

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, MAY 21, 2012 TIME: 7:00PM

AGENDA

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

- V. ACCEPTANCE OF MINUTES – APRIL 18, 2012

- VI. PUBLIC COMMENT SESSION

- VII. PUBLIC HEARINGS
 - A. RESOLUTION APPROPRIATING THE SUM OF ONE MILLION NINE HUNDRED SEVENTY-SEVEN THOUSAND, NINE HUNDRED SEVENTY-THREE DOLLARS AND SIXTY-ONE CENTS (\$1,977,973.61) FOR EXPENSES RELATING TO VARIOUS GENERAL FUND PROJECTS AS NOTED BELOW:
 - 1) SEAWALL REPAIRS
 - 2) COAKLEY ROAD/COTTAGE STREET PEDESTRIAN IMPROVEMENTS
 - 3) PEVERLY HILL ROAD NEW SIDEWALK
 - 4) LITTLE HARBOUR INSTRUCTIONAL SPACE
 - 5) SCOTT AVENUE BRIDGE REPLACEMENT
 - 6) PORTION OF THE SAGAMORE BRIDGE PROJECT

 - B. RESOLUTION APPROPRIATING THE SUM OF TWO HUNDRED ONE THOUSAND, EIGHT HUNDRED THIRTY-FOUR DOLLARS AND FOUR CENTS (\$201,834.04) FOR EXPENSES RELATING TO THE MCDONOUGH STREET SEWER LINE REPLACEMENT PROJECT

- VIII. APPROVAL OF GRANTS/DONATIONS
 - A. Acceptance of Community Development Block Grant Funds (***Sample motion - move to accept and expend a Community Development Block Grant (CDBG) in the amount of \$475,235.00 from the U.S. Department of Housing and Urban Development***)

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Adoption of Resolution Appropriating the sum of One Million Nine Hundred Seventy-Seven Thousand, Nine Hundred Seventy-Three Dollars and Sixty-One Cents (\$1,977,973.61) for Expenses relating to various General Fund Projects as noted below:
- 1) Seawall Repairs
 - 2) Coakley Road/Cottage Street Pedestrian Improvements
 - 3) Peverly Hill Road New Sidewalk
 - 4) Little Harbour Instructional Space
 - 5) Scott Avenue Bridge Replacement
 - 6) Portion of the Sagamore Bridge Project

(Sample motion – move to adopt a Resolution appropriating the sum of One Million Nine Hundred Seventy-Seven Thousand, Nine Hundred Seventy-Three Dollars and Sixty-One Cents (1,977,973.61) for expenses relating to various General Fund projects) Please note: The adoption of Bond Premium Resolution requires a two-thirds vote of the City Council.

- B. Adoption of Resolution Appropriating the sum of Two Hundred One Thousand, Eight Hundred Thirty-Four Dollars and Four Cents (\$201,834.04) for Expenses relating to the McDonough Street Sewer Line Replacement Project ***(Sample motion – move to adopt a Resolution appropriating the sum of Two Hundred One Thousand, Eight Hundred Thirty-Four Dollars and Four cents (\$201,834.04) for expenses relating to Sewer line replacement for McDonough Street Sewer project) Please note: The adoption of Bond Premium Resolution requires a two-thirds vote of the City Council.***
- C. Third and Final reading of Proposed Amendment to Taxi Ordinance – Chapter 7, Article II, Section 7.229 – General Provisions by a new Sub-section E - entitled Compliance with State and Federal Law ***(Sample Motion – move to pass third and final reading of the proposed Ordinance amendment, as presented)***
- D. Third and Final reading of Proposed Amendment to Chapter 10, Article 4, Section 10.440 of the Zoning Ordinance – Table of Uses – Residential, Mixed Residential, Business and Industrial Districts by creating Performance Standards applicable to Drive-through Facilities, and Chapter 10, Article 8, Section 10.836.20 of the Zoning Ordinance regarding Accessory Drive-through Uses by changing type of approval required from a Special Exception to a Conditional Use Permit ***(Sample Motion – move to pass third and final reading of the proposed Ordinance amendment, as presented)***

- E. Third and Final reading of Proposed Amendment to Zoning Ordinance, Chapter 10, Article 15, Section 10.1530 – Terms of General Applicability relative to the Definition of Museum regarding Accessory Uses that are Incidental and Subordinate to the Primary Non-Profit Museum Use (***Sample Motion – move to pass third and final reading of the proposed Ordinance amendment, as presented***)
- F. Adoption of Proposed Budget Resolutions for Fiscal Year July 1, 2012 through June 30, 2013 (FY2013)
- Resolution #5-2012 – General Fund Expenditures (***Sample motion – move to adopt Resolution #5 – General Fund Expenditures***)
 - Resolution #6-2012 – Municipal Fees (***Sample motion – move to adopt Resolution #6 – Municipal Fees***)
 - Resolution #7-2012 – Sewer Fund Expenditures (***Sample motion – move to adopt Resolution #7 – Sewer Fund Expenditures***)
 - Resolution #8-2012 – Water Fund Expenditures (***Sample motion – move to adopt Resolution #8 – Water Fund Expenditures***)
 - Resolution #9-2012 – Special Revenues and Committed Fund Balances for Necessary Expenditures (***Sample motion – move to adopt Resolution #9 – Special Revenues and Committee Fund Balances for Necessary Expenditures***)
 - Resolution #10-2012 – Investment Policy (***Sample motion – move to adopt Resolution #10 – Investment Policy***)

