

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: TUESDAY, SEPTEMBER 4, 2012 TIME: 7:00PM

AGENDA

- 6:00PM ANTICIPATED “NON-MEETING” WITH COUNSEL RE: LITIGATION - RSA 91-A:2 I (c)

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

PRESENTATION

1. Presentation to Retiring Police Chief David “Lou” Ferland

- V. ACCEPTANCE OF MINUTES *(There are no minutes on for action this evening)*

- VI. PUBLIC COMMENT SESSION

- VII. PUBLIC HEARING

- A. ORDINANCE AMENDING CHAPTER 7, ARTICLE III, SECTION 7.330 – NO PARKING
– TANNER COURT

- VIII. APPROVAL OF GRANTS/DONATIONS

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

- IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Acceptance of Petition and First reading of Resolution Authorizing a Bond Issue of up to One Million Six Hundred Thousand Dollars (\$1,600,000.00) to Pay for the Reconstructing of Commerce Way, and to Pay for all Costs Incidental and Related Thereto.

- B. Second reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking – Tanner Court

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A Request for License from Jessica Todd owner of Jessica Todd Salon, for property located at 33 Deer Street 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 Jessica Todd owner of Jessica Todd Salon for a projecting sign at property located at 33 Deer Street on a new bracket 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 Carla Kienzle owner of Ten Thousand Villages, for property located at 87 Congress 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 Carla Kienzle owner of Ten Thousand Villages for a projecting sign at property located at 87 Congress Street on an existing bracket 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 Ed Szczepanik owner of Alex & Ani, for property located at 104 Congress 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 Ed Szczepanik owner of Alex & Ani for a projecting sign at property located at 104 Congress Street on an existing bracket 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 Approval of Pole License to install/replace 1 pole located on Maplewood Avenue (***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***)
- E. *Acceptance of Donation to the Coalition Legal Fund
- Town of Rye - \$5,000.00
- (Anticipated action – move to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund)***
- F. Letter from Barbara Massar, Pro Portsmouth, requesting permission to hold First Night Portsmouth 2013 on Monday, December 31, 2012 (***Anticipated action – move to refer to the City Manager with power***)

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Request from Deborah Bouchard-Smith, Scarecrows of the Port, seeking permission to install 30 scarecrows downtown on Friday, October 12, 2012 through Thursday, November 1, 2012

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

Items Which Require Action Under Other Sections of the Agenda

1. First Reading of Proposed Resolution and Ordinance Amendments:
 - 1.1 Acceptance of Petition and First reading of Resolution Authorizing a Bond Issue of up to One Million Six Hundred Thousand Dollars (\$1,600,000.00) to Pay for the Reconstructing of Commerce Way, and to Pay for all Costs Incidental and Related Thereto (**Action on this matter should take place under Section IX of the Agenda**)
2. Public Hearing/Second Reading of Proposed Resolution and Ordinance Amendments:
 - 2.1 Public Hearing/Second Reading of Proposed Ordinance Amendment to Chapter 7, Article III, Section 7.330 – No Parking – Tanner Court (**Action on this matter should take place under Section IX of the Agenda**)

City Manager's Items Which Require Action

1. Approval of Proposed Employment Agreement for Deputy Chief of Police Corey MacDonald
2. Proposed Agreement between Trustees of the Trust Fund and Prescott Park Arts Festival
3. Request for First Reading of Proposed Bonding Resolutions Re: Citywide and School Facilities Improvements
 - a) Resolution for Bond Authorization of up to \$2,267,000.00 for FY13 Citywide, Bridge, Street and Sidewalk Improvements
 - b) Resolution for Bond Authorization of up to \$500,000.00 for FY13 for School Facilities Improvements
4. Proposed Expansion of the Downtown Overlay District

Informational Items

1. Events Listing
2. Economic Development Commission Agenda and Draft Minutes

B. MAYOR SPEAR

1. Appointment to be Voted:

Trees and Public Greenery Blue Ribbon Committee

- Dennis Souto to the Trees and Public Greenery Blue Ribbon Committee

C. COUNCILOR LOWN

1. Housekeeping Ordinance Amendments

D. COUNCILOR DWYER

1. Request for First Reading of Ordinance Re: Downtown High Occupancy Meter Zones
(Sample motion – move to authorize the City Manager to bring back for first reading the attached proposed Ordinance at the September 17, 2012 City Council meeting)

2. *Middle School Update

E. COUNCILOR SMITH

1. Parking and Traffic Safety Committee – Shari Donnermeyer

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

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

**Indicates Verbal Report*

INFORMATIONAL ITEMS

(There are no items under this portion of the agenda)

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

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Tuesday, September 4, 2012 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH, on a proposed Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking – Tanner Court. The complete Ordinance is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

KELLI L. BARNABY, CMC/CNHMC
CITY CLERK

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Tuesday, September 4, 2012 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH, on a proposed Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking – Tanner Court. The complete Ordinance is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

#12517

11P 8/23

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 7, Article III, Section 7.330 – **NO PARKING** sub-section A of the Ordinances of the City of Portsmouth which shall read as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

Section 7.330: NO PARKING

121. Tanner Court:
- a. ~~northerly side from Parker Street to a point 78' westerly of Tanner Street.~~
 - b. ~~southerly side from Parker Street to a point 78' westerly of Tanner Street.~~

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

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

This ordinance shall take effect upon its passage.

APPROVED:

Eric Spear, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

IN THE YEAR OF OUR LORD
TWO THOUSAND AND TWELVE
PORTSMOUTH, NEW HAMPSHIRE

RESOLUTION # _____

A RESOLUTION AUTHORIZING A BOND ISSUE OF UP TO ONE MILLION SIX HUNDRED THOUSAND DOLLARS (\$1,600,000) TO PAY FOR THE RECONSTRUCTING OF COMMERCE WAY, AND TO PAY FOR ALL COSTS INCIDENTAL AND RELATED THERETO.

BE IT RESOLVED:

THAT, the sum of **One Million Six Hundred Thousand Dollars (\$1,600,000)** be and hereby is appropriated to pay costs of reconstructing Commerce Way, and for the payment of all costs incidental and related thereto.

THAT, to meet this appropriation, the City Treasurer, with the approval of the City Manager is authorized to borrow up to **One Million Six Hundred Thousand Dollars (\$1,600,000)** through the issuance of bonds under and pursuant to the Municipal Finance Act or pursuant to any other enabling authority.

THAT, however, that no amounts shall be borrowed or expended in accordance with this order unless and until all right, title and interest in Commerce Way shall have been conveyed by its current owner or owners, to the City.

THAT the discretion of fixing the dates, maturities, rates of interest, forms and other details of such bonds is hereby delegated to the City Treasurer with the approval of the City Manager.

THAT the useful life of the Commerce Way improvements is determined to exceed twenty (20) years.

THAT in order to defray costs of reconstructing Commerce Way, the City is authorized to impose a Betterment Assessment upon property owners served by or abutting Commerce Way, in such amounts as shall be permitted by law.

THAT this resolution shall take effect upon its passage.

APPROVED BY:

ERIC SPEAR, MAYOR

ADOPTED BY THE CITY COUNCIL:

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

PORTSMOUTH CITY COUNCIL

PETITION FOR CONDITIONAL LAYOUT OF AN EXISTING PRIVATE RIGHT-OF-WAY KNOWN AS COMMERCE WAY, WITH BETTERMENT ASSESSMENTS, PURSUANT TO RSA 231:8 AND RSA 231:28-30

NOW COMES Commerce Way, LLC, a New Hampshire limited liability company, with a place of business at 210 Commerce Way, Suite 150, Portsmouth, New Hampshire 03801, which is the owner of a private right-of-way known as Commerce Way, as said roadway is specifically delineated on the plans and drawings appended hereto, which respectfully requests that the Portsmouth City Council layout Commerce Way as a Class V public roadway in the City of Portsmouth. Pursuant to the statute, Commerce Way, LLC hereby supplies the following materials to assist the Council in its consideration of the Petition:

- Exhibit 1. A street frontage exhibit of the improvement area of Commerce Way (to be supplied).
- Exhibit 2. An engineered plan of the improvements to Commerce Way prepared by Appledore Engineering of Portsmouth, NH. As noted on the plan, Commerce Way, as improved, will remain in its present location. Appledore Engineering's certification that the road to be constructed conforms to construction standards and requirements currently in effect in the City of Portsmouth is contained on Note 10 on Sheets R-3A and R-3B (to be supplied).
- Exhibit 3. The Roadway Improvement Plan Summary provides a narrative of the improvements which are delineated on the Appledore plan and summarizes improvements to be completed as part of the roadway upgrade.
- Exhibit 4A A legal description (4A) and survey (4B) (to be supplied) of the highway to be laid
and 4B out and subsequently conveyed to the City of Portsmouth as prepared by McNeill, Taylor & Gallo, P.A., Attorneys at Law, 180 Locust Street, Dover, NH 03821, and Doucet Survey, Inc. of 102 Kent Place, Newmarket, NH 03857.
- Exhibit 5. A roadway improvement cost estimate by Appledore Engineering.

Exhibit 6. A list of all of the abutters to Commerce Way containing the percentage cost assessments, by street frontage, to be assessed against property owners who own developable property along Commerce Way.

Commerce Way, LLC respectfully submits that there is a public need for Commerce Way to be laid out as a Class V road in its present location. Commerce Way provides a commercial connection between the recently upgraded Portsmouth Boulevard and Woodbury Avenue. The private roadway presently services Commerce Center, an office park which was substantially developed during the period of 1983-84.

In order to effectively compete in the commercial office rental market, Commerce Way is in need of improvement and modernization. The owner proposes to reconstruct 2,550 linear feet of roadway to City of Portsmouth standards and construct a 5 foot pedestrian sidewalk to City of Portsmouth standards from Woodbury Avenue to Portsmouth Boulevard. In addition, the owner proposes to construct vertical granite curb to City of Portsmouth standards and to construct shoebox-style roadway light fixtures to match the existing fixtures on Portsmouth Boulevard. The owner will also construct 600 ft. of landscape median islands between the Kmart driveway and the north corner of Commerce Way for landscape enhancement and traffic calming. New landscaping including trees and shrubs along the perimeter of the entire roadway will be completed as well as the construction of pedestrian benches. The number of curb cuts will be reduced. Utilities will be improved and various waterline service improvements from Woodbury Avenue to the north corner of Commerce Way to create a continuous loop along the entire length of the roadway will be completed. Water main improvements, including 1,300 feet of 8" ducktail iron pipe with associated valves and fittings will also be completed.

All of the within improvements will not only improve the appearance, safety and sustainability of the roadway, but will also enhance the quality of the office center resulting in increased marketability and commercial vitality, and will facilitate the construction of the new building at 235 Commerce Way. The improvements will enhance the utility structures within the roadway, improve drainage, improve pedestrian safety and access, and provide an attractive new appearance for the Portsmouth Boulevard/Commerce Way loop to Woodbury Avenue. The improvements should result in the enhancement of the values of the properties which abut the roadway and should result in an increase in the values of the park which will result in greater taxable values to the City of Portsmouth.

It is proposed that the City pursuant to RSA 231:28-30, would bond the improvements for a ten-year term. The cost of the improvements will then be assessed proportionately against each developed property abutting Commerce Way based on its linear feet of road frontage in accordance with Exhibit 6. The assessment will be charged to each property owner, to be paid semi-annually over the bonding period of 10 years to

be secured by a statutory betterment assessment lien against the property of all of the abutting owners listed on Exhibit 6.

Pursuant to RSA 231:28, it is respectfully requested that the Council refer this matter to the Planning Board for a report and thereafter schedule a public hearing on the within Petition with appropriate public notice.

Respectfully submitted,

COMMERCE WAY, LLC

By: 
Duly Authorized

**PROCEDURE FOR CONDITIONAL LAYOUT
FOR EXISTING PRIVATE RIGHT-OF-WAY
WITH BETTERMENT ASSESSMENT**

COMMERCE WAY, PORTSMOUTH, NEW HAMPSHIRE

231:28 Conditional Layout for Existing Private Rights-of-Way or Class VI Highways. - Whenever, pursuant to the provisions of this chapter, the selectmen receive a petition to lay out roads over existing private rights-of-way or to lay out a class V highway over an existing class VI highway and such private right-of-way or class VI highway does not conform to construction standards and requirements currently in effect in the town, the selectmen may conditionally lay out roads upon compliance with betterment assessments as provided in this section and in RSA 231:29-33. Prior to commencement of conditional layout, however, a public hearing shall be held, written notice of which shall be given by the appropriate governing board to all owners of property abutting or served by the private right-of-way or class VI highway, at least 14 days before the hearing, at which hearing details of the proposed construction, reconstruction or repairs, and the estimated costs thereof shall be presented by the selectmen. Conditional layout proceedings may commence 10 days following the public hearing unless within that period a petition not to conditionally lay out said thoroughfare signed by a majority of the owners of property abutting or served by the existing private right-of-way or class VI highway is received by the selectmen. If a highway is so laid out, the selectmen may construct reconstruct, repair or cause to be constructed, reconstructed or repaired such highways, streets, roads, or traveled ways to conform in every way with the highway or street construction standards and regulations previously established by the town. The betterment assessments shall be assessed under the provisions of RSA 231:29. (Emphasis supplied)

The following procedure must be followed:

1. Petition for Conditional Layout to be Submitted by _____.

- [X] The applicant must submit a Petition for Layout to the City Council pursuant to RSA 231:28. (the "Petition")
- [X] The Petition will be labeled "Petition for Conditional Layout of Existing Private Right-of-Way"; it does not require any unusual format but it must contain all of the items set forth in this checklist.
- [X] The submission of the Petition will include an engineered plan of Commerce Way, as improved by Appledore Engineering. Commerce Way, as improved, will remain in its present location.
- [X] Appledore must certify that the road to be constructed conforms to construction standards and requirements currently in effect in the City of Portsmouth.

[X] The Petition must set forth the Betterment Assessment to include:

[X] A detailed cost of construction specification as certified by Appledore.

[X] That the cost of the improvement will be assessed (the "Assessment") against each property abutting or served based on its linear feet of road frontage.

[X] That the Assessment will be charged to each owner of property abutting or served by the new road over a period of ten (10) years.

[X] That until paid in full, the Assessment shall constitute a lien against the property of all such owners.

[X] The Petition will include a legal description of the highway to be laid out. The legal description will be provided by McNeill, Taylor & Gallo. PA.

[X] The Petition will contain a statement of the "public need for the road at that place." Such a statement will be part of the application.

[X] The Petition will be accompanied by a List of Abutters. The applicant will provide a list of all abutters making specific reference to tax and map numbers and mailing addresses.

[X] The Petition will be signed by the applicant.

2. **Hearing to be Held on _____ after 14 Days Notice.**

The City Council must hold a hearing on the betterment assessment.

[X] Written notice must be provided to all owners of property abutting or served by the proposed road at least 14 days in advance.

[X] The notice shall be substantially in the following form:

Notice is hereby given that a hearing will be held before the Portsmouth City Council, in the City Council Chambers in Portsmouth on _____ on the Petition of _____ for a conditional layout of Commerce Way, an existing private right-of-way, and Betterment Assessment, based upon linear feet of road frontage, to be charged against all properties abutting or served by the reconstructed road. At the hearing, the applicant will present to the Council the details of the proposed construction, the estimated costs thereof, and the anticipated Betterment Assessment to be charged to each affected owner. The public is welcome to come and comment.

- [X] Notice will be provided to all abutting properties or properties served by the reconstructed Commerce Way. (That list will have been part of the application provided by the applicant).

The Council does not need to take any formal action at that hearing.

3. **Approval by the City Council on the Conditional Layout with Betterment Assessment on _____.**


- [X] The Council must wait for ten (10) days to determine whether or not “a Petition not to conditionally layout said thoroughfare signed by a majority of the owners of property abutting or served by the existing private right-of-way” has been received.
- [] Assuming that it is not, then the Council shall act upon the Petition as follows:
- [] No additional notices are required prior to the Council’s taking up the Petition.
 - [] Approve the conditional layout
 - [] Allocate and set the assessment against properties abutting or served by the reconstructed Commerce Way

4. **Filing of Return upon an Approved Petition for Layout in Accordance with RSA 231:16.**

- [] The return is a certified copy of the Minutes of the Meeting where the Petition was approved by the Council (the “Return”).
- [] Attached to the Return is the legal description of the reconstructed Commerce Way showing the width and dimensions. (This can be the same legal description that was attached to the Petition unless changes were made within the deliberative process.)
- [] The Return must be recorded with the City Clerk.
- [] The Return should be filed within a reasonable time after Council approval.
- [] The Return has the effect of legally converting the road to a “public highway”.

