policy was changed, based on input from the March 5<sup>th</sup> Council meeting to reflect that no more than six (6) sidewalk cafes with alcohol service would be allowed in any season and that requests should be made by May 1st. Please also note that staff from the NH Liquor Commission's Division of Enforcement and Licensing have now reviewed the attached policy and do not see any need for

additional information in it and believe that the City has covered everything that references Liquor Enforcement needs.

As you know, during the 2011 season the City Council allowed the pilot use of City property in the downtown for two sidewalk cafes providing alcohol service -- Popovers on the Square and The District. The purpose of the pilot was to determine the public benefit and efficacy of such sidewalk café operations. Each of the two establishments operated under an Area Service Agreement that specified certain terms and conditions of operation and design.

During the pilot season last year, the cost for each of the establishments was \$10,000 for the entire season (mid-April to mid-October), prorated on a per day basis (approximately \$55 per day). The area used by Popovers was approximately 623 square feet and the area used by The District was approximately 500 square feet in Vaughan Mall.

A range of communities across the country, from Boston to Portland, Oregon to Alexandria, Virginia allow sidewalk cafes with alcohol service in accordance with a diverse array of design requirements, fee structures and the like. Fee structures are very diverse with some charging an application fee only, some charging an application fee plus a fee by linear foot, some charging a revocation fee, etc. In that Portsmouth, unlike many/most of these communities, has a very small, historic downtown with extremely limited public sidewalk space, the utility of any type of comparative fee structure analysis is not particularly instructive. As discussed at the last Council meeting, the intent of Portsmouth's proposed policy is more focused on economic development and a positive experience for visitors and residents, rather than on revenue generation.

*I would recommend the City Council move to adopt the policy regarding Use of City Property for Sidewalk Cafes Providing Alcohol Service.*

3. **Approval of Guiding Parking Principles Re: Central Business District.** The Mayor has requested that the City Council act on the Guiding Parking Principles that were discussed at the City Council Work Session of March 12<sup>th</sup>. I have revised the document that was provided at the Work Session to reflect the changes that were requested by Council members (see attached). Also, I have attached for your information a copy of the flow chart outlining the parking omnibus process.

*I would recommend the City Council move to approve the Guiding Parking Principles for the Central Business District, as presented.*

4. **Request for Approval of Pro Portsmouth Settlement Agreement.** On April 6, 2009, the City Council approved the settlement of a long standing debt owed by Pro Portsmouth to the City arising out of police services for Market Square Day. Settlement term was that Pro Portsmouth would pay the \$34,173 debt at the amount of \$200 a month, without interest, until paid in full. This provides Pro Portsmouth with approximately 14 years to pay off its debt.

Pro Portsmouth now proposes to resolve its debt with a single lump sum payment in the reduced amount of \$12,000 payable immediately on approval by the City Council. The current

debt owed to the City by Pro Portsmouth according to City records is \$27,173.60 as of March 13, 2012.

Given the vagaries of time and the very lengthy period before Pro Portsmouth would pay its entire debt at \$200 a month, it is the City Attorney's recommendation that the settlement proposed by Pro Portsmouth be accepted (see attached Settlement Agreement).

*I would recommend the City Council move to approve the Settlement Agreement with Pro Portsmouth, and further, authorize the City Manager to execute this Agreement.*

5. **Request for Acceptance of Land Exchange with the State of New Hampshire Relating to General Sullivan Bridge Reconstruction.** Attached for City Council action is an Offer-Agreement from the State of New Hampshire to exchange a parcel of land in Newington owned by the City of Portsmouth for an adjacent parcel of land in Newington owned by the State of New Hampshire. The exchange of parcels relates to work in the vicinity of the City's pump station made necessary by the reconstruction of the General Sullivan Bridge.

Although the City and the State have been discussing the issue since November, on March 13th the City was made aware of a fast approaching deadline which the New Hampshire Department of Transportation (DOT) has to meet in order to keep bridge reconstruction on schedule. City approval for the exchange of these properties is necessary for DOT to meet that deadline. Accordingly, simultaneously with placement of this letter on the City Council agenda the letter is being referred to the Planning Board for a report to the Council.

The request to the Council is that the letter be accepted by the City Council at Monday evening's meeting. A Planning Board report to the Council should be available by the Council meeting of April 2, 2012 so that the Council can then vote to approve the exchange of the properties in a manner which would allow NHDOT to maintain its construction schedule.

*I would recommend the City Council move to accept the letter and act on this matter at its April 2, 2012 City Council meeting.*

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

1. **Events Listing.** For your information, attached is a copy of the Events Listing updated after the last City Council meeting on March 5, 2012. In addition, this now can be found on the City's website.
2. **Various Zoning Amendments.** Attached is a memorandum from Rick Taintor, Planning Director, regarding various Zoning Ordinance amendments that the Planning Board would like the City Council to consider, which we will be bringing back over the next couple of months for City Council consideration.

3. **Peirce Island Wastewater Treatment Facility Open House.** For your information, attached is a memorandum from David Allen, Deputy Director of Public Works and Peter Rice, City Engineer for Water/Sewer Divisions, regarding the Peirce Island Wastewater Treatment Facility Open House on Saturday, March 31, 2012 from 9:00 a.m. to noon.
  
4. **African Burying Ground Trust Donations.** Attached for your information is a memorandum from David Moore, Community Development Director, regarding the African Burying Ground Trust Donations.