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Request for License from Joe Kelley, owner of ONEOHEIGHT Premium Threads for property located at 6 Commercial Alley for a projecting sign on a new bracket (***Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Joe Kelley, owner of ONEOHEIGHT Premium Threads, for 1 projecting sign at property located at 6 Commercial Alley and, further, authorize the City Manager to execute License Agreements for this request***)

Planning Director's Stipulations:

- ***The licenses shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting signs, 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 signs, 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 for License from Holly Fortier, owner of Blue Grasshopper for property located at 10 Commercial Alley for 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 Holly Fortier, owner of Blue Grasshopper, for 1 projecting sign at property located at 10 Commercial Alley and, further, authorize the City Manager to execute License Agreements for this request***)

Planning Director's Stipulations:

- ***The licenses shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting signs, 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 signs, 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 for License from Tiana Conlon and Jessica Antequera, owners of Random Acts of Sweetness for property located at 112 State Street for 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 Tiana Conlon and Jessica Antequera, owners of Random Acts of Sweetness, for 1 projecting sign at property located at 112 State Street and, further, authorize the City Manager to execute License Agreements for this request***)

Planning Director's Stipulations:

- ***The licenses shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting signs, 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 signs, 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**

D. Request for License from Ryan Cronin, owner of Clark’s Creamery, for property located at 150 State Street for 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 Ryan Cronin, owner of Clark’s Creamery, for 1 projecting sign at property located at 150 State Street and, further, authorize the City Manager to execute License Agreements for this request)**

Planning Director’s Stipulations:

- **The licenses shall be approved by the Legal Department as to content and form;**
- **Any removal or relocation of the projecting signs, 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 signs, 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**

E. Request for Approval of Pole License to install/replace 1 pole located on Pearl Street **(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)**

F. Acceptance of Donations to Peirce Island Committee

- Frank Roth - \$100.00
- Lisa Louttit - \$35.00
- Ann Pattison - \$50.00
- Pat Bertrand - \$25.00
- Kathy Price - \$25.00
- Steph Delude - \$50.00
- Raffles - \$361.00
- Pizza Sales - \$495.25

(Anticipated action – move to accept and approve the donations, as submitted)

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Jim Swisher, Portsmouth Music and Arts Student Concerts, requesting permission to hold performances at North Church, Vaughan Mall, Commercial Alley, Market Street and Deer Street on Friday, June 1, 2012 for the Shop Portsmouth Friday Night Launch Party
- B. Letter from Ronan Donohoe, Warner House Association, requesting permission to place a temporary Warner House sign in the pocket-park located on Daniel Street between the Warner House and Bow Street
- C. Letter from Lisa Henderson, Workforce Housing Coalition, requesting the City to participate in a design charrette of the Rock Street Garage for re-development as workforce housing (***Sample motion – move to refer to staff for report back and recommendation***)
- D. Letter from Mark Herrholz, Portsmouth Professional Firefighters Local 1313, requesting permission to conduct two boot drives for MDA on Saturday, July 14, 2012 and Saturday, August 18, 2012 from 8:00 a.m. – 5:00 p.m. in Market Square
- E. Letter from Stephen Kelm requesting an easement from the City to access his property at 80 Wright Avenue (***Sample motion – move to refer to the Planning Board for report back***)

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

Items Which Require Action Under Other Sections of the Agenda

- 1. Public Hearing/Adoption of Proposed Resolutions:

Public Hearing Re: Use of Bond Premium

- 1.1 Public Hearing/Adoption of Resolution Appropriating the sum of One Million Nine Hundred Seventy-Seven Thousand, Nine Hundred Seventy-Three Dollars and Sixty-One Cents (\$1,977,973.61) for Expenses relating to various General Fund Projects as noted below:
 - 1. Seawall Repairs
 - 2. Coakley Road/Cottage Street Pedestrian Improvements
 - 3. Peverly Hill Road New Sidewalk

4. Little Harbour Instructional Space
5. Scott Avenue Bridge Replacement
6. Portion of the Sagamore Bridge Project

(Action on this matter should take place under Section IX of the Agenda)