MAP 215 LOT 14
NATICK PORTSMOUTH REALTY CORP.
1 MERCER ROAD
NATICK, MA 01760

FRONTAGE ON COMMERCE WAY
NOT UTILIZED

 **APPLEDORE**
ENGINEERING
a division of **Tighe & Bond**

177 CORPORATE DRIVE
PORTSMOUTH, NEW HAMPSHIRE 03801
(603) 433-8818

aei@appledoreeng.com

December 19, 2011 2189B-Frontage_Exhibit.dwg

EXHIBIT

1

ROADWAY IMPROVEMENT SUMMARY

Commerce Way
Portsmouth, New Hampshire
December 19, 2011

Commerce Way, LLC is proposing to upgrade Commerce Way to the City of Portsmouth roadway standards. Ownership of the private roadway will be turned over to the City of Portsmouth upon completion of construction and acceptance by the Department of Public Works (DPW). Design of this roadway has been coordinated with the DPW, Fire Department, Police Department and the existing utility service providers. Local approvals have been issued by the Conservation Commission for a Conditional Use Permit and by the Trees & Greenery Committee for landscaping improvements. In addition, a Minor Wetland Impact Permit has been issued by the NHDES Wetland Bureau. The following summarizes improvements to be completed as part of the roadway upgrade:

- Reconstruct 2,550 LF of roadway cross section to City of Portsmouth standards.
- Construct five (5) foot concrete pedestrian sidewalk to City of Portsmouth standards from Woodbury Avenue to Portsmouth Boulevard.
- Construct vertical granite curb to City of Portsmouth standard.
- Construct shoe-box style roadway light fixtures to match the existing fixtures on Portsmouth Boulevard.
- Construct 600 feet landscaped median-island between the Kmart driveway and north corner of Commerce Way for landscape enhancement and traffic calming.
- Construct landscaping including new trees and shrubs along the perimeter of the entire roadway.
- Construct new pedestrian benches.
- Reconstruct existing forty (40) foot turning radius at the north corner of Commerce Way to a seventy-five (75) foot turning radius to improve traffic safety. Associated site improvements include a proposed retaining wall and guardrail.
- Construct traffic signs and traffic pavement markings for all lane lines, shoulders, center islands, legends, stop bars, directional arrows and crosswalks.
- Construct public transportation shelter.
- Reduce the number of curb cuts on the north side of Commerce Way by consolidating driveways. Consolidated driveways will create additional landscaped areas and improve driveway traffic flow at these driveway intersections.
- Construct improved closed drainage system including new catch basins equipped with deep sump catch basins and oil/gas separator hoods, drainage pipe and under drains.
- Construct water service improvements from Woodbury Avenue to the north corner of Commerce Way to create a continuous loop along the entire length of roadway. The existing water main begins at Portsmouth Boulevard and dead ends at the north corner of Commerce Way. Water main improvements include the 1,300 feet of eight (8) inch ductile iron pipe with associated valves and fittings.
- Remove an existing crushed 8 inch clay sewer pipe located in Commerce Way and construct an 8 inch SDR 35 PVC pipe (exact limits of crushed pipe to be verified in field and coordinated with DPW).
- Shim the existing pavement on Portsmouth Boulevard and construct a 1.5 inch overlay from the Market Street Connector intersection to the proposed Portsmouth Boulevard driveway for 235 Commerce Way (per previous Site Review approval for 235 Commerce Way).
- Remove an existing crushed 8 inch clay sewer pipe located in Portsmouth Boulevard and construct 280 LF of 8 inch SDR 35 PVC pipe (per previous Site Review approval for 235 Commerce Way).

Beginning at an iron pipe on the northeasterly sideline of Woodbury Avenue in the City of Portsmouth, County of Rockingham and State of New Hampshire. Said iron pipe being the northwesterly corner of a private right of way known as "Commeroe Way".

Thence running along said Commerce Way the following courses and distances:

N 63°07'47" E a distance of 136.65' to an iron pipe;

Thence S 24°51'02" E a distance of 43.41' to a rebar;

Thence N 35°01'01" E a distance of 114.60' to a concrete bound;

Thence N 34°44'58" E a distance of 585.37' to a concrete bound;

Thence N 34°44'57" E a distance of 36.57';

Thence N 35°17'37" E a distance of 158.63';

Thence N 34°30'10" E a distance of 292.84';

Thence N 34°52'54" E a distance of 20.07';

Thence S 55°01'51" E a distance of 55.81';

Thence with a curve turning to the right with an arc length of 79.83', with a radius of 60.00', with a chord bearing of S 16°54'54" E and a chord length of 74.07';

Thence with a reverse curve turning to the left with an arc length of 32.91', with a radius of 25.00', with a chord bearing of S 16°30'40" E and a chord length of 30.58' to a rebar;

Thence S 54°13'23" E a distance of 965.00' to a rebar;

Thence S 35°46'37" W a distance of 3.06';

Thence with a curve turning to the right with an arc length of 166.42', with a radius of 230.00', with a chord bearing of S 24°08'11" E and a chord length of 162.81';

Thence with a reverse curve turning to the left with an arc length of 141.52', with a radius of 225.00', with a chord bearing of S 21°25'37" E and a chord length of 139.20';

Thence S 39°26'45" E a distance of 35.34';

Thence with a curve turning to the left with an arc length of 45.81', with a radius of 25.00', with a chord bearing of N 88°02'55" E and a chord length of 39.66' to the westerly sideline of Portsmouth Boulevard;

Thence along said Portsmouth Boulevard, S 35°32'46" W a distance of 113.89';

Thence with a curve turning to the left with an arc length of 32.72', with a radius of 25.00', with a chord bearing of N 01°57'05" W and a chord length of 30.43';

Thence N 39°26'45" W a distance of 64.82';



Thence with a curve turning to the right with an arc length of 179.26', with a radius of 285.00', with a chord bearing of N 21°25'37" W and a chord length of 176.32';

Thence with a reverse curve turning to the left with an arc length of 150.77', with a radius of 170.00', with a chord bearing of N 28°48'57" W and a chord length of 145.88';

Thence N 54°13'23" W a distance of 978.34';

Thence with a curve turning to the left with an arc length of 39.83', with a radius of 25.00', with a chord bearing of S 80°08'24" W and a chord length of 35.75';

Thence S 34°30'10" W a distance of 163.16';

Thence S 35°17'37" W a distance of 158.63';

Thence S 34°44'57" W a distance of 36.37';

Thence S 34°44'58" W a distance of 585.37';

Thence S 35°02'00" W a distance of 147.26' to a rebar;

Thence S 28°06'54" E a distance of 19.16 to a rebar;

Thence S 63°11'53" W a distance of 135.96' to the aforementioned Woodbury Avenue;

Thence along said Woodbury Avenue the following courses and distances;

N 17°26'40" E a distance of 28.49';

Thence N 25°41'06" W a distance of 54.00';

Thence N 63°33'18" W a distance of 34.57';

Thence N 25°38'24" W a distance of 28.56' to the iron pipe at The Point of Beginning.

Said area contains 178,110 square feet or 4.089 acres, and is shown as "Commerce Way" on a plan Entitled "Right of Way Plan of Commerce Way, (Tax Map 0216, Lot 0001-0001) Owned by Commerce Way LLC, Portsmouth, New Hampshire", dated Nov. 18, 2009 by Doucet Survey, Inc.

EXISTING EASEMENTS OF RECORD.

JR MAGNA CORP. WOODBURY AVE PORTSMOUTH N.H." BY ASSOCIATES, DATED 8/1/84 WITH A FINAL REVISION DATE ID-13251.

MAP PLAN, MAP R-16/LOTS 1, 1-5 & 1-88, MAP R-17/LOTS -17/LOT 2-0300 SHEARWATER DRIVE, PORTSMOUTH, NEW HAMPSHIRE" S, INC. DATED DEC. 1999 WITH A FINAL REVISION DATE OF 1385.

N WOODBURY AVENUE FOR MARION D. FRINK, WOODBURY AVENUE ASSOCIATES, DATED JAN. 1977 WITH A REVISION DATE OF 5-27-77.

RIGHT OF WAY PLAN
OF
COMMERCE WAY
(MAP 0216, LOT 0001-0001)

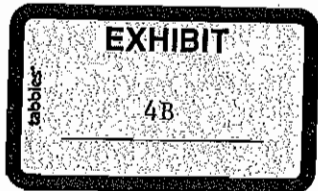
OWNED BY
COMMERCE WAY LLC
PORTSMOUTH, NEW HAMPSHIRE

NOV. 18, 2009
NO.: 2987A
1 OF 1



DOUCET
SURVEY
INC.

Serving Your Professional Surveying & Mapping Needs
102 Kent Place, Newmarket, NH 03857
(603) 659-6560 www.doucetsurvey.com



**ROADWAY IMPROVEMENTS
OPINION OF PROBABLE PROJECT COST**

Date: July 25, 2011
 Project: Commerce Way - Roadway Improvements
 Location: Portsmouth, NH
 AEI #: 2189B
 Est. By: PMC



This document represents a preliminary estimate; exact quantities and costs to be verified during bid process.

		Notes
ENGINEERING / DESIGN / LEGAL / PROJECT MGMT FEES		
FEASIBILITY STUDY	\$ 6,750	
ENGINEERING	\$ 172,750	
WETLAND / SOILS STUDIES	\$ 35,500	
LEGAL / PROJECT MANAGEMENT	\$ 49,875	
CONSTRUCTION ADMIN	\$ 15,000	
CITY/STATE PERMIT FEES	\$ 450	
LANDSCAPE DESIGN	\$ 10,000	
ENGINEERING / DESIGN / LEGAL / PROJECT MGMT SUBTOTAL	\$ 290,325	
ROADWAY CONSTRUCTION COSTS		
COMMERCE WAY ROADWAY CONSTRUCTION =	\$ 1,021,781	(1)
10% CONTINGENCY FOR ROADWAY CONSTRUCTION =	\$ 102,178	
CITY INSPECTIONS (10% OF TOTAL COST) =	\$ 102,178	(3)
PORTSMOUTH BLVD SUBTOTAL =	\$ 63,680	(1) (2)
OVERLAY 10% CONTINGENCY =	\$ 6,368	
CITY INSPECTIONS (10% OF TOTAL COST) =	\$ 6,368	(3)
CONSTRUCTION COST SUBTOTAL	\$ 1,302,553	
TOTAL PROJECT COST:		
ENGINEERING / DESIGN / LEGAL / PROJECT MGMT SUBTOTAL	\$ 290,325	
CONSTRUCTION COST SUBTOTAL	\$ 1,302,553	
PROJECT COST TOTAL	\$ 1,592,878	

Notes:

- (1) Unit costs were based on NHDOT Weighted Average Unit Prices. Pavement costs were based on NHDOT June 2011 liquid asphalt price = \$647.50 / ton
- (2) Cost includes Shim & 1.5 inch Pavement Overlay and sewer line replacement on Portsmouth Blvd per stipulations of Site Review Approval dated 10/19/09 for 235 Commerce Way.
- (3) Third party construction inspections required by the City of Portsmouth. City indicated to carry 10% for inspections.

ABUTTER'S LIST
 COMMERCE WAY
 PORTSMOUTH, NH
 AEI/2189B

Map/Lot	Owner	Accessible St. Frontage for Buildable Lots	Percentage of Accessible Frontage for Buildable Lots	Cost Per Accessible St. Frontage for Buildable Lots	Monthly Payment amortized @ 4.25% over 10 years
216/1-1	Commerce Way 210 Commerce Way, Suite 150 Portsmouth, NH 03801	Lot Not Buildable	N/A	N/A	N/A
216/1-2	Commerce Center at Portsmouth 210 Commerce Way, Suite 150 Portsmouth, NH 03801	440 ft.	17.20%	\$275,249.32	\$ 2,819.59
216/1-4	Muirfields, LLC c/o The Kane Company 210 Commerce Way, Suite 100 Portsmouth, NH 03801	232.58 ft.	9.13%	\$145,429.76	\$ 1,489.75
216/1-5	Dornoch, LLC c/o The Kane Company 210 Commerce Way, Suite 100 Portsmouth, NH 03801	394.85 ft.	15.51%	\$247,055.38	\$ 2,530.77
216/1-8B	Moray, LLC 66 Hangover Street, Suite 301 Manchester, NH 03101	346.34 ft.	13.60%	\$216,631.41	\$ 2,219.12
216/1-8A	Tain Properties, LLC c/o The Kane Company 210 Commerce Way, Suite 100 Portsmouth, NH 03801	239.7 ft.	9.42%	\$150,049.11	\$ 1,537.07
216/1-8	Tain Properties, LLC c/o The Kane Company 210 Commerce Way, Suite 100 Portsmouth, NH 03801	200 ft.	7.85%	\$125,040.92	\$ 1,280.89
216/1-9	175 Commerce Road, LLC 2 Well Avenue Newton, MA 02459	220 ft.	8.64%	\$137,624.66	\$ 1,409.79
216/1-10	Tazman Investments, LLC c/o Direct Capital 155 Commerce Way Portsmouth, NH 03801	220 ft.	8.64%	\$137,624.66	\$ 1,409.79
216/1-11	Muirfields, LLC c/o The Kane Company 210 Commerce Way, Suite 100 Portsmouth, NH 03801	252.77 ft.	9.93%	\$158,172.79	\$ 1,620.28
216/3	Bromley Portsmouth, LLC RCQ Portsmouth, LLC c/o Quincy & Company, Inc. 40 William Street, Suite G50 Wellesley, MA 02481	Frontage Not Utilized	N/A	N/A	N/A
215/14	Nalck Portsmouth Realty Corp. 1 Mercer Road Nalck, MA 01760	Frontage Not Utilized	N/A	N/A	N/A
214/2	Public Service Company of NH P.O. Box 330 Manchester, NH 03105	Lot Not Buildable	N/A	N/A	N/A
TOTAL		2,546.24 ft.	100.00%	\$1,592,878.00	\$16,317.05

Proposed Commerce Way Betterment Assessment



Portsmouth City Council Meeting
June 20, 2011

Economic Development Tools

1. Economic Revitalization Zone (ER-Z's)
 - Pease
 - Commerce Way
 - Highliner Ave.
2. Public / Private Partnerships
3. Tax Increment Financing Districts (TIF) legislation adoption
4. Discounted Parking
5. Low Cost subordinate loans
6. Betterment Assessments

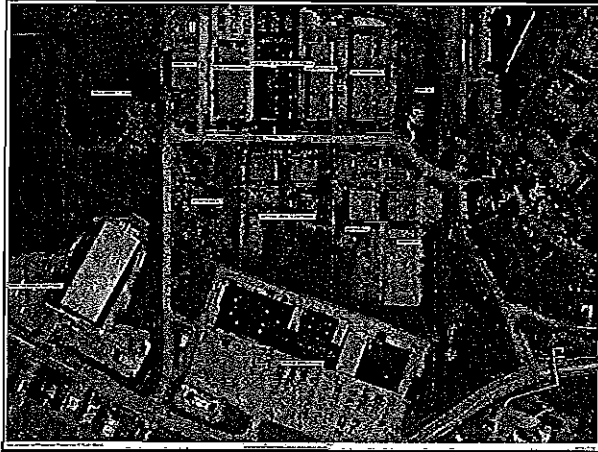
Betterment Assessment Process

Two Step Process

1. Conditional Road Layout (RSA 231:28)
2. Betterment Assessment Process (RSA 231:29-33)

Step 1: Conditional Road Layout

- Owner of privately-owned road petitions City Council to undertake conditional road layout.
- City Council holds public hearing and presents proposed construction plan and cost.
- Conditional layout proceeds 10 days after hearing provided majority of owners of abutting property or those served by private road do not file petition against road layout.
- City bonds for construction costs



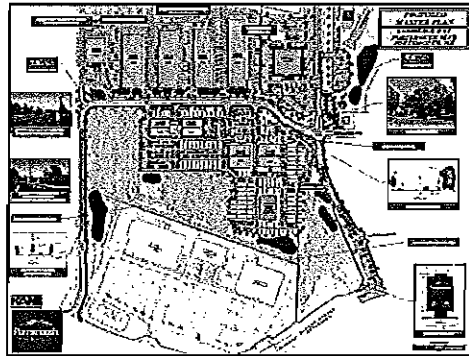
Step 2: Betterment Assessment Process

- Construction costs assessed by the City against property owners abutting or served by road.
- Assessment amounts = total cost of construction and are proportional to benefits received by abutting property owners.
- Payments of assessments repay bond and are payable over a period up to ten years.

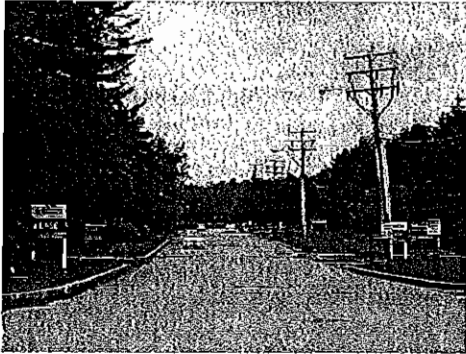
Con't : Betterment Assessment Process

- Payments valid and binding against the abutting land owners.
- Assessments create a lien upon the land.
- Betterment assessments committed to tax collector with warrant.
- Assessments have same rights, authority and remedies and are subject to same liabilities as tax collections.
- Aggrieved persons may submit written request for abatement from City Council or assessor.

Commerce Way Master Plan



Existing Road Conditions



Existing Road Conditions



Existing Road Conditions



Upgraded Road Features

- Complies w/ city road standards
- Partial undergrounding of utilities
- Upgraded sidewalks and curbs
- Landscaped medians
- Construction of a bike lane
- Installation of a state of the art storm water drainage system



EDC Analysis

- Good use of economic development tool.
- Private road upgraded to city standards and available to the public.
- No cost to taxpayer for improvements.
- Potential reduction in office vacancy.
- More "Class A" office space & job creation.
- Potential for increase in property taxes.
- Sustainable, adaptive re-use of office park.