- 1.2 Public Hearing/Adoption of Resolution Appropriating the sum of Two Hundred One Thousand, Eight Hundred Thirty-Four Dollars and Four Cents (\$201,834.04) for Expenses relating to the McDonough Street Sewer Line Replacement Project ***(Action on this matter should take place under Section IX of the Agenda)***
2. Third and Final Reading of Proposed Resolution and Ordinance Amendments:
 - 2.1 Third and Final reading of Proposed Amendment to Taxi Ordinance – Chapter 7, Article II, Section 7.229 – General Provisions by a new Sub-section E - entitled Compliance with State and Federal Law ***(Action on this matter should take place under Section IX of the Agenda)***
 - 2.2 Third and Final reading of Proposed Amendment to Chapter 10, Article 4, Section 10.440 of the Zoning Ordinance – Table of Uses – Residential, Mixed Residential, Business and Industrial Districts by creating Performance Standards applicable to Drive-through Facilities, and Chapter 10, Article 8, Section 10.836.20 of the Zoning Ordinance regarding Accessory Drive-through Uses by changing type of approval required from a Special Exception to a Conditional Use Permit ***(Action on this matter should take place under Section IX of the Agenda)***
 - 2.3 Third and Final reading of Proposed Amendment to Zoning Ordinance, Chapter 10, Article 15, Section 10.1530 – Terms of General Applicability relative to the Definition of Museum regarding Accessory Uses that are Incidental and Subordinate to the Primary Non-Profit Museum Use ***(Action on this matter should take place under Section IX of the Agenda)***
3. Adoption of Proposed Budget Resolutions:
 - 3.1 Adoption of Budget Resolutions for Fiscal Year July 1, 2012 through June 30, 2013 (FY2013) ***(Action on this matter should take place under Section IX of the Agenda)***
 - Resolution #5-2012 – General Fund Expenditures
 - Resolution #6-2012 – Municipal Fees
 - Resolution #7-2012 – Sewer Fund Expenditures
 - Resolution #8-2012 – Water Fund Expenditures
 - Resolution #9-2012 – Special Revenues for Necessary Expenditures and Committed Fund Balances
 - Resolution #10-2012 – Investment Policy

City Manager's Items Which Require Action

1. Proposed Approval of the Portsmouth School Custodians Local 1386 of the American Federation of State, County and Municipal Employees (AFSCME) Tentative Agreement
2. Proposed Approval of Contract for Deputy Fire Chief Carl Roediger
3. Request to Establish a Work Session Re: Parking Omnibus Proposal
4. Request for Authority to Submit Economic Revitalization Zone Application
5. Proposed Amendments to the Zoning Ordinance Re: Off-Street Parking Standards in the Downtown Overlay District
6. Report Back Re: Request from Attorney John McGee, Jr. on behalf of the Trustees of Arthur MacDonald Trust and 82 Court Street, LLC, for Lot Line Revisions with the Middle School Property

Informational Items

1. Events Listing
2. African Burying Ground Trust Donations
3. Senior Housing Inventory
4. Property Inspections

B. MAYOR SPEAR

1. *Reports

C. COUNCILOR NOVELLINE CLAYBURGH

1. *Report on Elderly Services

D. COUNCILOR KENNEDY

1. *Report on Elderly Services

E. COUNCILOR COVIELLO

1. *Bike Corrals

F. COUNCILOR COVIELLO AND COUNCILOR DWYER

1. City Council Rule 23 – Committee Nominations

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 Conservation Commission Minutes of April 11, 2012 meeting are available on the City's website for your review
2. Notification that the Historic District Commission Minutes of February 1, 2012 meeting are available on the City's website for your review
3. Notification that the Site Review Technical Advisory Committee Minutes of May 1, 2012 meeting are available on the City's website for your review
4. Notification that the Site Review Technical Advisory Committee Minutes of May 8, 2012 meeting are available on the City's website for your review
5. Letter from Kathy Anania and family thanking the City for the wonderful tribute given in memory of her son during the dedication of the new Alumni-Wentworth Softball Field

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

CITY OF PORTSMOUTH PORTSMOUTH, NH 03801

Office of the City Manager

Date: May 17, 2012
To: Honorable Mayor Eric Spear and City Council Members
From: John P. Bohenko, City Manager
Re: City Manager's Comments on May 21, 2012 City Council Agenda

Acceptance of Grants/Donations:

1. **Acceptance of Community Development Block Grant Funds.** The U.S. Department of Housing and Urban Development has informed the City that a Community Development Block Grant (CDBG) in the amount of \$475,235 will be made available to Portsmouth for FY 2012-2013. This grant is \$119,228 or 20% less than the previous year's grant. Over the past two years, the grant has decreased by \$237,370 or 33%.