TITLE XX TRANSPORTATION

CHAPTER 231 CITIES, TOWNS AND VILLAGE DISTRICT HIGHWAYS

Laying Out Highways

Section 231:28

231:28 Conditional Layout for Existing Private Rights-of-Way or Class VI Highways. –
Whenever, pursuant to the provisions of this chapter, the selectmen receive a petition to lay out roads over existing private rights-of-way or to lay out a class V highway over an existing class VI highway and such private right-of-way or class VI highway does not conform to construction standards and requirements currently in effect in the town, the selectmen may conditionally lay out roads upon compliance with betterment assessments as provided in this section and in RSA 231:29-33. Prior to commencement of conditional layout, however, a public hearing shall be held, written notice of which shall be given by the appropriate governing board to all owners of property abutting or served by the private right-of-way or class VI highway, at least 14 days before the hearing, at which hearing details of the proposed construction, reconstruction or repairs, and the estimated costs thereof shall be presented by the selectmen. Conditional layout proceedings may commence 10 days following the public hearing unless within that period a petition not to conditionally lay out said thoroughfare signed by a majority of the owners of property abutting or served by the existing private right-of-way or class VI highway is received by the selectmen. If a highway is so laid out, the selectmen may construct, reconstruct, repair or cause to be constructed, reconstructed or repaired such highways, streets, roads, or traveled ways to conform in every way with the highway or street construction standards and regulations previously established by the town. The betterment assessments shall be assessed under the provisions of RSA 231:29.

Source. RSA 234:23-a. 1979, 166:1. 1981, 87:1. 1989, 134:1, eff. July 16, 1989.

Section 231:29

231:29 Betterment Assessments Against Abutters and Those Served. – The cost of constructing, reconstructing or repairing such highways, streets, roads or traveled ways shall be assessed by the selectmen against the owners of property abutting or served by such facilities in an amount not exceeding the entire cost of constructing, reconstructing or repairing the same, and the amount so assessed upon each such owner shall be reasonable and proportional to the benefits accruing to the land served. Said assessments may be payable in one year or payment may be prorated over a period not to exceed 10 years, in the discretion of the appropriate governing board. All such assessments thus made shall be valid and binding upon the owners of land so abutting or served by these betterments.

Source. RSA 234:23-b. 1979, 166:1. 1981, 87:1, eff. April 20, 1981.

Section 231:30

231:30 Liens for Assessments. – All assessments made under the provisions of RSA 231:29 shall create a lien upon the lands on account of which they are made, which shall continue following the assessment until fully discharged in accordance with the terms set by each governing board or in compliance with any court judgment. Such assessments shall be subject to interest and such other charges as are applicable to the collection of delinquent taxes.

Source. RSA 234:23-c. 1979, 166:1. 1981, 87:1. 2001, 158:34, eff. July 5, 2001.

Section 231:31

231:31 Collection of Assessments. – Betterment assessments authorized under RSA 231:29 shall be committed to the collector of tax with a warrant under the hands and seal of the appropriate governing board requiring him to collect them; and he shall have the same rights, authority and remedies and be subject to the same liabilities in relation thereto as in the collection of taxes.

Source. RSA 234:23-d. 1979, 166:1. 1981, 87:1, eff. April 20, 1981.

Section 231:32

231:32 Abatement and Appeal of Betterment Assessments. –

I. Any person aggrieved by a betterment assessment made pursuant to RSA 231:29 may, within 2 months of the notice of tax date and not afterwards, apply in writing to the selectmen or assessors for an abatement of the betterment assessment.

II. Upon receipt of an application under paragraph I, the selectmen or assessors shall review the application and shall grant or deny the application in writing within 6 months after the notice of tax date.

III. (a) If the selectmen or assessors neglect or refuse to abate the betterment assessment, any person aggrieved may either:

- (1) Appeal in writing to the board of tax and land appeals, upon payment of a \$65 filing fee; or
- (2) Petition the superior court in the county where the property is located.

(b) The appeal to either the board of tax and land appeals or superior court shall be filed within 8 months of the notice of tax date and not afterwards.

IV. For purposes of this section, "notice of tax date" means the date the taxing jurisdiction mails the betterment assessment tax bill.

V. Each betterment assessment tax bill shall require a separate abatement request and appeal.

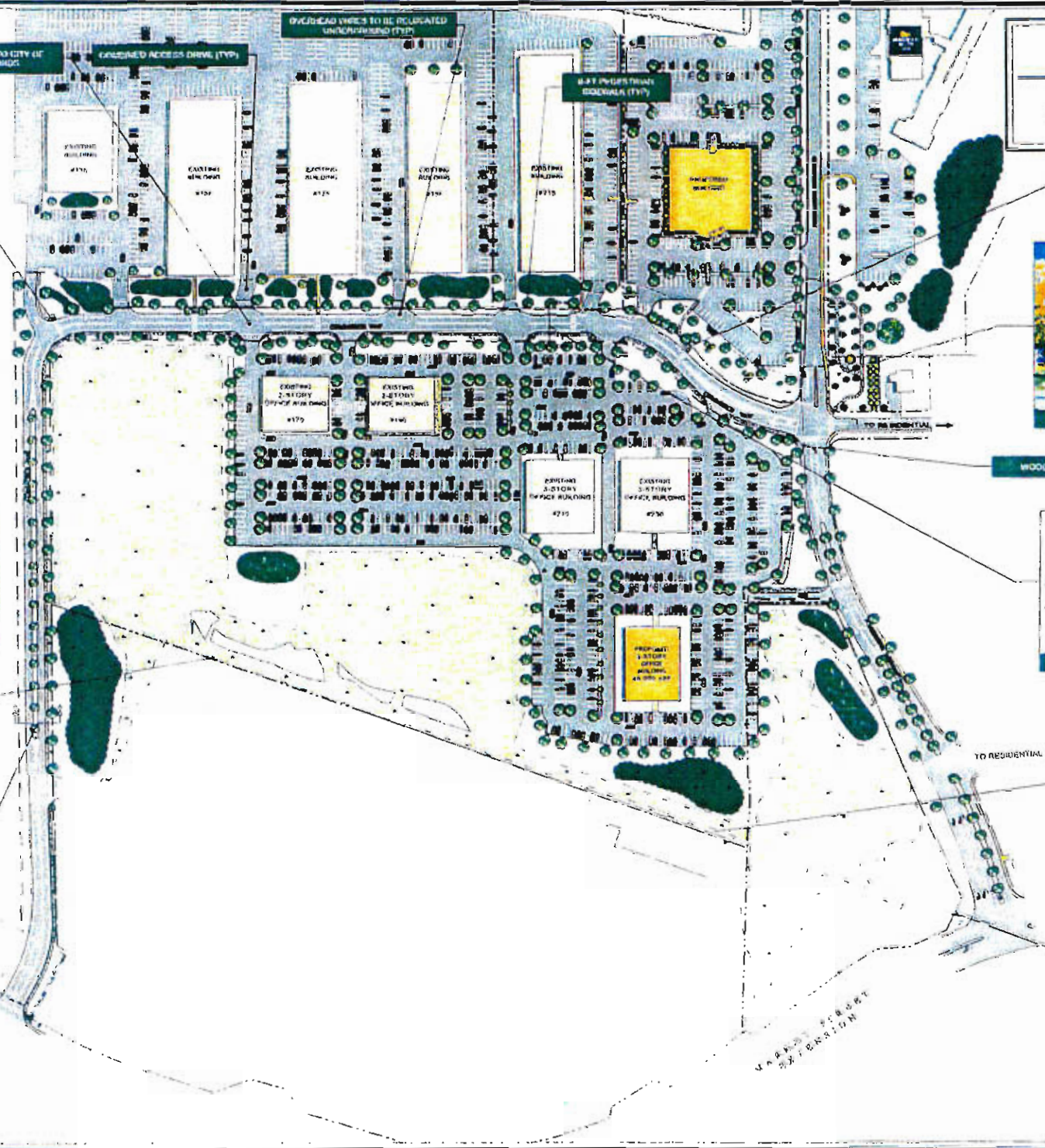
Source. RSA 234:23-e. 1979, 166:1. 1981, 87:1. 2001, 158:35, eff. July 5, 2001.

Section 231:33


231:33 Repair and Maintenance. – After the betterments authorized by RSA 231:28 have been completed by a town, the highway agent or other duly authorized official under the direction of the selectmen shall have charge of all further repair and maintenance of such highways, streets, roads and traveled ways, and such highways shall be maintained, repaired and reconstructed by the town in which they are located without further assessment of the owners of property abutting or served by said facilities.

Source. RSA 234:23-f. 1979, 166:1. 1981, 87:1, eff. April 20, 1981.

**PROPOSED
MASTER PLAN
COMMERCE WAY
PORTSMOUTH BLVD
PORTSMOUTH, NH**



M E M O R A N D U M

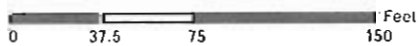
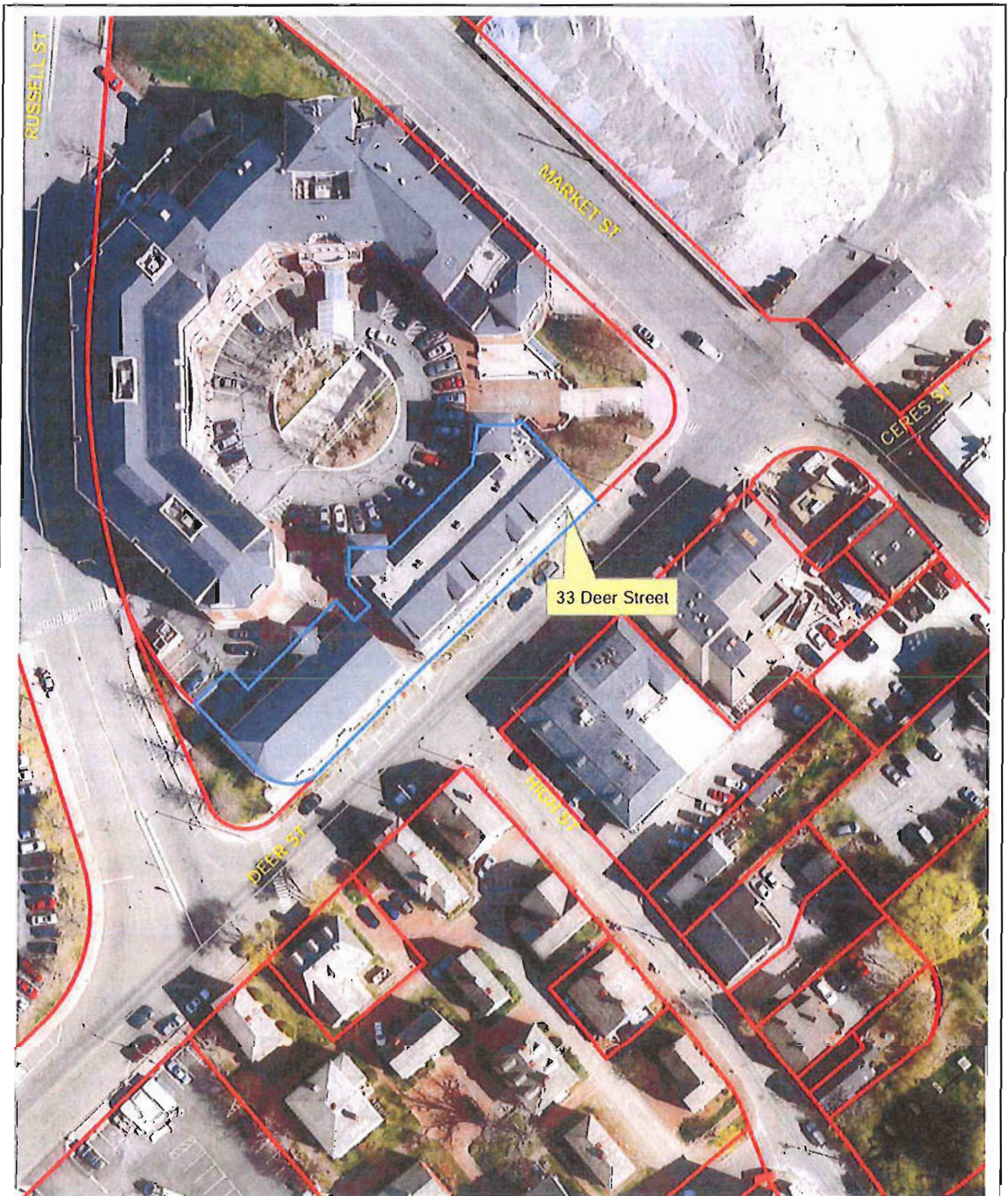
TO: John P. Bohenko, City Manager
FROM: Rick Taintor, Planning Director 
DATE: August 23, 2012
RE: City Council Referral – Projecting Sign
Address: 33 Deer Street
Business Name: Jessica Todd Salon
Business Owner: Jessica Todd

Permission is being sought to install a projecting sign on a new bracket, as follows:

Sign dimensions: 36" x 24"
Sign area: 5.5 sq. ft.
Height from sidewalk to bottom of sign: 8'0"
Maximum protrusion from building: 42 in.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:

1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the projecting sign, for any reason, shall be done at no cost to the City; and
3. 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.



Request for Projecting Sign License 33 Deer Street

Map produced by Planning Department 8-21-2012

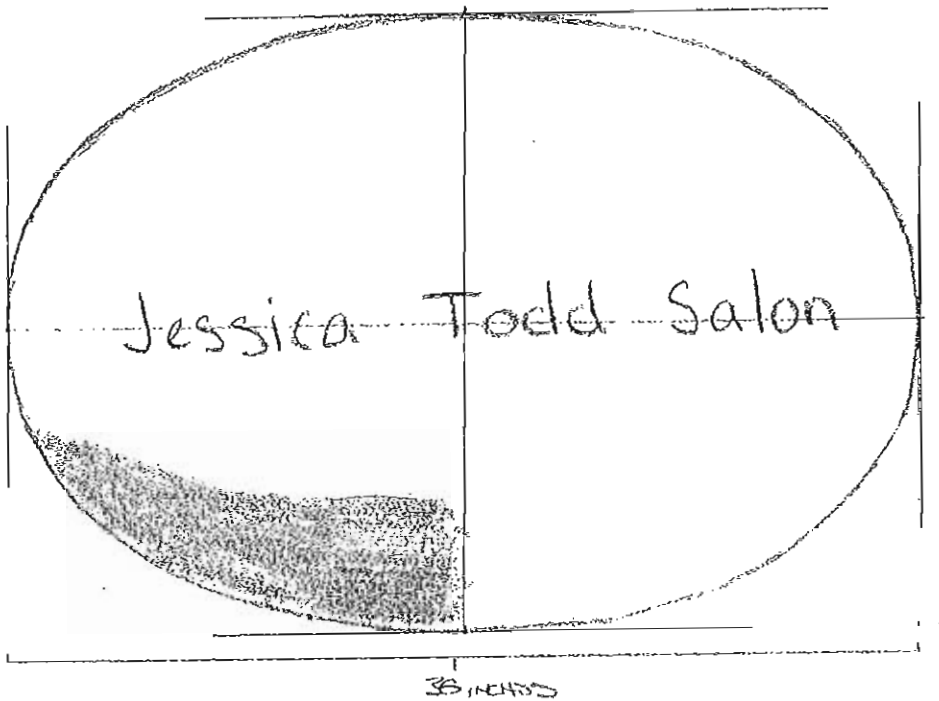
Jessica Todd Salon
33 Deer Street Unit 1 A
1 Projecting Sign



CUT SHEET

WORDS AND SIGN DIMENSIONS

SIDE :



SIDE :

24 INCHES

24 INCHES

2 INCHES

TOP :