The Community Development Department, working in conjunction with the City's Citizens Advisory Committee, held a series of public hearings and meetings over the last several months to solicit input and prioritize projects with regard to the expenditure of these funds. [Attached is a copy of the FY 2012-2013 CDBG Budget.](#)

I would recommend the City Council move to accept and expend a Community Development Block Grant (CDBG) in the amount of \$475,235 from the U.S. Department of Housing and Urban Development. Action on this matter should take place under Section VIII of the Agenda.

Items Which Require Action Under Other Sections of the Agenda:

1. **Public Hearing:**
 - 1.1 **Public Hearing Re: Resolution Appropriating the Sum of One Million Nine Hundred Seventy-Seven Thousand, Nine Hundred Seventy-Three Dollars and Sixty-One Cents (\$1,977,973.61) for Expenses Relating to Various General Fund Projects; Resolution Appropriating the Sum of Two Hundred One Thousand, Eight Hundred Thirty-Four Dollars and Four Cents**

(\$201,834.04) for Expenses Relating to the McDonough Street Sewer Line Replacement Project. As a result of the May 5th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and adoption the attached two proposed resolutions: 1) to appropriate the sum of \$1,977,973.61 for expenses relating to various General Fund projects; 2) to appropriate the sum of \$201,834.04 for expenses relating to Sewer line replacement for McDonough Street Sewer project.

The City of Portsmouth currently holds the second highest bond rating available from both Standard and Poor’s and Moody’s rating agencies (AA+ and Aa1 respectively).

The City was able to take advantage of its excellent bond rating when on December 14, 2011; the City of Portsmouth issued a \$32,400,000 bond. The proceeds of the bond will finance \$6.4 Million of General Fund capital projects, \$500,000 for a Fire Apparatus, \$22.5 Million for the Middle School and \$3 Million for the Peirce Island Wastewater Treatment Plant and Long-Term Control Plan. In addition to the \$32.4 million principal, the City received a premium of \$2,179,807.65 from the winning underwriter at closing. A premium is the amount by which the purchase price of a bond is greater than its par value. Under certain market conditions, in order to enhance the marketability of the bonds, bond underwriters will structure their bids with bond premiums. In this case, the City of Portsmouth received a True Interest Cost (TIC) rate of 2.86% and a bond premium of \$2,179,807.65. Under Federal Tax Law and State Statutes, the City is restricted on how to appropriate and use these funds.

RSA 33:3-states that any premium received shall not be used to increase the amount to be spent for the purpose for which the loan was originally incurred. Therefore, the City cannot use this money to increase the costs of the projects set forth for the \$32.4 Million bond issuance. However, the RSA states “a city by a vote of 2/3 of the City Council may authorize the expenditure for the premiums received for any purpose or purposes for which bonds or serial notes may be issued for an equal or longer period of time.

The bond premium of \$2,179,807.65 has been allocated respectively to the General Fund in the amount of \$1,977,973.61 and the Sewer Fund in the amount of \$201,834.04.

In accordance with State Statute, I recommend that the City Council authorize and appropriate the bond premium of \$1,977,973.61 to be used for the following General Fund projects:

+	1)	Seawall Repairs	Capital Outlay FY13	\$250,000.00
+	2)	Coakley Road/Cottage Street Pedestrian Improvements	Capital Outlay FY13	\$180,000.00
+ *	3)	Peverly Hill Road new Sidewalk	Capital Outlay FY13	\$50,000.00
	4)	Little Harbour Instructional Space	Bonding FY13	\$600,000.00

* 5) Scott Avenue Bridge Replacement	Bonding FY13	\$725,000.00
* 6) Portion of the Sagamore Bridge project	Bonding FY13	<u>\$172,973.61</u>
	Total	\$1,977,973.61
+ reduction in FY13 proposed budget (12¢ reduction in proposed tax rate)		
* grant match		

I also recommend that the City Council authorize and appropriate the bond premium of \$201,834.04 to be used for the following Sewer Fund project:

- 1) Sewer line replacement for McDonough Street.

As these projects have a useful life that exceeds the original bond issue from which the premiums were received, and would be eligible for bonding under the Municipal Finance Act, it is in the best interest of the City to utilize the premium of \$2,179,807.65 to fund portions of the costs associated with the General and Sewer Funds.

I would recommend the City Council move the following motions:

- 1) *Move to adopt a Resolution appropriating the sum of One Million Nine Hundred Seventy-Seven Thousand, Nine Hundred Seventy-Three Dollars and Sixty-One Cents (\$1,977,973.61) for expenses relating to various General Fund projects.*
- 2) *Move to adopt a Resolution appropriating the sum of Two Hundred One Thousand, Eight Hundred Thirty-Four Dollars and Four Cents (\$201,834.04) for expenses relating to Sewer line replacement for McDonough Street Sewer project.*

The adoption of Bond Premium Resolutions requires 2/3's vote of the City Council. Action on this matter should take place under Section IX of the Agenda.