38 INCHES

2 INCHES

$$\begin{array}{r} 7.2 \\ \sqrt{36} \\ 36 \\ \hline 1.. \end{array}$$

7.2 50 PERCENT = 36

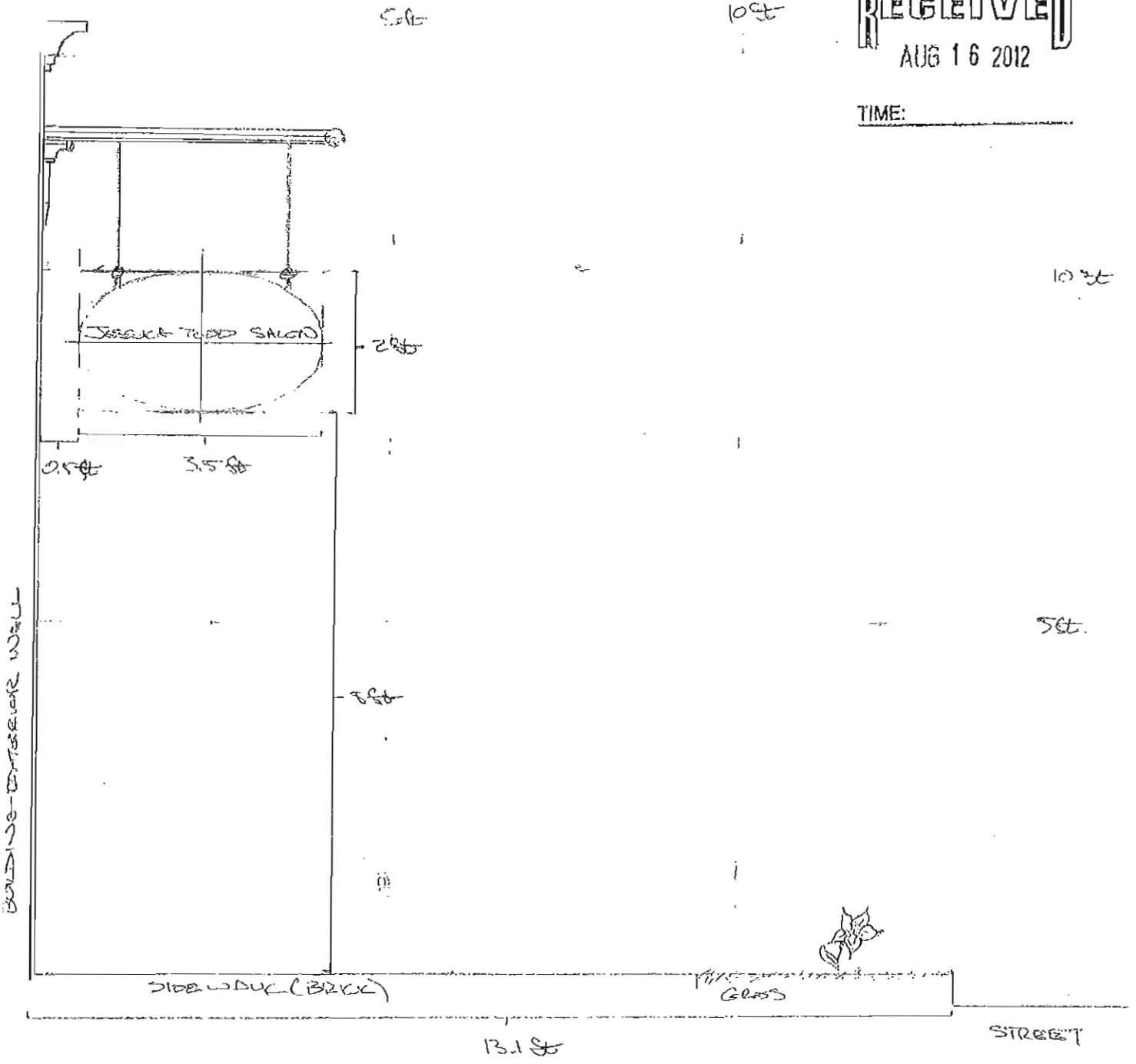
WORDS: "JESSICA TODD SALON"
COLORS: ORANGE, WHITE.

* Logo will be white background of sign will be orange

JESSICA TODD SALON
 OVERHANGING SIGN DIMENSIONS

RECEIVED
 AUG 16 2012


TIME: _____



* GRIDS LINE IS APPROXIMATE
 * DISTANCE TO CURB IS EXACT
 * BACKSET DISTANCE TO CURB EXCEEDS 12 FT; $\left[\left(\frac{1}{3} \right) 13.1' > 4'0'' \right]$ THE
 MAXIMUM 4' DISTANCE OFF OF THE BUILDING IS UTILIZED

SCALE: 1" = 2ft
 _____ = 2ft

M E M O R A N D U M

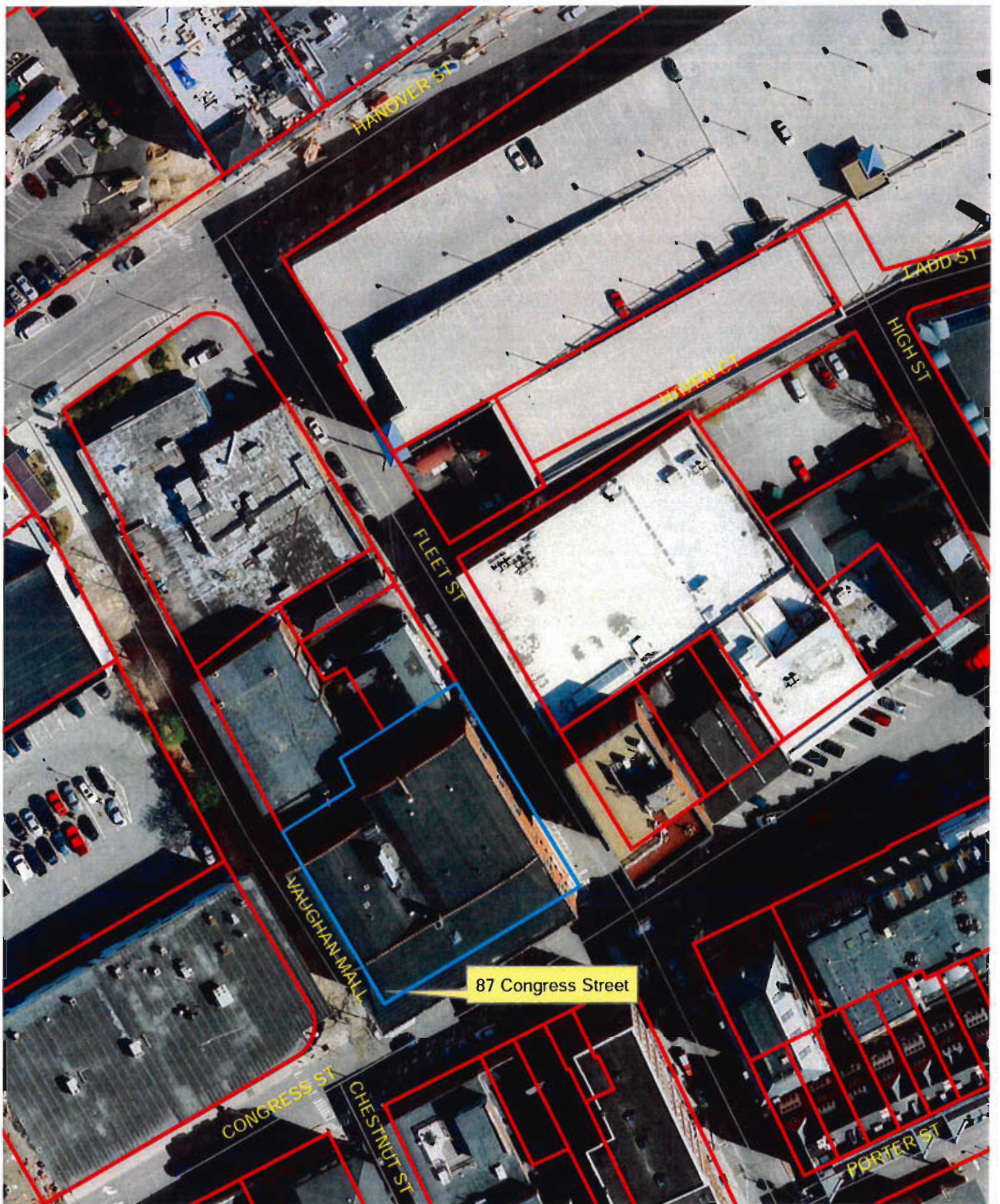
TO: John P. Bohenko, City Manager
FROM: Rick Taintor, Planning Director 
DATE: August 28, 2012
RE: City Council Referral – Projecting Sign
Address: 87 Congress Street
Business Name: Ten Thousand Villages
Business Owner: Carla Kienzle

Permission is being sought to install a projecting sign on an existing bracket, as follows:

Sign dimensions: 33" x 15"
Sign area: 3.4 sq. ft.
Height from sidewalk to bottom of sign: 12'0"
Maximum protrusion from building: 39 in.

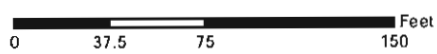
The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:

1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the projecting sign, for any reason, shall be done at no cost to the City; and
3. 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.



87 Congress Street

Request for Projecting Sign License 87 Congress Street



Map produced by Planning Department 8-27-2012

Ten Thousand Villages
87 Congress Street
1 Projecting Sign



FRANKLIN BLOCK

201"

#1



15"

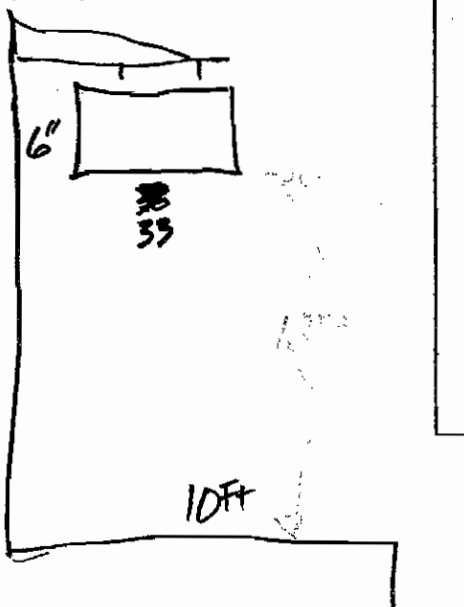
FRONT ELEVATION - Sign Type (A)(QTY:1)
 Re-Furbish Face - Paint & Vinyl Copy
 Scale: 1/2" = 1' (25 SQFT)

#2



FRONT ELEVATION - Sign Type (B)(QTY:1)
 Re-Furbish Face - Paint & Vinyl Copy
 Scale: 1/2" = 1' (6 SQFT)

Corner



$$10' = \frac{120''}{3} = 40'' > 39''$$

✓

#11



15"

33"

Hangint Sign

FRONT ELEVATION - Sign Type (C)(QTY:1)
 D/F Suspended Panel
 Scale: 1.5" = 1' (4 SQFT)

M E M O R A N D U M

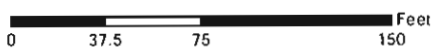
TO: John P. Bohenko, City Manager
FROM: Rick Taintor, Planning Director *R.T.*
DATE: August 28, 2012
RE: City Council Referral – Projecting Sign
Address: 104 Congress Street
Business Name: Alex & Ani
Business Owner: Ed Szczepanik

Permission is being sought to install a projecting sign on an existing bracket, as follows:

Sign dimensions: 42" x 32"
Sign area: 7.3 sq. ft.
Height from sidewalk to bottom of sign: 12'0"
Maximum protrusion from building: 48 in.

The proposed sign exceeds the maximum projection over the sidewalk allowed by the Zoning Ordinance (one-third of the sidewalk width), but was granted a variance from that standard by the Zoning Board of Adjustment. It complies with all other zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:

1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the projecting sign, for any reason, shall be done at no cost to the City; and
3. 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.



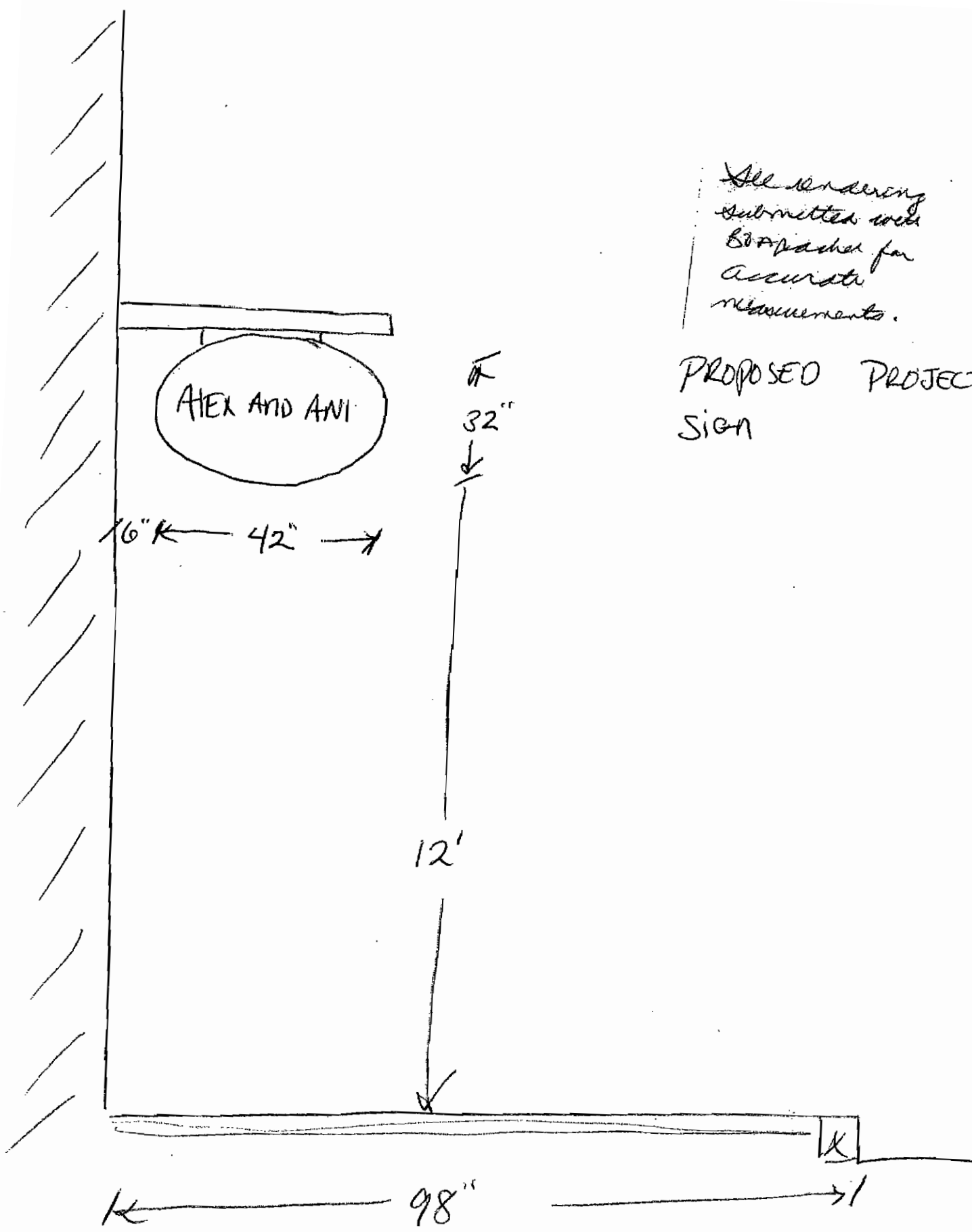
Request for Projecting Sign License 104 Congress Street

Alex & Ani
104 Congress
1 Projecting Sign



All rendering
submitted with
Boards for
accurate
measurements.

PROPOSED PROJECTING SIGN



InterOffice Memo

To: John P. Bohenko, City Manager
From: Tom Richter, Engineering Technician
Date: August 27, 2012
Subject: PSNH License Agreement 63-0539

I have reviewed the pole location information provided by PSNH for Petition and Pole License 63-0539.

This request is to license one pole located on Maplewood Avenue that is in need of replacement. Even though the new pole will be located next to the old one PSNH could not find an existing license for this pole and a license is being requested at this time.

Replacement of this existing pole poses no impact to existing city infrastructure. The Public Works Department recommends approval of this license.

Attached is a picture of the pole. Please call with any questions you may have.

cc: Peter Rice, P.E. Deputy Director of Public Works
Kelli Barnaby, City Clerk



**Public Service
of New Hampshire**

60 W. Pennacook Street, Manchester, NH 03101

Public Service Company of New Hampshire
P.O. Box 330
Manchester, NH 03105-0330
(603) 669-4000

The Northeast Utilities System

July 12, 2012

JUL 12 2012

Office of the City Clerk
City of Portsmouth
One Junkins Avenue
Portsmouth, NH 03801

Dear City Clerk,

Public Service of New Hampshire is hereby requesting permission to install/replace poles located in the City of Portsmouth. Enclosed for your review is pole license petition 63-0539 for pole(s) located in the City of Portsmouth.

Upon approval, please have the license section signed by the proper authority. The copy labeled "**Portsmouth**" should be retained for your records.

Please return the remaining copies along with any invoices for payment to my attention at the address below.

If the petition is rejected, please return all copies of the license petitions with an explanation of rejection.

If you have any additional questions or require more information, please contact me at 603-634-2218 .

Respectfully,

Lisa-Marie Pinkes

Lisa-Marie Pinkes
Representative-A Records
Public Service of New Hampshire
60 West Pennacook Street PO Box 330
Manchester, NH 03105-9989

Enclosure(s)

PETITION AND POLE LICENSE

PETITION

Manchester, New Hampshire

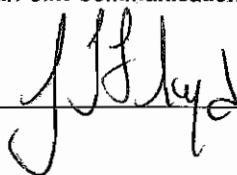
July 2, 2012

To the City Council of the City of Portsmouth New Hampshire.

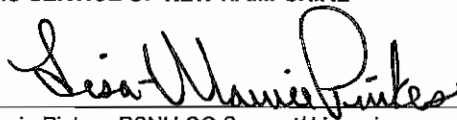
PUBLIC SERVICE OF NEW HAMPSHIRE and Northern New England Telephone Operations LLC d/b/a FairPoint Communications-NNE, request a license to install and maintain underground conduits, cable and wires, and maintain poles and structures with wires, cables, conduits and devices thereon, together with such sustaining, strengthening and protecting fixtures as may be necessary along, and under the following public ways:

License one (1) pole(s), 32/43S located on Maplewood Avenue in the City of Portsmouth.

Northern New England Telephone Operations LLC
d/b/a FairPoint Communications-NNE

BY: 

PUBLIC SERVICE OF NEW HAMPSHIRE

BY: 
Lisa-Marie Pinkes, PSNH CO Support/ Licensing

LICENSE

Upon the foregoing petition and it appearing that the public good so requires, it is hereby

ORDERED

This 2nd day of July, 2012, that, PUBLIC SERVICE OF NEW HAMPSHIRE and Northern New England Telephone Operations LLC d/b/a FairPoint Communications-NNE be and hereby are granted a license to erect and maintain poles and structures, with wires, cables, conduits and devices thereon, together with sustaining, strengthening and protecting fixtures, in the public ways covered by said petition. All of said wires, except such as are vertically attached to poles and structures, shall be placed in accordance with the National Electrical Safety Code in effect at the time of petition and/or license is granted.

The approximate location of the poles and structures shall be shown on plan marked "PUBLIC SERVICE OF NEW HAMPSHIRE and Northern New England Telephone Operations LLC d/b/a FairPoint Communications-NNE No. 63-0539, dated 7/2/2012, attached hereto and made a part hereof.

City of Portsmouth, New Hampshire

BY: _____

BY: _____

BY: _____

BY: _____

BY: _____

BY: _____

Received and entered in the records of the City of Portsmouth, New Hampshire, Book _____, Page _____

Date: _____

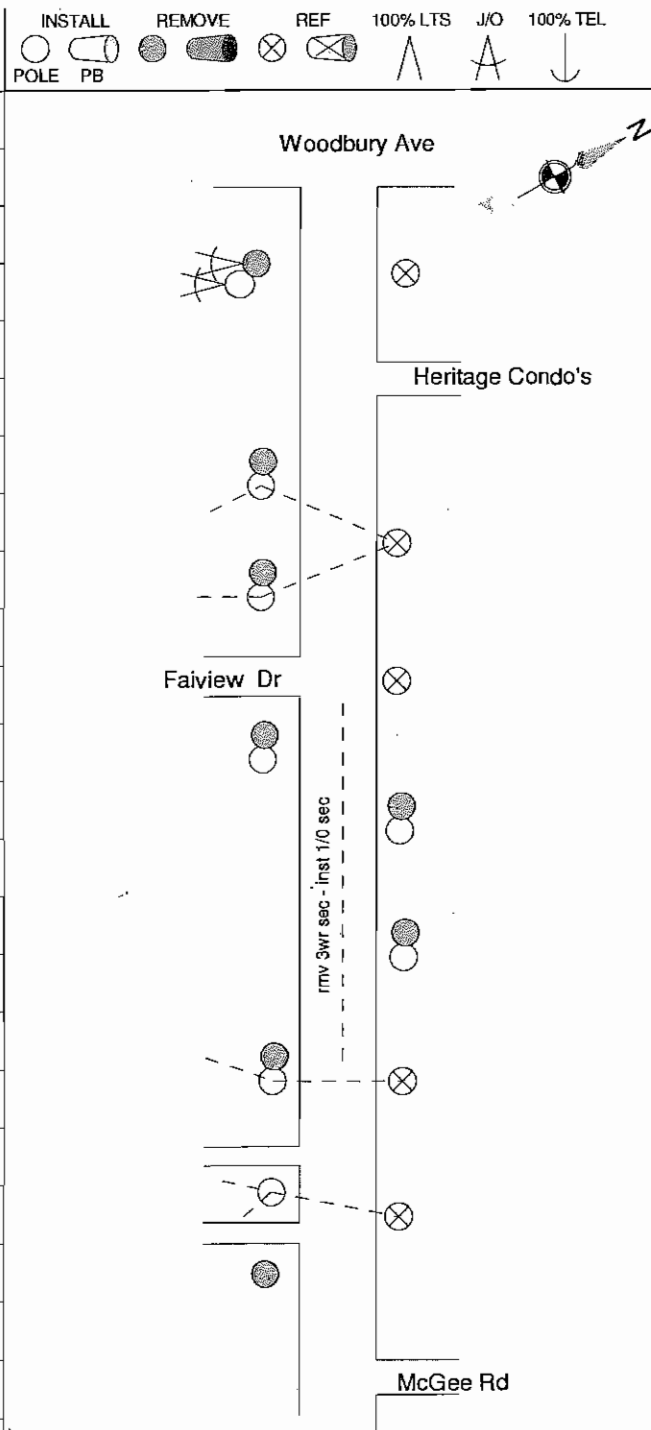
ATTEST: _____
Town Clerk

POLE LOCATION PLAN

PUBLIC SERVICE OF NEW HAMPSHIRE and
Northern New England Telephone Operations LLC d/b/a FairPoint Communications-NNE

DATE	<u>07/02/2012</u>	LICENSE NO.	<u>63-0539</u>
MUNICIPALITY:	<u>Portsmouth</u>	STATE HWY. DIV. NO.	<u>6</u>
STREET / ROAD:	<u>Maplewood Avenue</u>	STATE LICENSE NO.	
PSNH OFFICE:	<u>Portsmouth</u>	WORK REQUEST#	<u>1923133</u>
PSNH ENGINEER:	<u>Jim Osburn</u>	WORK FINANCIAL #	<u>9P220390</u>
TELCO ENGINEER:	<u>Bob Mahoney</u>	TELCO PROJECT #	

Pole Numbers		Pole Sz-CI	Eq BH	INSTALL POLE PB	REMOVE	REF	100% LTS	J/O	100% TEL	Span	Dist. from:	Remarks	DOC REQ
LTS	TEL												
32/43	N/A											reference pole	
32/43S	103/34	35/4										Lt inst/rmv JO pole/anc	M
32/40B	103/32	35/4										FP inst JO pole FP rmv 100% pole	
32/40	918/1											reference pole	
32/40A	103/31	35/4										FP inst JO pole FP rmv 100% pole	
32/39	N/A									106		reference pole	
N/A	103/30	35/4										FP inst/rmv 100% pole	
32/38	929/1	40/3								106		Lts inst/rmv JO pole Lic. # 110S	
32/37	929/2	40/3								110		Lts inst/rmv JO pole Lic. # 110S	
32/36	994/1									105		reference pole	
32/36A	103/27	35/4										FP inst JO pole FP rmv 100% pole	
32/35	N/A											reference pole	
32/35A	103/26	35/4										FP inst JO pole FP rmv 100% pole	



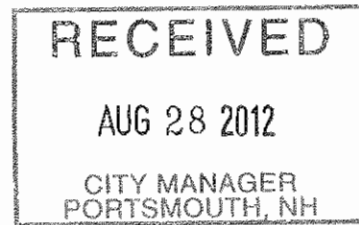
ADDENDUM PER RSA 231:163

- 1) All licensee(s) and any other entity using and/or occupying property of the City pursuant to a license, lease or other agreement shall provide for the payment of properly assessed real and personal property taxes by the party using or occupying said property no later than the due date.
- 2) All licensee(s) and any other entity using and/or occupying property of the City shall provide for the payment of properly assessed real and personal property taxes on structures or improvements added by the licensee(s) or any other entity using or occupying property of the city; and
- 3) Failure of the licensee(s) and any other entity using and/or occupying property of the City to pay duly assessed personal and real taxes when due shall be cause to terminate said agreement by the lessor.

The changes to the licenses, leases and other agreements set forth in the preceding paragraphs shall remain in effect until changed in accordance with the requirements of RSA 231:163.

Approved by City Council:





August 28, 2012

Mayor Spear and the City Council
City of Portsmouth
1 Junkins Avenue
Portsmouth NH 03801

Dear Mayor Spear and Council:

On behalf of Pro Portsmouth, Inc., I am requesting the City's permission to produce the following:

- First Night® Portsmouth 2013
Date: Monday, December 31, 2012
Ice Sculpture – Market Square/North Church
Fireworks – South Mill Pond – 7:30pm
Street Dance – close Pleasant Street from Porter to the Square at 4pm
(Dance: 5:00pm – 12:00am)
Entertainment/music/children's activities – 4:00pm – Midnight (approx. 10 indoor venues)
School bus 'shuttle service' between indoor venues – 4pm - Midnight

Program Notes for 2013

In the interest of planning as relates to the City's calendar for 2013 events, our projected program dates for 2013 include:

- Children's Day, Sunday, May 4th – Noon – 4pm.
- 36th Annual Market Square Day Festival & 10K Road Race, Saturday, June 8th - 9am – 4pm.
- 11th Annual Summer in the Street, Saturday evenings 5pm – 9:30pm – June 22, 29, July 6, 13, 20, 27 (Rain date: August 3).

We will request permits for those events in the upcoming calendar year.

I look forward to meeting with you to discuss the permitting process for First Night®, as well as all of our events.

Thank you in advance for your consideration.

Best regards,

A handwritten signature in cursive script that reads "Barbara Massar".

Barbara Massar
Executive Director

cc: John P. Bohenko, City Manager

Deborah - Maine-ly New Hampshire

From: Deborah - Maine-ly New Hampshire [deborah@maine-lynewhampshire.com]
Sent: Wednesday, August 29, 2012 10:03 AM
To: John Bohenko; Nancy Carner; 'sparkinson@cityofportsmouth.com'; 'asharpe@cityofportsmouth.com'
Cc: 'Ken Smith'
Subject: Scarecrows of the Port

Hi John,

With the city's permission, the Scarecrows of the Port will be back for their 5th appearance on Friday, October 12th. We would like to mount them in their usual places around the downtown and the five circle scarecrows in Market Square. As in the past, we will have approximately 30 scarecrows. We are scheduled to remove the scarecrows on Thursday, November 1st. The committee will have a booth at the Farmer's Market and we would like to request again that we leave our scarecrow in the same location in the City Hall parking lot.

We would also like to request again the help of the City's DPW crew to erect the scarecrows.


Please let me know if you have any questions.

Kindest Regards,

Deborah Bouchard-Smith
Maine-ly New Hampshire
12 Deer Street
Portsmouth, NH 03801
603.422.9500
603.422.9600 Fax
www.maine-lynewhampshire.com
Deborah@maine-lynewhampshire.com

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: August 30, 2012
To: Honorable Mayor Eric Spear and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on September 4, 2012 City Council Agenda

6:00 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.

.....

Items Which Require Action Under Other Sections of the Agenda:

1. First Reading of Proposed Resolution and Ordinance Amendments:

1.1 Acceptance of Petition and First Reading of a Resolution Authorizing a Bond Issue of up to \$1.6 Million Dollars (\$1,600,000) To Pay For The Reconstructing Of Commerce Way, And To Pay For All Costs Incidental And Related Thereto.

As you are aware, the City conducted a public hearing on the petition from Commerce Way LLC for a Conditional Road Layout and Betterment Assessment in accordance with the process described in RSA 231:28 *Conditional Layout for Existing Private Rights of Way* at the August 20, 2012 City Council meeting.

The *Conditional Layout for Existing Private Rights of Way and Betterment Assessments Against Abutters and Those Served*, is a mechanism by which the cost of improvements to a private roadway is financed by a general obligation bond issued by the city and repaid by assessments on the private property owners served by the road (in this case, the building owners along Commerce Way). 100% of the bond and road improvement costs are paid by abutting property owners. Security for the bond repayment is in the form of liens against the abutting properties which have the same status as a property tax lien.

RSA 231:28 requires a ten day period following the public hearing, in which abutters or those served by the road may object to the process. If a majority of abutters do not object, the City Council accepts the Petition and moves forward with the standard

process to issue a general obligation bond. After this step is completed, the City proceeds with solicitation of bids and the construction of the proposed road improvements. At an appropriate time, the road will be conveyed by deed to the City and will become a city street.

The ten day period has now expired and there have been no petitions against layout of the road and completion of the betterment assessment. Therefore, the City is now able to accept the Petition from Commerce Way LLC for a Conditional Road Layout and Betterment Assessment and begin the bond resolution process ([see Petition for Conditional Layout of an Existing Private Right-of-Way known as Commerce Way, With Betterment Assessments, Pursuant to RSA 231:8 and RSA 231:28-30](#)).

In accordance with the process described above, I am bringing forward for first reading the [attached proposed Resolution](#) authorizing the Bonding of up to \$1.6 million dollars (\$1,600,000) to pay for the reconstructing of Commerce Way, and to pay for all costs incidental and related thereto.

I would recommend the City Council move the following two motions:

- 1) *Move to accept the Petition from Commerce Way LLC for a Conditional Road Layout and Betterment Assessment, and*
- 2) *Move to pass first reading and schedule a public hearing and adoption of the proposed bonding resolution as presented at the September 17th City Council meeting. Action on this item should take place under Section IX of the Agenda.*

2. **Public Hearing/Second Reading Proposed Resolution and Ordinance Amendments:**

- 2.1 **Public Hearing/Second Reading of Proposed Ordinance Amendment to Chapter 7, Article III, Section 7.330 – No Parking – Tanner Court.** As a result of the August 20th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the [attached proposed Ordinance Amendment](#) to Chapter 7, Article III, Section 7.330 – No Parking – Tanner Court. As you are aware, the Parking and Traffic Safety Committee recommended this proposed Ordinance amendment in their minutes of May 10, 2012. This ordinance would make parking adjustments on Tanner Court made necessary by the redevelopment project at 51 Islington Street.

I would recommend the City Council move to pass second reading and schedule third and final reading of the proposed Ordinance amendment, as presented, at the September 17, 2012 City Council meeting. Action on this matter 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 attached memorandums from Rick Taintor, Planning Director):

- Jessica Todd, owner of Jessica Todd Salon for property located at 33 Deer Street
- Carla Kienzle, owner of Ten Thousand Villages for property located at 87 Congress Street
- Ed Szczepanik, owner of Alex & Ani, for property located at 104 Congress 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 Donation to the Coalition Legal Fund.** The City has received a check from the Town of Rye in the amount of \$5,000.00 donating funds to the Coalition Legal Fund, which will be utilized to continue our fight to eliminate the statewide property tax.

I would recommend the City Council move to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund. Action on this matter should take place under Section X of the Agenda.

City Manager's Items Which Require Action:

1. **Approval of Proposed Employment Agreement for Deputy Chief of Police Corey MacDonald.** The Portsmouth Police Commission has reached an agreement (see attached) with Corey MacDonald to serve as the Deputy Police Chief. The contract is for a five (5) year term, with a starting salary of Grade 24, Step C which is \$91,956 on the City's Wage/Salary Schedule for Non-Union Employees.

I would recommend that the City Council approve the Employment Agreement between Corey MacDonald and the Portsmouth Board of Police Commissioners for a 5-year term commencing on September 1, 2012 and ending on August 31, 2017.

2. **Proposed Agreement between Trustees of the Trust Fund and Prescott Park Arts Festival.** Attached is a proposed operating Agreement between the Trustees of the Trust Fund and the Prescott Park Arts Festival, which needs to be ratified by the City Council. Robert Sullivan, City Attorney, will answer any questions the City Council may have regarding this matter.

I would recommend the City Council move to ratify the operating Agreement between the Trustees of the Trust Fund and the Prescott Park Arts Festival, as presented.

3. **Request for First Reading of Proposed Bonding Resolutions Re: Citywide and School Facilities Improvements.** I am requesting that the City Council authorize the City Manager to bring back for first reading at your September 17th City Council meeting **the attached Bonding Resolutions** of up to Two Million Seven Hundred Sixty-Seven Thousand Dollars (\$2,767,000) for the FY 2013 – 2018 Capital Improvement Projects. The following list identifies two separate resolutions:

a) **Resolution for Bond Authorization of up to \$2,267,000 for FY13 Citywide, Bridge, Street and Sidewalk Improvements.**

- **Downtown Sidewalk Replacement Program** **\$700,000.00**

This project involves the replacement of the sidewalks on Daniel Street from Market Square to the Wright Avenue Parking Lot. The existing sidewalks are made of concrete, asphalt and brick in some locations and are in poor condition due to wear and tear and age. Work will include resetting of granite curbing, new brick walking surface, period lighting and landscaping where appropriate. This project will tie together similar work previously completed on adjoining streets.

- **Sagamore Creek Bridge Replacement** **\$367,000.00**

This project involves funding the construction of the replacement of the Sagamore Creek Bridge on Rte 1A. Included with the bridge replacement is the reconstruction of the roadway approaches from Shaw Road to Rte 1B/Rte 1A intersection. Current schedule has project bidding in May-June 2013 with actual construction starting August 2013 through November 2014. Funding requested is for matching funds for federal/state grants.

- **McDonough Street Area Improvements Project** **\$400,000.00**

This project is at the request of the Neighborhood Association to have new sidewalks and traffic calming measures installed throughout the McDonough Street Area, and it provides funding for Phase 3 of the project. The main purpose of this project is to enhance safety for the residents and others who travel through this area on foot, by bicycle or motor vehicle. The work includes water, sewer, storm drainage, paving, curbing, sidewalks and associated landscaping.

- **Aldrich Road Traffic Safety Improvements** **\$300,000.00**

Aldrich Road has been identified as a high traffic connector between Middle Street and Islington Street which are both major arterial streets. This project is to construct traffic calming methods such as curbing, reduction of travel widths and intersection realignment. These improvements will slow traffic speeds, discourage through traffic and increase pedestrian safety in the corridor.