2. **Third and Final Reading of Proposed Resolution and Ordinance Amendments:**

- 2.1 **Third and Final Reading of Proposed Amendment to Taxi Ordinance – Chapter 7, Article II, Section 7.229 – General Provisions by a new Sub-section E - Entitled Compliance with State and Federal Law.** As a result of the May 5th City Council meeting, under Section IX of the Agenda, I am bringing back for third and final reading [the attached proposed Ordinance amendment to the Taxi Ordinance – Chapter 7, Article II, Section 7.229 – General Provisions by a new Sub-section E - Entitled Compliance with State and Federal Law.](#)

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

- 2.2 **Third and Final Reading of Proposed Amendment to Chapter 10, Article 4, Section 10.440 of the Zoning Ordinance – Table of Uses – Residential, Mixed Residential, Business and Industrial Districts by Creating Performance Standards Applicable to Drive-Through Facilities and; Chapter 10, Article 8, Section 10.836.20 of the Zoning Ordinance Regarding Accessory Drive-Through Uses by Changing Type of Approval Required from a Special Exception to a Conditional Use Permit.** As a result of the May 5th City Council meeting, under Section IX of the Agenda, I am bringing back for third and final reading the [attached aforementioned proposed Ordinance amendment](#).

As you will recall, at the February 6, 2012 City Council meeting, the Council referred this request to the Planning Board for report back to the City Council. Mr. Choate's request is that the City considers amending the Zoning Ordinance with respect to the number of drive-through lanes allowed. The Planning Board considered this request at its meeting on March 15, 2012 and voted to recommend the changes to the Zoning Ordinance as outlined in the [attached memorandum from Rick Taintor, Planning Director](#).

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

- 2.3 **Third and Final Reading of Proposed Amendment to Zoning Ordinance, Chapter 10, Article 15, Section 10.1530 - Terms of General Applicability relative to the Definition of Museum regarding Accessory Uses that are Incidental and Subordinate to the Primary Non-profit Museum Use.** As a result of the May 5th City Council meeting, under Section IX of the Agenda, I am bringing back for third and final reading the [attached proposed Ordinance Amendment to Zoning Ordinance, Chapter 10, Article 15, Section 10.1530 – Terms of General Applicability relative to the Definition of Museum](#).

[Attached is a memorandum from Rick Taintor, Planning Director](#), regarding a request from Strawberry Banke Museum for an amendment to the definition of “museum” in the Zoning Ordinance. Specifically, it is requested that the provision excluding “commercial galleries for the sale of art” be removed from the definition.

At its meeting on March 15, 2012, the Planning Board voted unanimously to recommend that the City Council amend the definition of “museum “ as follows:

A non-profit permanent institution, open to the public, which acquires, conserves, researches, exhibits, and interprets objects having scientific, historical or artistic value. Museums may include exhibit and display areas, libraries and research areas, administrative offices, areas for constructing exhibits, and storage areas for museum materials, artifacts and objects. Accessory uses may include retail sales (~~but not including the regular sale of objects collected or Displayed~~), food services for

museum visitors or others, manufacturing for museum purposes, and events such as craft demonstrations, receptions, and periodic celebrations, **provided that all such accessory uses are incidental and subordinate to the primary non-profit museum use.**

~~Museums include galleries for the display of works of art, but do not include Commercial galleries for the sale of art work.~~

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

3. **Adoption of Proposed Budget Resolutions:**

3.1 **Adoption of Budget Resolutions for Fiscal Year July 1, 2012 through June 30, 2013 (FY2013).** On Monday evening, I am requesting that the City Council adopt the proposed FY 2013 Budget (July 1, 2012 thru June 30, 2013). For your review and action, under Section IX of the Agenda, [attached are six proposed Resolutions relative to the annual budget adoption process.](#)

[On the inside cover of your packet is a memorandum that outlines the discussion from the May 16, 2012 Work Session.](#)

Resolution No. 5-2012 – General Fund Expenditures. In this resolution, the proposed appropriations for the General Government, Police, Fire, and School Departments as well as Collective Bargaining Contingency, Transfer to Indoor Pool and Non-Operating appropriations are listed separately. The total proposed FY13 General Fund budget is \$90,725,768.

FY13 PROPOSED BUDGET

GENERAL GOVERNMENT	\$15,905,044
POLICE	\$8,838,885
FIRE	\$7,155,250
SCHOOL	\$38,302,260
COLLECTIVE BARGAINING	
CONTINGENCY	\$172,000
TRANSFER TO INDOOR POOL	\$150,000
NON-OPERATING	\$20,202,329
TOTAL	<u>\$90,725,768</u>

The FY 2013 original Proposed Budget of \$91,488,833 was submitted to the City Council on April 6, 2012. The Operating Budget submitted by the Departments, achieved my directive to submit a budget at no more than the CPI level of 2.9%. The submitted budget and estimated revenues resulted in a tax rate increase of 57¢ over FY12 for a rate of \$17.84 per \$1,000 of valuation.

Since the submission of the Budget to the City Council, adjustments were made which reduced the proposed budget to \$90,725,768 which reduced the proposed tax rate by 19¢ to \$17.65. This will result in an increase of 38¢ or 2.2% from FY 12.

The aforementioned adjustments are summarized as follows:

I have requested the Council move forward with approval of the use of \$1,977,973.61 in bond premium the City received from a \$32,400,000 bond issued in December 2011 for various capital improvements that were to be funded in the FY13 Proposed Budget.

Following are the projects to be funded by the Bond Premium:

*Seawall Repairs	\$250,000.00
*Coakley Road/Cottage Street Pedestrian Improvements	\$180,000.00
*Peeverly Hill Road new Sidewalk	\$50,000.00
**Little Harbour Instructional Space	\$600,000.00
**Scott Avenue Bridge Replacement	\$725,000.00
**Portion of the Sagamore Bridge project	<u>\$172,973.61</u>
Total	\$1,977,973.61
* Capital Outlay FY13	
** Bonding FY13	

The use of the bond premium results in:

- 1) The reduction of the proposed Capital Outlay of \$1,550,000 to \$1,070,000 or \$480,000 and
- 2) The reduction of debt service by \$22,969 from interest payments budgeted in FY13.

In addition, the City recently refunded the balance of the \$38 million bond issued in 2002 to construct and renovate the Portsmouth High School. This refunding will save more than \$2.8 million over the remaining 10 years of the bond issue and result in a reduction of \$260,096 in the proposed FY13 budget.

The total reduction from the originally submitted Proposed Budget is as follows:

Capital Outlay	\$480,000
Debt Service	\$283,065
Total	<u>\$763,065</u>

The Department of Revenue sets the tax rate in mid October, however, some uncertainties still remain at the State's level that may have an impact on the City's budget and/or tax rate.

Resolution No. 6-2012 adopts Municipal Fees that have been recommended by the Fee Committee. The total revenue generated from these fees is estimated at \$863,000 or 1% of the total FY13 General Fund Revenues.

Resolution No. 7-2012 establishes the annual appropriation, cash requirements and user rates for the Sewer Fund. The adoption of this Resolution includes a two step, inclining block rate structure. This means the first 10 units (1 unit equals 100 cubic feet or 748 gallons) of sewer usage per month will be charged at \$9.54 per unit, all consumption over 10 units per month will be charged at \$10.49 per unit. This increase translates to an approximate monthly increase of \$12.50 to the average residential user. Eighty percent (80%) of all residential customers fall in the 10 units or less tier.

Resolution No. 8-2012 establishes the annual appropriation, cash requirements and user rates for the Water Fund. Similar to Sewer, the adoption of this Resolution will include a two step, inclining block rate structure. The first 10 units (1 unit equals 100 cubic feet or 748 gallons) of water consumed per month will be charged at \$4.15 per unit, all consumption over 10 units per month will be charged at \$5.00 per unit, both rates are unchanged from the previous fiscal year. Eighty percent (80%) of all residential customers fall in the 10 units or less tier.

Resolution No. 9-2012 allows for the expenditure of Special Revenues and Committed Fund Balances. This allows the City to expend from committed fund balances, donations and Federal and State Grants as they are accepted and received.

Resolution No. 10-2012 deals with the adoption of an annual investment policy. State law requires the annual adoption of such a policy by every city and town.

Suggested Motions:

Move to adopt Resolution #5 – General Fund Expenditures.

Move to adopt Resolution #6 – Municipal Fees.

Move to adopt Resolution #7 – Sewer Fund Expenditures.

Move to adopt Resolution #8 – Water Fund Expenditures.

*Move to adopt Resolution #9 – Special Revenues and Committed Fund Balances
for Necessary Expenditures.*

Move to adopt Resolution #10 – Investment Policy.

(Actions on Resolutions 5 thru 10 should take place under Section IX of the Agenda.)

Consent Agenda:

1. **Request for Licenses to install Projecting Signs.** [Attached](#) under Section X of the Agenda are the following requests for projecting sign licenses (see memorandums from [Rick Taintor, Planning Director](#)):

- Joe Kelley, owner of ONEOHEIGHT Premium Threads for property located at 6 Commercial Alley
- Holly Fortier, owner of Blue Grasshopper for property located at 10 Commercial Alley
- Tiana Conlon and Jessica Antequera, owners of Random Acts of Sweetness for property located at 112 State Street
- Ryan Cronin, owner of Clark's Creamery for property located at 150 State Street

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

2. **Acceptance of Donations to Peirce Island Committee.** [Attached](#) under Section X of the Agenda is a statement from the Peirce Island Committee regarding the receipt of the following funds in the amount of \$1,141.25 for acceptance by the City Council:

- Frank Roth \$ 100.00
- Lisa Louttit 35.00
- Ann Pattison 50.00
- Pat Bertrand 25.00
- Kathy Price 25.00
- Steph Delude 50.00
- Raffles 361.00
- Pizza Sales 495.25

I would recommend the City Council move to accept and approve the donations, as submitted. Action on this matter should take place under Section X of the Agenda.