- Pease International Tradeport Roadway Rehabilitation \$500,000.00

Per the Municipal Services Agreement between the City and the Pease Development Authority, the City shall provide Public Works services in the non-airfield area of the Tradeport. These services include maintaining and repairing roads, streets and sidewalks. These funds will provide for rehabilitation of roadway infrastructure within the Tradeport similar to the program conducted upon the roadway system in the remaining sections of the City.

- b) **Resolution for Bond Authorization of up to \$500,000 for FY13 for School Facilities Improvements:** The School Department has maintenance responsibilities for seven buildings with over 600,000 square feet of space. These funds will be utilized for the following facility upgrades:

- Replacement of the older sections of the high school roof, not replaced under previous projects, which are now leaking.
- Elementary school computer lab building infrastructure improvements to keep pace with newer technology upgrades.
- Replacement of the existing boiler at New Franklin School with a new energy efficient model providing a healthier student environment and energy savings.

I would recommend that the City Council move the following motions:

- 1) *Authorize the City Manager to bring back for first reading a Bond Resolution for Citywide Improvements in the amount of up to \$2,267,000 at the September 17, 2012 City Council meeting.*
- 2) *Authorize the City Manager to bring back for first reading a Bond Resolution for School Facilities Improvements in the amount of up to \$500,000 at the September 17, 2012 City Council meeting.*

Please note that Bonding Resolutions require two readings and a public hearing and two-thirds vote of the City Council.

4. **Proposed Expansion of the Downtown Overlay District.** As you will recall, at the July 16th meeting I presented a proposal from the Planning Board to amend the Zoning Map to expand the Downtown Overlay District (DOD). At that meeting, the Council raised several concerns about the inclusion of certain parcels in the DOD and referred this back to staff to respond to those concerns and make any appropriate changes. At the August 6th meeting, the Council voted to postpone consideration of first reading to September 4th in order to give staff sufficient time to address these issues.

In that additional staff time is needed to complete the additional work, and the Council has referred to the Planning Board a smaller expansion of the DOD to include just the City-owned parcel at 143 Daniel Street, it is recommended that further consideration of the larger DOD expansion be deferred until after the rezoning and disposition of 143 Daniel Street has been completed.

Therefore, I would ask that the Council postpone consideration of this matter until after action has been taken on the separate proposal for rezoning of 143 Daniel Street.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on August 20, 2012. In addition, this now can be found on the City's website.
2. **Economic Development Commission Agenda and Draft Minutes.** For your information, [attached are the Economic Development Commission Agenda](#) for the upcoming meeting on Friday, September 7, 2012 and the [draft meeting minutes](#) of June 1, 2012.

EMPLOYMENT AGREEMENT

**Corey F. MacDonald and the Portsmouth Board of Police Commissioners
September 1, 2012 to August 31, 2017**

1. Preamble

This Agreement is entered into between the Board of Police Commissioners, City of Portsmouth, New Hampshire (hereinafter called "Commission/Board") and Corey F. MacDonald (hereinafter called "Employee"). This Agreement is null and void unless approved by the Portsmouth City Council.

2. Employment and Term

The Commission/Board agrees to employ the Employee and the Employee agrees to accept employment in the position of Deputy Police Chief for a 5-year term commencing on September 1, 2012 and ending on the August 31, 2017. The Commission/Board and the Employee acknowledge that this is a full-time, year-round position including extensive obligations in the evenings and on week-ends. The Employee agrees to devote sufficient professional effort to ensure the successful fulfillment of all his responsibilities to the Commission/Board and the City as Deputy Police Chief. In the event that the Employee's outside legal employment results in his involvement in any matter that the Commission/Board determines unduly interferes with his ability to devote sufficient professional effort to successfully fulfill all of his responsibilities to the Commission/Board and the City as Deputy Police Chief, the Commission/Board will provide the Employee with written notice and a thirty (30) day opportunity to cure. If the Employee fails to cure, the Commission/Board may proceed to terminate for cause consistent with the provisions of paragraph 5 below.

3. Salary

Effective September 1, 2012, the Employee shall receive a salary of ninety one thousand nine hundred and fifty six dollars (\$91,956) per annum, payable in no fewer than twenty-four installments and subject to such deductions as may be authorized or as may be required by law. See grade 24, step C of City's Wage/Salary Schedule for Non-Union Employees. The Employee shall not be entitled to any salary enhancements except as specifically provided herein.

COLA ADJUSTMENTS. On July 1, 2013 and on each July 1st thereafter during the term of the Agreement, a COLA adjustment percentage increase shall be computed which shall not be less than 2% nor more than 5%. The COLA Adjustment percentage shall be determined by taking the 10 year average of the CPI-U for the Boston-Brockton-Nashua—MA-NH-ME-CT all items index as computed by the Bureau of Labor Statistics of the US Department of Labor for the most recent 10 calendar years preceding the July 1 adjustment. BLS's calendar year for this index is November through November (it is not published on a December to December basis).

The reference base is 1982-1983 equals 100 until BLS updates the reference base at which time the parties agree to adopt the official reference base as used by BLS.

STEP INCREMENTS. On July 1, 2013 and on each July 1st thereafter during the term of the Agreement (unless the Employee has already reached the top step of the Wage/Salary Schedule), the Employee is eligible to move up one (1) step on the Schedule.

4. Certification

The Employee shall be required to hold for the life of this Agreement a valid certificate, properly registered and issued by the State of New Hampshire, as follows: New Hampshire Certified Police Officer.

5. Termination for Cause

This Agreement may be terminated by the Commission/Board at any time for cause, i.e., failure on the part of the Employee to comply with any term or condition of this Agreement, the laws, rules and regulations of the State of New Hampshire, or the rules and regulations of the Commission/Board, or the City of Portsmouth; or malfeasance, misfeasance, nonfeasance, or insubordination in carrying out the responsibilities of the position as specified in the Municipal Charter of the City of Portsmouth or as directed by the Commission/Board.

Termination for Cause shall take place only following written notification specifying the reasons for termination. Unless the Employee submits to the Commission/Board, within twenty (20) days of receipt of such notification, a written request for a hearing before the Commission/Board, the Agreement shall be considered terminated as of the date which falls thirty (30) days after the Employee's receipt of notification. If the Employee requests a hearing, the Commission/Board shall hold this hearing within twenty (20) days after receipt of such request. The Commission/Board shall render a written decision to the Employee within ten (10) days of the hearing. In the event of a Termination for Cause, the Employee shall receive no severance and no further compensation beyond the last day worked.

6. Termination with Severance Payment or Reassignment

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

In the event that the position of Deputy Police Chief is eliminated, or if the Employee's employment as Deputy Police Chief is terminated for reasons other than for cause or voluntary resignation, in lieu of receiving any severance benefits, the

Employee may opt for reassignment to another position in the Portsmouth Police Department, such position to be selected by the Chief of Police at his/her sole discretion, provided that the Employee will also be returned to the level of compensation and benefits he was earning immediately prior to the execution of this contract.

7. Termination by Mutual Consent/Voluntary Resignation

This Agreement may be terminated at any time by mutual consent of the Commission/Board and the Employee or by voluntary resignation of the Employee. In the event the Employee voluntarily resigns before the expiration of the term of this Agreement or any renewal thereof, the Employee shall give the Commission/Board sixty (60) days written notice in advance of such resignation. In the event of voluntary resignation, the Employee shall not be eligible for severance benefits pursuant to Section 6 of this Agreement.

8. Severance Constitutes Release

The acceptance by the Employee of the severance benefits provided under this Agreement shall constitute a full and complete release of any other rights, claims, or causes of action whether in law, equity or otherwise, that the Employee may have against the Commission/Board, the City of Portsmouth, and the employees, elected or appointed officials, officers, agents, representatives and attorneys of such entities.

9. Benefits

Except as otherwise provided herein, the Employee's fringe benefits shall be established by the collective bargaining agreement between the City of Portsmouth and the Professional Management Association. The exceptions shall be described in detail in Section 10 below.

10. Exception to Benefits in Section 9

In addition to the compensation enumerated above, the Employee shall also be entitled to the following:

- a. The Deputy Police Chief shall be provided with a suitable automobile for use in the performance of his duties under this Agreement. Recognizing that the Deputy Police Chief is on-call at all times, it is understood that the automobile may also be used for personal business.
- b. As a condition of employment, the employee shall be domiciled within a thirty (30) mile radius of the Portsmouth Police Department and shall remain domiciled within that radius during the term of employment.

The parties below acknowledge that this Agreement is subject to the approval of the Portsmouth City Council without which approval this Agreement is without force and effect.

For the Commission/Board:

Employee:

Date: _____

Date: _____

Approved by the Portsmouth City Council:

Date

Certified by the City Clerk:

City Clerk

**AGREEMENT BETWEEN THE TRUSTEES OF TRUST FUNDS OF THE CITY OF
PORTSMOUTH AND THE PRESCOTT PARK ARTS FESTIVAL**

This agreement is entered into between the Trustees of Trust Funds (hereinafter "Trustees") of the City of Portsmouth, with a principal place of business at Water Street, Portsmouth, New Hampshire and a mailing address at P.O. Box 1103, Portsmouth New Hampshire 03802-1103 and the Prescott Park Arts Festival (hereinafter "PPAF") with a principal place of business at Portsmouth, New Hampshire and a mailing address at P.O. Box 4370, Portsmouth New Hampshire 03802-4370.

WHEREAS, the Trustees, operating under the authority of the Portsmouth City Council, administer the operation of Prescott Park (hereinafter "the Park") located on Marcy Street in the City of Portsmouth; and

WHEREAS the Trustees desire to have PPAF direct artistic and cultural events in the Park on behalf of the Trustees and the City; and

WHEREAS, the Trustees desire to engage the services of PPAF for the purposes contained herein; and

WHEREAS, PPAF desires to perform the services described herein;

NOW THEN the Trustees and PPAF agree as follows:

PERFORMANCES

1. During the term of this agreement PPAF shall be the sole entity provided with authority from the Trustees to schedule performances or cultural events within the Park and on the stage located within the Park.
2. At least 14 (fourteen) days prior to the scheduling of any performance or cultural event in the Park or on the stage, PPAF shall provide the Trustees and the Park Supervisor with written notice of the event to be scheduled, and the Trustees and the Park Supervisor shall have the complete authority to determine whether or not such performance shall occur. PPAF shall provide one (1) notice of the combined series of events collectively called "The Prescott Park Arts Festival", which notice shall be provided to the Trustees and the Park

Supervisor at least ninety (90) days before the commencement of the first event. PPAF shall not advertise for any event until that event has been approved by the Trustees and the Park Supervisor .

3. It is anticipated by this agreement that PPAF shall schedule the following types of performances and cultural events:
 - a. Musical concerts
 - b. Theater performances
 - c. Dance performances
 - d. Theater classes
 - e. Up to three food festivals located within the Park as approved by the Trustees and the Park Supervisor
 - f. Movies
 - g. Such other performances or uses of the stage as may be authorized by the Trustees and the Park Supervisor.

THE STAGE

4. PPAF understands that the stage located in the Park is not a forum for public expression, but rather is strictly limited in use to artistic performances and cultural presentations as authorized by the Trustees and the Park Supervisor.
5. As such the stage may not be used by any party for any purpose other than as expressly authorized by the Trustees and the Park Supervisor.
6. No advertising or signage of any kind shall be placed on or near the stage, or the outside perimeter of the Park (lawns, fences et cetera) without specific authorization by the Trustees and the Park Supervisor.
7. All stage set construction shall be done in accordance with applicable municipal codes (e.g., electrical) and be subject to inspection by municipal inspectors.
8. At all times PPAF shall maintain the stage site in a clean and safe condition and subsequent to the end of "The Prescott Park Arts Festival", PPAF shall remove all site construction, remove all trailers, tents and leave the stage site in a clean and safe condition, and all the foregoing to be done all in a timely manner.
9. All vehicle loading and unloading, including materials, equipment, costumes, musicians instruments et cetera will be done to the rear of the stage from the parking lot, unless specific approval is given by the Park Superintendent.
10. PPAF shall maintain clear access in the vicinity of the stage during all performances sufficient for police vehicle or ambulance use.

THE PARK

11. PPAF recognizes the policy that the Park is to be maintained at all times as a place where members of the public may enjoy its use without charge. Except as expressly authorized by the Trustees and the Park Supervisor no money may be collected from anyone for any purpose within the Park.
12. Notwithstanding the foregoing, the Trustees authorize PPAF to solicit donations from the public. However, such donations must be collected in a manner, by signage or otherwise, which clearly informs the donors that their contribution is voluntary. Public access to and through the Park should not be hindered or restricted by gates, ropes or obstructions of any kind which prevent the public from utilizing the normal pathways through the Park or the fenced perimeter of the Park.
13. PPAF is not authorized to allow the placement of any signs or advertising anywhere within the Park without the prior express written approval of the Trustees and the Park Supervisor.
14. PPAF shall use best efforts to assist Park personnel in enforcing the rules of the Park, (e.g., no alcohol, no dogs, no outside vendors or soliciting, and no public expression outside of the public forum areas).

CONCESSION STAND

15. The Trustees authorize PPAF to operate the concession stand within the Park and to sell food and merchandise at that location. PPAF shall have the authority to determine what items are to be sold at that concession stand and what amount is to be charged for the sale of such items. All concession stand revenues shall remain with PPAF.
16. PPAF shall at all times during its events maintain the concession stand and the area surrounding it in a clean and safe condition and shall keep the bathrooms in a clean condition with bathroom items stocked. The concession stand and bathrooms shall be secured when not in use. The obligations under this provision shall apply whenever the concession stand is utilized by either PPAF or any entity operating under the authority of PPAF.
17. The concession stand shall be operated under such terms and conditions as may be established by the City Council, City Manager or the Trustees.

PROPERTY TO BE USED AND OCCUPIED BY PPAF

18. In the performance of its responsibilities under this agreement, PPAF shall have the right, in conjunction with the Trustees, to use and occupy the following properties;
- a. The Concession Stand
 - b. The Stage (as limited by this agreement)
 - c. The third floor of the Shaw Building, which may be used for the storage of items related to artistic performances.
 - d. The second floor offices located in the Shaw Building used by PPAF at the time that this agreement is entered.
 - e. Four trailers behind the main stage for storage purposes in support of artistic performances which might occur on the stage.
 - f. Temporary structures in the vicinity of the stage in order to accommodate dressing rooms, the storage of materials and storage of equipment related to performances which may occur on stage.
 - g. A trailer behind the concession stand for food storage purposes.
 - h. The first and second floor of the Sheafe Warehouse.
 - i. The sound building.
 - j. The newly constructed support building scheduled for occupancy in June 2012 (see building permit #: 2011-00820).
 - k. The 4' x 4' storage building.
 - l. The existing deck of approximately 20' x 100' located next to the merchandise which may be used by PPAF for paid reserved seating purposes.

All property used or occupied by PPAF shall be kept in a clean, neat and sanitary condition at all times.

19. Each year the Trustees and PPAF shall conduct good faith negotiations to address shared park operating costs. For purposes of this provision the term park operating costs shall mean:
- a. Direct occupancy costs paid by Trustees, such as utilities, repairs and maintenance attributable to PPAF.
 - b. Indirect costs paid by Trustees as a result of crowds brought to the park by PPAF, such as consumable supplies, repairs and maintenance to park property and utility consumption.
 - c. Park staff time required to support PPAF activities.

OTHER PPAF ACTIVITIES

20. Beyond artistic performance, PPAF is specifically authorized to perform the following functions at such dates, times and place as may be approved by the Trustees and the Park Supervisor:
 - a. PPAF may conduct a juried art show on the ground floor of the Sheafe Warehouse in conjunction with the New Hampshire Art Association.
 - b. PPAF may conduct a one day art exhibit outdoors in the Park.
 - c. PPAF may conduct a Chili Festival, which may include a participation fee.
 - d. PPAF may conduct a Chowder Festival, which may include a participation fee.
 - e. In conjunction with the Friends of the South End (FOSE) PPAF may conduct the so-called "Fairy House Tours".

TERM

21. The term of this agreement shall commence upon its completed execution and be automatically renewed, on a year to year basis, unless amended by the parties. Either party may terminate this agreement without cause by providing sixty (60) days notice to the other party.

INSURANCE AND FINANCES

22. PPAF shall maintain at all times during the term of this agreement general liability insurance in a coverage amount of at least \$2,000,000.00 per occurrence naming the City of Portsmouth and the Trustees of Trust Funds as additional insureds, certificates indicating the existence of such insurance shall be kept on file at all times in the office of the City Attorney of the City of Portsmouth.
23. Financial Books and records of PPAF shall be open for review at all times by the Trustees upon reasonable notice to PPAF.
24. At any time during the term of this agreement on request of the Trustees PPAF shall provide the Trustees with a full accounting of all income and expense, including donations, sponsorships, and income of any form received by PPAF for the prior calendar year.
25. PPAF shall adopt a cash handling policy meeting the approval of the Trustees, which policy shall be in place prior to the commencement of the summer of 2009 performances, and which policy shall not be modified or amended without the written approval of the Trustees.

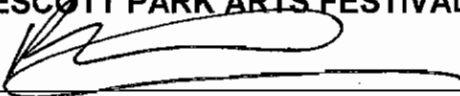
26. At the close of the performance season, PPAF shall provide the Trustees with complete annual financial statements reflecting all financial activities of PPAF.

MISCELLANEOUS

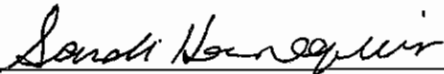
27. PPAF recognizes that the Trustees and Park management schedule use of the Park for weddings, dock reservations, public forum area events and Four Tree Island events and PPAF shall make whatever reasonable accommodations are necessary to allow those scheduled items to occur without interference.
28. Neither this agreement nor any of the authority granted under it shall be transferrable or assignable in any way by PPAF.
29. This agreement may be terminated by the Trustees at any time it is determined by the Trustees in the exercise of reasonable judgment that PPAF has operated in breach of its terms.
30. This agreement describes the entire relationship between the Trustees, the Park Supervisor and PPAF. PPAF shall have no authority to conduct any activity not specifically authorized herein.
31. In interpretation of this agreement the parties recognize that the Trustees and the Park Supervisor authorize PPAF to operate during the currently scheduled season in a manner generally consistent with the operation of PPAF in past seasons.
32. PPAF understands that the Park Supervisor represents the Trustees in all matters connected with the Park and with the administration of this agreement and that he/she speaks with the authority of the Trustees on these matters. To facilitate communication the Executive Director or his/her designee of PPAF and the Park Supervisor shall hold weekly meetings during the summer season of PPAF and other meetings to be scheduled on the call of the Park Supervisor for the purpose of addressing any issues of concern to either PPAF or the Park Supervisor.
33. Every year, prior to the commencement of summer activities by PPAF, there shall be a meeting held between the full Board of Directors of PPAF and the Trustees of Trust Funds for the purpose of considering all matters of mutual concern.

PRESCOTT PARK ARTS FESTIVAL

Dated: 07/23/12


Ben Anderson, Executive Director

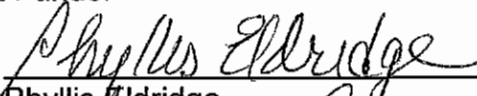
Dated: 07/23/12


Sandi Hennequin, President

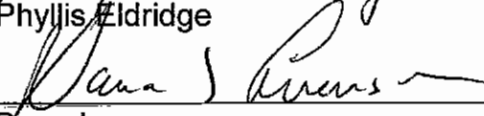
As authorized by the PPAF Board of Directors on
June 19, 2012.

Accepted by the Trustees of Trust Funds.

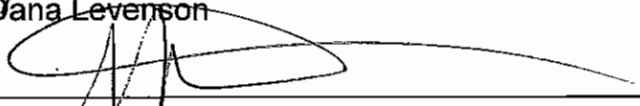
Dated: 8-7-12


Phyllis Eldridge

Dated: 8/8/12


Dana Levenson

Dated: 8/8/2012


Thomas R. Watson

Approved by vote of the City Council on
_____, 2012.

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

RESOLUTION # – 2012

**A RESOLUTION AUTHORIZING A BOND ISSUE OF UP TO
TWO MILLION TWO HUNDRED SIXTY SEVEN THOUSAND
DOLLARS (\$2,267,000) FOR FISCAL YEAR 2013 CITYWIDE,
BRIDGE, STREET, AND SIDEWALK IMPROVEMENTS.**

BE IT RESOLVED:

THAT, the sum of **Two Million Two Hundred Sixty Seven Thousand Dollars (\$2,267,000)** is appropriated for Citywide Bridge, Street and Sidewalk Improvements for the FY13 Capital Improvement Program;

THAT, to meet this appropriation, the City Treasurer, with the approval of the City Manager, is authorized to borrow **Two Million Two Hundred Sixty Seven Thousand Dollars (\$2,267,000)** through the issuance of bonds and/or notes of the City under the Municipal Finance Act;

THAT That the expected useful life of the project is determined to be at least ten (10) years, and;

THAT That this Resolution shall take effect upon its passage.

APPROVED:

ERIC SPEAR, MAYOR

ADOPTED BY CITY COUNCIL

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

IN THE YEAR OF OUR LORD
TWO THOUSAND TWELVE
PORTSMOUTH, NEW HAMPSHIRE

RESOLUTION # – 2012

A RESOLUTION AUTHORIZING A BOND ISSUE OF UP TO FIVE HUNDRED THOUSAND DOLLARS (\$500,000) FOR FY13 SCHOOL FACILITIES IMPROVEMENTS.

RESOLVED:

THAT, the sum of **Five Hundred Thousand Dollars (\$500,000)** is appropriated for School Facilities Improvements for the FY13 Capital Improvement Program;

THAT, to meet this appropriation, the City Treasurer, with the approval of the City Manager, is authorized to borrow **Five Hundred Thousand Dollars (\$500,000)** through the issuance of bonds and/or notes of the City under the Municipal Finance Act;

THAT, the expected useful life of the projects is determined to be at least ten (10) years, and;

THAT, this Resolution shall take effect upon its passage.

APPROVED:

ERIC SPEAR, MAYOR

ADOPTED BY CITY COUNCIL

KELLI BARNABY, CMC/CNHMC
CITY CLERK

Run: 8/29/12
7:49AM

Event Listing by Date

Page: 1

Starting Date: 1/ 1/2012
Ending Date: 12/31/2012

Start End	Type Description	Location	Requestor	Vote Date
1/ 1/2012 1/ 1/2012	ROAD RACE	Little Harbour School Stu Simon is the contact for this event - 436-2014. This event begins at 11:00 a.m.	Great Bay Services	4/ 4/2011
2/13/2012 2/13/2012	CONCERT	Chestnut Street Vernis Jackson is the contact for this event.	African Burying Ground Committ	12/19/2011
3/11/2012 3/11/2012	ROAD RACE	Pease Tradeport Todd Hanson is the contact for this event. He can be reached at 436-2551. This event starts at 10:30 a.m.	St. Paddy's 5 Miler	3/15/2012
3/25/2012 3/25/2012	ROAD RACE	Portsmouth High School Donald Allison is the contact for this event. This event begins at Portsmouth High School to Route 1A South. The event begins at 11:00 a.m.	Eastern States 20 Mile	1/17/2012
4/14/2012 4/14/2012	ROAD RACE	Baptist Church - Miller Avenue Robert Sutherland, Jr. is the contact for this event. This event begins and ends at the Baptist Church on Miller Avenue. Race starts at 9:00 a.m.	St. John's Lodge - Out of Hibe	2/ 6/2012
4/14/2012 4/14/2012	WALK	Little Harbour School Heidi R. Roy, Development Manager is the contact for this event. This event begins and ends at Little Harbour School, from 10:00 a.m. to 2:00 p.m.	National Multiple Sclerosis So	12/19/2011
4/15/2012 4/15/2012	ROAD RACE	Pease Tradeport Olivia Kopri is the contact for this event. This event begins at approximately 11:00 a.m. This event starts and finishes at Martin's Point Health Care.	Sexual Assault Support Service	2/ 6/2012
4/15/2012 4/15/2012	WALK	City Hall Randy Eaton is the contact of this event. The event beings at City Hall and ends at Prescott Park, starting at 1:00 p.m.	Walk for Faith	12/19/2011
5/ 6/2012 1/ 3/2012	BIKE TOUR	Little Harbour School Kathryn M. Libby is the contact for this event. This event begins at 7:00 a.m. and ends at approximately 4:00 p.m.	American Lung Association	12/19/2011
5/ 6/2012 5/ 6/2012	FESTIVAL	Downtown Portsmouth Barbara Massar is the contact for this event. This event begins at Noon until 4:00 p.m.	Pro Portsmouth - Children's Da	1/18/2012
5/ 6/2012 5/ 6/2012	WALK	Lower Parking Lot of City Hall Barbara Kautz is the contact for this event (207-363-5833). This event begins at 10:00 a.m. and the walk starts at 2:00 p.m. and ends around 5:00 p.m.	AIDS Response Seacoast	1/17/2012
5/12/2012 5/12/2012	ROAD RACE	Pease Tradeport Kimberly McGlinchey and Deirdre Barrett are the ECO Club Advisors and they are the contacts for this event. The time of this event is 1:00 p.m. to 3:00 p.m.	Portsmouth High School ECO Clu	2/21/2012

Event Listing by Date

Starting Date: 1/ 1/2012

Ending Date: 12/31/2012

Start End	Type Description	Location	Requestor	Vote Date
5/12/2012 5/12/2012	ROAD RACE Deborah Peretz is the contact for this event. This event begins at 9:00 a.m.	Strawberry Banke	Susan G. Komen for the Cure	10/ 3/2011
5/19/2012 5/20/2012	BIKE TOUR Kelly Sicard is the contact for this event. Tel. (603)669-2411 ex. 120	Pease International Tradeport	Breathe New Hampshire	3/ 5/2012
5/19/2012 5/19/2012	ROAD RACE Doug Bates is the contact for this event. This event is part of the Greater Portsmouth Chamber of Commerce Road Race series. This event begins and ends at the YMCA on Peverly Hill Road. **This event has been canceled.	YMCA - Peverly Hill Road	GPCC - YMCA - CANCELED	12/19/2011
5/20/2012 5/20/2012	MARCH Contact Mylene Hollick. Starting and Finishing at Little Harbour Elementary School from 9:00 a.m. to 1:00 p.m.	Little Harbour School	Seacoast March for Babies	5/ 7/2012
5/27/2012 5/27/2012	ROAD RACE Jeanine Sylvester is the contact for this event. This event begins at 11:00 a.m.	Redhook Ale Brewery	Runner's Alley	2/ 6/2012
6/ 9/2012 6/ 9/2012	FESTIVAL Barbara Massar is the contact for this event. This event begins at 9:00 a.m. to 4:00 p.m.	Downtown Portsmouth	Pro Portsmouth - Market Square	1/17/2012
6/ 9/2012 6/ 9/2012	ROAD RACE Barbara Massar is the contact for this event. This is the Market Square Day Road Race that starts at 9:00 a.m. in Market Square.	Starts in Market Square	Pro Portsmouth - Market Square	2/17/2012
6/23/2012 6/23/2012	FESTIVAL This is a Summer in the Street Music Series. It begins at 5:00 p.m. to 9:30 p.m.	Downtown - Pleasant Street/State and Square	Pro Portsmouth - summer in the	1/17/2012
6/24/2012 6/24/2012	MARCH This event begins at 8:30 a.m. - the route from the William Pitt Tavern on Court Street to Atkinson Street down State Street then up Chapel Street to the Church. Robert Sutherland, Jr. is the contact for this event - 436-1095.	Masonic Lodge - Miller Avenue	St. John's Lodge	6/11/2012
6/30/2012 6/30/2012	FESTIVAL Barbara Massar is the contact for this event. This is Summer in the Streets event beginning at 5:00 p.m. to 9:00 p.m.	Downtown - Pleasant Street/State and Square	Pro Portsmouth - Summer in the	1/17/2012
7/ 3/2012 7/ 3/2012	FIREWORKS Fireworks begin at 9:15 p.m.	Leary Field	City of Portsmouth	/ /

Event Listing by Date

Starting Date: 1/ 1/2012
Ending Date: 12/31/2012

Start End	Type Description	Location	Requestor	Vote Date
7/ 7/2012 7/ 7/2012	FESTIVAL Barbara Massar is the contact for this event. This is a part of the Summer in the Streets series that begins at 5:00 p.m. and ends at 9:30 p.m.	Downtown - Pleasant Street/State and Square	Pro Portsmouth - Summer in the	1/17/2012
7/ 7/2012 7/ 7/2012	ROAD RACE Doug Bates is the contact for this event. This event is part of the Road Race Series. It begins and ends at Little Harbour School at 9:00 a.m.	Little Harbour School	GPCC - Harbour Trail	12/19/2011
7/ 8/2012 7/ 8/2012	PARADE Contacts: Peter Somssich and Josh Denton Begins from City Hall lower lot area at 2:00 p.m. and proceed through downtown.	Begins at City Hall lower lot area and proceeds th	Welcome Home, Iraq Veterans Pa	3/19/2012
7/14/2012 7/14/2012	FESTIVAL Barbara Massar is the contact for this event. This event is part of the Summer in Street Series. It begins at 5:00 to 9:30 p.m.	Downtown - Pleasant Street/State and Square	Pro Portsmouth - Summer in the	1/18/2012
7/14/2012 7/14/2012	FUND Contact:: Mark Herrholz, Secretary, Portsmouth Professional Fire Fighters	Market Square	Portsmouth Professional Firefi Boot Drive for MDA 8:00 a.m. to 5:00 p.m.	5/21/2012
7/15/2012 7/15/2012	ROAD RACE Brenda M. Blonigen is the contact of this event. Her cell number is (603) 475-4080	Pease Tradeport - Great Bay Community College	The Minuteman Fund	3/ 5/2012
7/21/2012 7/21/2012	FESTIVAL Barbara Massar is the contact for this event. This event is part of the Summer in the Streets begins at 5:00 p.m. to 9:30 p.m.	Downtown - Pleasant Street - between State Street	Pro Portsmouth - Summer in the	1/17/2012
7/28/2012 7/28/2012	FESTIVAL Barbara Massar is the contact for this event. This event is part of the Summer in the Streets series that begins at 5:00 p.m. and ends at 9:30 p.m.	Downtown - Pleasant Street - between State Street	Pro Portsmouth - Summer in the	1/17/2012
7/28/2012 7/28/2012	RACE Contact Alyssa Aldrich Close Chestnut Street on Saturday, July 28, 2012 from 4:00 p.m. to 6:00 p.m. (Rain date of Saturday, August 4, 2012)	Chestnut Street	Big Brothers Big Sisters of th	5/ 7/2012
8/ 2/2012 8/ 2/2012	ROAD RACE Doug Bates is the contact for this event. This event is part of the Road Race series. It begins and ends at Peirce Island at 6:00 p.m.	Peirce Island	GPCC - Portsmouth Rotary Club	12/19/2011
8/ 4/2012 8/ 4/2012	FESTIVAL Barbara Massar is the contact for this event. This event is part of the Summer in the Street series which begins at 5:00 p.m. and ends at 9:30 p.m.	(Raindate)Downtown - Pleasant Street/State and Squ	Pro Portsmouth - Summer in the	1/17/2012
8/ 8/2012 8/ 8/2012	FESTIVAL Doug Bates is the contact for this event. This is the 2012 Greater Portsmouth Chamber of Commerce Annual Dinner "Celebrating Portsmouth Business".	Pleasant Street from State to Congress Street	Greater Portsmouth Chamber of	2/17/2012

Event Listing by Date

Starting Date: 1/ 1/2012

Ending Date: 12/31/2012

Start End	Type Description	Location	Requestor	Vote Date
8/11/2012 8/11/2012	SIDEWALK Alan Keith is the contact on this event. This is a sidewalk sale on the south side of the Connors Cottage from 8:00 a.m. to 1:00 p.m.	Connors Cottage	Alan Keith	8/ 6/2012
8/18/2012 8/18/2012	BIKE TOUR Heidi R. Roy, Development Manager is the contact for this event. Her contact number: 623-3502. The race enters Portsmouth on Ocean Road to Banfield Road to a left on Peverly Hill Road, Right onto Middle Road, bear right onto South Street, right onto Marcy Street, left on Route 1B south, across into New Castle follow thru New Castle, left onto Sagamore Road to rotary, around rotary to Route 1A south to Odiorne State Park	Thru South End	National Multiple Sclerosis So	4/ 2/2012
8/18/2012 8/18/2012	FUND Contact: Mark Herrholz, Secretary, Portsmouth Professional Firefighters - Boot Drive for MDA 8:00 a.m. to 5:00 p.m.	Market Square	Portsmouth Professional Firefi	5/21/2012
8/18/2012 8/18/2012	TOUR Christina Mirasolo is the contact for this event. She can be reached on her cell 781-389-0427. This is a Red Carper Roll Out Event - outsidet of the 100 Club on High Street from 5:45 p.m. to 6:45 p.m.	100 Club - High Street	Destination Partners	8/ 6/2012
9/ 3/2012 9/ 3/2012	ROAD RACE Sister Mary Agnes is the contact for this event. This event begins at 9:00 a.m. on Pease Tradeport.	Pease Tradeport	St. Charles Children's Home	8/ 6/2012
9/ 9/2012 9/ 9/2012	BIKE TOUR Susanne Delaney or Catherine Keenan are the contacts for this event. This event begins and ends at Market Square.	Downtown	Portsmouth Criterium	12/ 6/2011
9/14/2012 9/16/2012	TELLURIDE Chris Curtis is the contact for this event. He can be reached at 766-2199. This is the Annual Telluride by the Sea Weekend Celebration of Film. They will be closing Chestnut Street from Congress to Porter Street. They will also be hanging a banner across the Congress Stree end of Chestnut,	Chestnut Street	Music Hall	7/16/2012
9/15/2012 9/15/2012	ROAD RACE Doug Bates is the contact for this event. This event is part of the Road Race series - it begins at 9:00 a.m.	Little Harbour School	GPCC - BreastCancerStories.org	12/19/2011
9/15/2012 9/16/2012	TOUR Caroline Amport (686-4338) and Nancy Pollard are the contacts for this event. This event begins on Saturday, September 15th from 9:00 a.m. to 1:00 p.m. and Sunday, September 16th - 11:00 a.m. to 3:00 p.m.	South End	Friends of the South End	2/ 6/2012
9/22/2012 9/22/2012	FUND	Prescott Park	New Hampshire Fish and Lobster	/ /
9/23/2012 9/23/2012	WALK Caitlyn Mosher Ellis, Development Officer is the contact for this event. This event begins and ends at Strawberry Banke. Set up 6:00 a.m., race begins at 10:00 a.m., Post walk cleanup completed by approx. 2:00 p.m.	Strawbery Banke	Alzheimer's Association	7/16/2012