City Manager's Items Which Require Action:

1. **Proposed Approval of the Portsmouth School Custodians Local 1386 of the American Federation of State, County and Municipal Employees (AFSCME) Tentative Agreement.** As you are aware, the Portsmouth School Custodians, Local 1386 of the American Federation of State, County and Municipal Employees, (AFSCME) has approved a Tentative Agreement for a six-year contract to expire June 30, 2014. (Their contract expired on June 30, 2008.) [Attached are the following documents:](#)

- 1) A letter from Thomas Closson, Interim City Negotiator, outlining the changes of the Tentative Agreement.
- 2) A cost analysis, if the Tentative Agreement is approved.

Please bring your copy of the collective bargaining agreement from the last meeting. If you do not have it, please let me know and I will provide another one. All this information is online on the City's Website.

Dianna Fogarty, Human Resources Director will be available on Monday evening to answer any questions you may have regarding the Tentative Agreement.

I would recommend the City Council move to approve the Agreement between the Portsmouth School Board and the Portsmouth School Custodians Local 1386 of the American Federation of State, County and Municipal Employees (AFSCME) Tentative Agreement to expire June 30, 2014.

2. **Proposed Approval of Contract for Deputy Fire Chief Carl Roediger.** Attached is an [Employment Agreement](#) between the Portsmouth Fire Commission and Carl F. Roediger, Deputy Fire Chief for a 2-year term commencing on May 21, 2012 and ending on June 30, 2014.

I would recommend the City Council move to approve the Employment Agreement between the Portsmouth Fire Commission and Carl F. Roediger, Deputy Fire Chief.

3. **Request to Establish a Work Session Re: Parking Omnibus Proposal.** I would like to establish a work session on June 18, 2012 starting at 6:30 p.m., regarding the parking omnibus proposal.

I would recommend the City Council move to establish a work session on Monday, June 18, 2012 at 6:30 p.m., regarding the parking omnibus proposal.

4. **Request for Authority to Submit Economic Revitalization Zone Application.** At its May 4, 2012 meeting, the Economic Development Commission reviewed the three Economic Revitalization Zones (ERZ) in the City at Pease Tradeport, Commerce Way and at High Liner Avenue. It also discussed other areas in the city that might qualify for designation under this state authorized business retention tool.

You may recall that the ERZ designation is an economic development tool that creates incentive for companies to expand or relocate to an eligible area. Businesses located in an ERZ may be eligible for up to \$40,000 annually in tax credits to be used against its Business Profit Tax and Business Enterprise Tax up for a five year period. To qualify for the tax credit, businesses in the zone must create new jobs and expand the economic base by creating new facilities or by the rehabilitation of existing structures.

Following discussion of potential ERZ areas at the May 4th meeting, the EDC unanimously voted to recommend to the City Council that an ERZ application be

submitted to the State for Heritage Avenue and Constitution Avenue. This area is a good candidate because it is poised for new investment. A new building was recently approved in the business park and it is likely that there will be future investment in other businesses. This business location is also attractive to manufacturing businesses because it is an approved Foreign Trade Zone. If approved, qualified businesses that invest in new buildings or significantly renovate their properties and create jobs in this area would be able to apply for tax credits. [Attached for illustrative purposes, is a map of the recommended area.](#)

To implement the ERZ program so that local businesses are able to qualify for the ERZ tax credits, the city must identify a revitalization area and apply to the state for approval of the designated area. After state approval from the Division of Business Resources, businesses can apply for tax credits. There is no cost to the local community for designating ER Zones and as long as the ERZ program is funded at the state level, there is no limit on the number of ERZ's a city can designate.

I recommend that the City Council authorize the City Manager to submit an application to the New Hampshire Department of Resources and Economic Development for designation of Heritage Avenue and Constitution Avenues as an Economic Revitalization Zone (ERZ).

5. **Proposed Amendments to the Zoning Ordinance Re: Off-Street Parking Standards in the Downtown Overlay District.** [Attached is a memorandum from Rick Taintor, Planning Director,](#) outlining the proposed amendments to Zoning Ordinance, Section 10.1115 – Off-Street Parking Provisions in the Downtown Overlay District. At its meeting on April 19, 2012, the Planning Board voted unanimously to recommend that the City Council enact the [attached zoning amendment](#) regarding off-street parking standards in the Downtown Overlay District. The recommended amendment would make the following changes to the Zoning Ordinance:

- Eliminate off-street parking requirements for all nonresidential uses.
- Change the residential parking requirement to 1.5 parking spaces per dwelling unit.
- Eliminate the option to make a payment in lieu of providing required off-street parking.

I would recommend the City Council move to accept the recommendation of the Planning Board, and further, authorize the City Manager to bring back for first reading the proposed Ordinance amendments, as presented, at the June 11th City Council meeting.

6. **Report Back Re: Request by Attorney John McGee, Jr. on behalf of the Trustees of Arthur MacDonald Trust and 82 Court Street, LLC, for Lot Line Revisions with the Middle School Property.** On April 22, 2011, Attorney Ralph R. Woodman, Jr. submitted to the City Council a request for a lot line revision between the Middle School property and the parcel at 82 Court Street owned by 82 Court Street LLC. On May 12, 2011, Attorney John P. McGee, Jr. submitted to the Council a request for a boundary line agreement to establish the boundary between the Middle School property and two parcels on Mark Street owned by the Arthur MacDonald Trust. As you may recall, at its June 6,

2011 meeting, the City Council referred a request from Attorney John McGee, Jr., to the Planning Board for report back.

After discussion with Robert Sullivan, City Attorney and Rick Taintor, Planning Director, Attorney McGee agreed to modify the request to a lot line revision under the Planning Board's Subdivision Rules and Regulations, which is the same procedure that the City adopted with respect to a similar request by the owners of property at 54 Rogers Street. After a period of inactivity, Attorney McGee is requesting that the City Council approve these three proposed transfers at its May 21 meeting so that a lot line revision plan can be presented to the Planning Board in June ([see attached letter](#)).

These requests arise from a discrepancy between the surveyed boundary of the Middle School property and the fence line around the property. The MacDonald Trust and 82 Court Street LLC wish to acquire from the City the small wedges of City-owned land that lie outside the fence line and are adjacent to their respective parcels. The areas proposed to be transferred are 253.0 sq. ft. to 46 Mark Street, 339.0 sq. ft. to 65 Mark Street, and 440.5 sq. ft. to 82 Court Street. The affected parcels and the approximate areas to be transferred are shown on the [attached two maps](#).

On May 8, 2012, the Portsmouth School Board unanimously voted that the small areas of land requested by the MacDonald Trust and 82 Court Street LLC were no longer needed for school purposes, and voted to transfer care, control and custody over to the City of Portsmouth ([see attached letter from Edward McDonough, Superintendent of Schools](#)).

Rick Taintor, Planning Director, placed these requests on the agenda for the Planning Board meeting on Thursday, May 17, 2012, for a report back on the referral by the City Council. On Monday evening, I will provide the City Council with a report as to the action taken by the Planning Board.

Assuming a positive report from the Planning Board, the recommended action would be for the City Council to approve the request to convey the land to the Arthur MacDonald Trust and 82 Court Street LLC, and to join in an application to the Planning Board for a lot line revision.

I would recommend the City Council move to approve the request to convey the land to Arthur MacDonald Trust and 82 Court Street LLC and join in an application for a lot line revision, and, further to authorize the City Manager to proceed with the negotiation and execution of the necessary documents.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on May 5, 2012. In addition, this now can be found on the City's website.

2. **African Burying Ground Trust Donations.** The African Burying Ground Committee has received the following donations to the African Burying Ground Trust since its April 9, 2012 memo to City Council. The total donated to the trust to date from individuals is \$97,771.04.

Kelvin & Royaline Edwards	\$500
Cynthia & Robert Lister	\$50
Sue & Bob Thoresen	\$1,000
P. Darcy Horgan	\$500
Algene Bailey, Sr. & Mary J. Bailey	\$5,000
John & Skye Maher	\$5,000
North Church Women	\$500
North Church of Portsmouth	\$500
Peter Peirce Rice	\$1,000
Jameson and Priscilla French	\$2,500
Nicholas & Lea Aeschliman	\$250
Mary M. Griffin	\$150
The John Bickford Foundation	\$500

3. **Senior Housing Inventory.** As you may recall, at the April 16th City Council meeting Councilor Dwyer asked a series of questions related to the housing options available to Portsmouth seniors.

In follow-up, City staff has researched the total number of housing units for seniors in both publicly and privately-owned assisted housing developments. In addition, the staff researched the number of assisted living, independent living and long-term care beds available in Portsmouth's privately-owned residential facilities. [Attached is a summary for your information.](#)

4. **Property Inspections.** [Attached please find a memorandum from Rosann Maurice-Lentz, City Assessor,](#) regarding a preliminary inspection schedule to measure and list a certain percentage of properties within the City annually. These inspections will commence May 2012.