Event Listing by Date

Starting Date: 1/ 1/2012

Ending Date: 12/31/2012

Start End	Type Description	Location	Requestor	Vote Date
9/29/2012 9/30/2012	FESTIVAL Maritime Folk Festival on September 29th and September 30th - On September 29th.	Portsmouth - downtown area	Maritime Folk Festival	6/11/2012
9/29/2012 9/29/2012	ROAD RACE Karen Butz Webb is the contact for this event. This event begins and ends at Portsmouth High School. the course starts at Portsmouth High School, left onto South Street, right onto Middle Street, bear right to Court Street, right onto Marcy Street back to South and finishing at the PHS.	Portsmouth High School	Project Safety	2/21/2012
9/29/2012 9/29/2012	WALK Ken La Valley is the contact for this event - 603-862-4343. Registration for this event begins at 8:00 a.m. and the walk duration is 10:00 a.m. to Noon. The walk would begin and end on Peirce Island near the outdoor pool. Walkers would make a 2.6 mile loop starting from Peirce Island to Marcy Street, continuuiing onto South Street, Miller Avenue, Middle Street, State Street and finishing at Peirce Island.	Peirce Island	American Foundation for Suicid	4/ 2/2012
10/13/2012 10/13/2012	ROAD RACE Doug Bates is the contact for this event. This event is the for the Community Child Care and it is part of the Road Race series. This event begins at 7:00 a.m. to 12:00 p.m. Catherine Edison, Development Director of Community Child Care Center is also a contact. This event has changed locations from Little Harbour School.	Community Campus - 100 Campus Drive	GPCC - Community Child Care	8/ 6/2012
11/11/2012 11/11/2012	ROAD RACE Jay Diener, Co-Race Director is the contact for this event. This race begins and ends at Portsmouth High School.	Portsmouth High School	Seacoast Half Maranthon	3/20/2012
11/22/2012 11/22/2012	ROAD RACE Doug Bates is the contact for this event. This event is part of the Road Race Series. The event begins at 8:30 a.m.	Prescott Park	GPCC - Seacoast Rotary Club -	12/19/2011
12/ 1/2012 12/ 1/2012	FESTIVAL Pat Remick is the contact for this event. This event is at 5:00 p.m. in Market Square.	Market Square	Tree Lighting	/ /
12/ 1/2012 12/ 1/2012	PARADE Pat Remick is the contact for this event. This event starts at 6:00 p.m. at 800 Islington Street - up Islington Street - cross over to Congress Street thru Market Square - turn onto Pleasant Street - ends the parking lot at the corner of Junkins and Parrott Avenue.	Islington Street to Market Square	Holiday Parade	/ /

MEMORANDUM

DATE: AUGUST 30, 2012
TO: ECONOMIC DEVELOPMENT COMMISSION
FROM: EVERETT EATON, CHAIRMAN
RE: UPCOMING MEETING FRIDAY, SEPTEMBER 7, 2012

The next EDC meeting is on September 7, 2012 from 7:30-9:00 AM in City Hall Conference Room A. If you are unable to attend the meeting, please contact Nancy Carmer at **610-7220**.

9/7/12	7:30 A.M.	CITY HALL	CONFERENCE ROOM A
---------------	------------------	------------------	--------------------------

- 1) Approval of draft meeting minutes of June 1, 2012 (enclosed)
- 2) Mid-year review of EDC Action Plan
- 3) Presentation: Update on Portsmouth Office and Industrial Market by Laura Nesmith, Research Manager and David Choate of Grubb & Ellis/Northern New England
- 4) Old Business
 - a) Heritage/Constitution Economic Revitalization Zone Approval and proposed business/real estate tutorial
 - b) Commerce Way Betterment Assessment Update
 - c) Parking Omnibus update
- 5) New/Other Business
 - a) Arts and Economic Prosperity Report findings
- 6) Public Comment
- 7) Confirm Next Meeting: Friday, October 5, 2012 /Adjourn

Informational Items:

- a) NH Employment Security Economic and Labor Market Reports:
 - August 2012 *NH Economic Conditions Report*
 - Local Area Unemployment Statistics Report for July 2012
 - Article on Portsmouth in 7/12 Northern New England Real Estate Journal
 - Email from Ben Anderson re: Cowboy Junkies website post

CC: Mayor and City Council
Laura Nesmith

**DRAFT
MEETING MINUTES
PORTSMOUTH ECONOMIC DEVELOPMENT COMMISSION**

June 1, 2012

Novocure 195 Commerce Way

7:30 a.m.

Members Present: Everett Eaton, Chairman; Lisa DeStefano, Vice-Chairman, Tim Allison, Philip Cohen, Ron Zolla, Eric Gregg, Josh Cyr, Jack Thorsen, John P. Bohenko
Excused: Dana Levenson, Christine Dwyer, Robert Marchewka

Chairman Eaton opened the meeting at 7:35 AM and thanked Novocure Chief Operating Officer (COO) Mike Ambrogi for hosting the meeting.

Approval of draft meeting minutes

Following a motion by Commissioner DeStefano and a second by Commissioner Cyr, the draft meeting minutes of May 4, 2012 were unanimously approved as written.

Old Business

Parking Omnibus Update

The City Council will conduct a work session on June 18, 2012 at 6:30 PM on the parking strategies included in the parking omnibus. Because it is a work session, there will be no opportunity for public comment or input from Board and Commissioners. It can be viewed in person, on Channel 22 or online. A copy of the final strategy report will be provided to the EDC when available.

City Council action on Heritage and Constitution Economic Revitalization Zone

Ms. Carmer informed the EDC that, at the May 21, 2012 meeting, the City Council authorized the City Manager to submit an Economic Revitalization Zone application for the City's Industrial Park at Heritage and Constitution Avenues.

Update on May 21, 2012 Chamber Retail Gathering

Ms. Carmer informed the EDC that she attended the May 21, 2012 Chamber Retail Gathering at Jumpin' Jays Restaurant. Approximately 30 people attended and the Chamber Retail Committee members did an excellent job explaining the value of being a Chamber member.

Tax Increment Financing (TIF) Subcommittee

City Staff have reached out to property owners regarding potential opportunities and are awaiting responses.

Public Comment David Choate reported that current real estate figures are positive and indicate that there has been a significant amount of absorption in the real estate market.

As a follow up to the discussion at last month's meeting on escalating rents in the downtown, Mr. Choate reported that he and some other retailers have discussed speaking to property owners downtown about the negative impact of charging "extravagant rents" as well as working to retain and attract a mix of tenants. This spawned a general discussion about what the city can do as incentives to attract a specific type of business such as a drug store downtown. Mr. Cyr suggested that the EDC invite representatives of Seacoast Local to come to a meeting and discuss crowdfunding for small entrepreneurs or for specific

types of business. Mr. Cohen suggested inviting retailers and restaurateurs to a meeting to learn about their customer base with respect to local patrons versus visitors. Mr. Thorsen spoke about the mechanisms government can use to influence the mix of uses in the downtown.

In order to allow for the Novocure representatives to have enough time for their presentation, it was suggested that this topic should be scheduled for a different meeting and to include the Planning Director.

Confirm Next Meeting: Friday, September 7, 2012

When polled, the Commission expressed interest in a summer on-site visit to another Portsmouth business. Ms. Carmer will explore potential dates in August.

Business presentation and tour of Novocure facility

Mike Ambrogi gave a power point presentation on the company and the medical device it produces for treatment of virulent, solid brain tumors. The device creates tumor treating fields (TTF) which use alternating electrical fields to prevent the splitting of cancer cells. It is an alternative to chemotherapy, radiation and surgery for the treatment of these deadly tumors without the negative side effects. Thus far, it has been used for end stage brain cancer patients and provides roughly the same life expectancy as other treatment modalities. However, the firm has received permission to conduct trials for earlier stage patients which are proving positive.

Novocure is an international company with primary corporate offices and manufacturing facilities in Israel. Portsmouth is home to the US headquarters. The office has 15 employees and the primary functions are order fulfillment, billing and reimbursement, US technology support, quality assurance and US-based human resources. The US operations oncology staff is based in New York City and there is a small product finishing facility in California. The firm plans to hire 10 more Portsmouth-based employees by the end of the year. Typical salaries are in the \$60,000- \$80,000 range. The company chose Portsmouth for its proximity to the Boston medical device industry and for the lower operating costs and quality of life in Portsmouth. The firm is currently funded through venture capital and private equity.

In discussions about what the City can do to help retain and expand Novocure, Mr. Ambrogi responded that a major factor will be finding the skilled workers needed to meet the company's growth plan. Some zoning regulation modifications that allow light assembly and distribution uses in Commerce Way would be essential for them to grow at that location. He said that recruiting other medical device firms would be good for attracting the labor needed to grow these companies. Ms. Carmer suggested exploring a the a job training grant to create a pipeline of qualified workers such as Lonza Biologics has in partnership with Great Bay Community College.

Following the presentation and question and answer session, Mr. Ambrogi provided a tour of the facility.

With no further business the meeting adjourned at 9:20 a.m.

Respectfully submitted,
Nancy Carmer
Economic Development Program Manager



CITY OF PORTSMOUTH, N.H.
BOARDS AND COMMISSIONS

APPOINTMENT APPLICATION

Instructions: Please print or type and complete all information.
Please submit resume' along with this application.

MAY 14 2012

Committee: TREE & PUBLIC GREENERY Initial applicant

Name: DENNIS SOUTO Telephone: 436-2466

Could you be contacted at work? YES/NO If so, telephone # _____

Street address: 218 WILLARD AVENUE

Mailing address (if different): _____

Email address (for clerk's office communication): DENSOD@COMCAST.NET

How long have you been a resident of Portsmouth? 34 YEARS

Occupational background:

USDA FOREST SERVICE 31 YEARS

Please list experience you have in respect to this Board/Commission:

FOREST ENTOMOLOGIST (INSECTS) 31 YEARS

HAZARD TREE RECOGNITION

TRAINER - 20 YEARS

OVER
➔

Have you contacted the chair of the Board/Commission to determine the time commitment involved? YES/NO

Would you be able to commit to attending all meetings? YES/NO AS MANY AS POSSIBLE

Reasons for wishing to serve: NOW THAT I AM RETIRED, I WOULD LIKE TO GIVE BACK TO MY COMMUNITY

Please list any organizations, groups, or other committees you are involved in:

Please list two character references not related to you or city staff members:

- 1) MIKE BOHNE / USDA FOREST SERVICE / DURHAM, NH
Name, address, telephone number 802-238-7516
- 2) AS DUPERE / NH URBAN FORESTER / UFC PORTS
Name, address, telephone number 431-6774

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

1. This application is for consideration and does not mean you will necessarily be appointed to this Board/Commission; and
2. The Mayor will review your application, may contact you, check your references, and determine any potential conflict of interests; and
3. This application may be forwarded to the City Council for consideration at the Mayor's discretion; and
4. If this application is forwarded to the City Council, they may consider the application and vote on it at the next scheduled meeting.
5. Application will be kept on file for one year from date of receipt.

Signature: Annis Fauto Date: 5/14/12

If you do not receive the appointment you are requesting, would you be interested in serving on another board or commission? Yes ___ No X

Please submit application to the City Clerks Office, 1 Junkins Avenue, Portsmouth, NH 03801

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

DATE: August 30, 2012
TO: Honorable Mayor Eric Spear & City Council Members
FROM: Brad Lown, Councilor
SUBJECT: Amendments to City's Code of Ordinances

Attached is a proposed Ordinance for various housekeeping amendments to the City's Code of Ordinances. As you will recall, I brought these items to the attention of the City Manager and City Attorney back in January. The City Council authorized me to work with the City Attorney and City Manager to bring back these amendments that would address these housekeeping amendments.

I am requesting that the City Council allow me to bring back for first reading these amendments at the September 17, 2012 City Council meeting. The City Attorney feels this can be brought forward as one general amendment because they are not significant changes to the ordinances (one public hearing not multiple public hearings).

Therefore, may I request the City Council move to authorize the City Manager to bring back for first reading the attached amendments to the City's Code of Ordinances at the September 17, 2012 City Council meeting.

c. John P. Bohenko, City Manager

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS that the following amendments be made to:

A. That Chapter 1, Article VI – RESIDENCY REQUIREMENTS of the Ordinances of the City of Portsmouth be deleted in its entirety;

(Explanation not part of ordinance: Passage of this ordinance would delete department head residency requirement which was ruled unconstitutional by the Court in the early 1980s.)

B. That Chapter 3, Article I, Section 3.111 – HOGS of the Ordinances of the City of Portsmouth be deleted in its entirety;

(Explanation not part of ordinance: Passage of this ordinance would eliminate a provision which allowed the Health Officer to issue permits for the keeping of hogs, "within the compact part of the City".)

C. That Chapter 5, Article I, Section 5.102 – RESIDENTS OF THE CITY of the Ordinances of the City of Portsmouth be deleted in its entirety;

(Explanation not part of ordinance: Passage of this ordinance would remove from the ordinances a requirement that members of the Fire Department, "establish residence anywhere within a ten mile direct line radius of the Central Fire Station" as well as other requirements, all of which have been superseded by collective bargaining.

D. That Chapter 5, Article I, Section 5.103 – AGE LIMIT of the Ordinances of the City of Portsmouth be deleted in its entirety;

(Explanation not part of ordinance: Passage of this ordinance would remove an unused provision which would prevent persons under the age of 21 or over the age of 35 from being, "appointed a permanent fireman" as well as remove an age limitation on the now non-existent call Fire Department.

E. That Chapter 6, Article VI – DANCING of the Ordinances of the City of Portsmouth be deleted in its entirety;

(Explanation not part of ordinance: Passage of this ordinance would eliminate an obsolete licensing provision regarding public dances in the City which requires a license; requires a fee; requires the City Manager approve the location of the dance; calls for police attendance at each dance; requires a matron to be, "in charge of the ladies parlor and toilet" and establishes hours when dances are allowed.)

F. That Chapter 9, Article II - SUNDAY ORDINANCES of the Ordinances of the City of Portsmouth be deleted in its entirety

(Explanation not part of ordinance: Passage of this ordinance would eliminate a series of unenforced ordinances which prohibit or limit amateur or professional sports, "moving pictures and theatricals" and certain retail trades on Sunday.

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

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

This ordinance shall take effect upon its passage.

APPROVED:

Eric Spear, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

DATE: August 30, 2012
TO: Honorable Mayor Eric Spear & City Council Members
FROM: M. Christine Dwyer, Councilor
SUBJECT: Downtown High Occupancy Meter Zone (\$1.50 per hour)

As discussed at the last City Council meeting, I am bringing back a request for first reading to be scheduled for September 17, 2012 regarding a high occupancy meter zone in the downtown core that would continue a rate of \$1.50 per hour. All other streets outside of this high occupancy meter zone would be \$1.00 per hour under this recommendation. This was the original recommendation within the Parking and Supply Strategy Report of May 2012.

Simply put, meters that have an average utilization above 85% would be at \$1.50 and those below 85% outside the downtown core would be \$1.00.

The City Manager has provided me with a map of those high occupancy meters along with a listing of streets. Also, attached is a proposed Ordinance that would implement this high demand high occupancy meter zone.

Therefore, may I request the City Council authorize the City Manager to bring back for first reading the attached proposed Ordinance at the September 17th City Council meeting.

c. John P. Bohenko, City Manager

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 7, Article I, Section 7.102 – PARKING METER ZONES of the Ordinances of the City of Portsmouth be amended to read as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

Section 7.102: PARKING METER ZONES

All of those streets, parts of streets and off-street parking lots, the time for parking upon which is limited by any ordinance of the City of Portsmouth, and any such areas the time for parking upon which may at any time hereafter be limited by any ordinance of the City or any amendment thereto are designated as parking meter zones. **Parking in parking meter zones** ~~at metered spots upon streets or in off-street metered lots shall be at the rate of \$1.50 per hour with the~~ **for a maximum time permitted for of parking of three (3) consecutive hours, unless otherwise established by ordinance. The rate for such parking shall be:**

A. DOWNTOWN HIGH OCCUPANCY ZONE:

Parking shall be at the rate of one dollar fifty cents (\$1.50) per hour in the following areas:

- 1. Daniel Street, starting at Chapel Street through to Market Square**
- 2. Bow Street, starting at Chapel Street through to Market Street**
- 3. Congress Street, starting at Market Square through to Chestnut Street**
- 4. Pleasant Street, starting from Court Street through to Market Square**
- 5. Market Street, starting from Moffatt-Ladd House through to Market Square.**

- B. Parking in all other parking meter zones shall be at the rate of one dollar (\$1.00) per hour.**

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

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

This ordinance shall take effect as of January 2, 2013.

APPROVED:

Eric Spear, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

Downtown High Occupancy Meter Zone

Downtown Streets in the High Occupancy Zone (\$1.50 per hour)

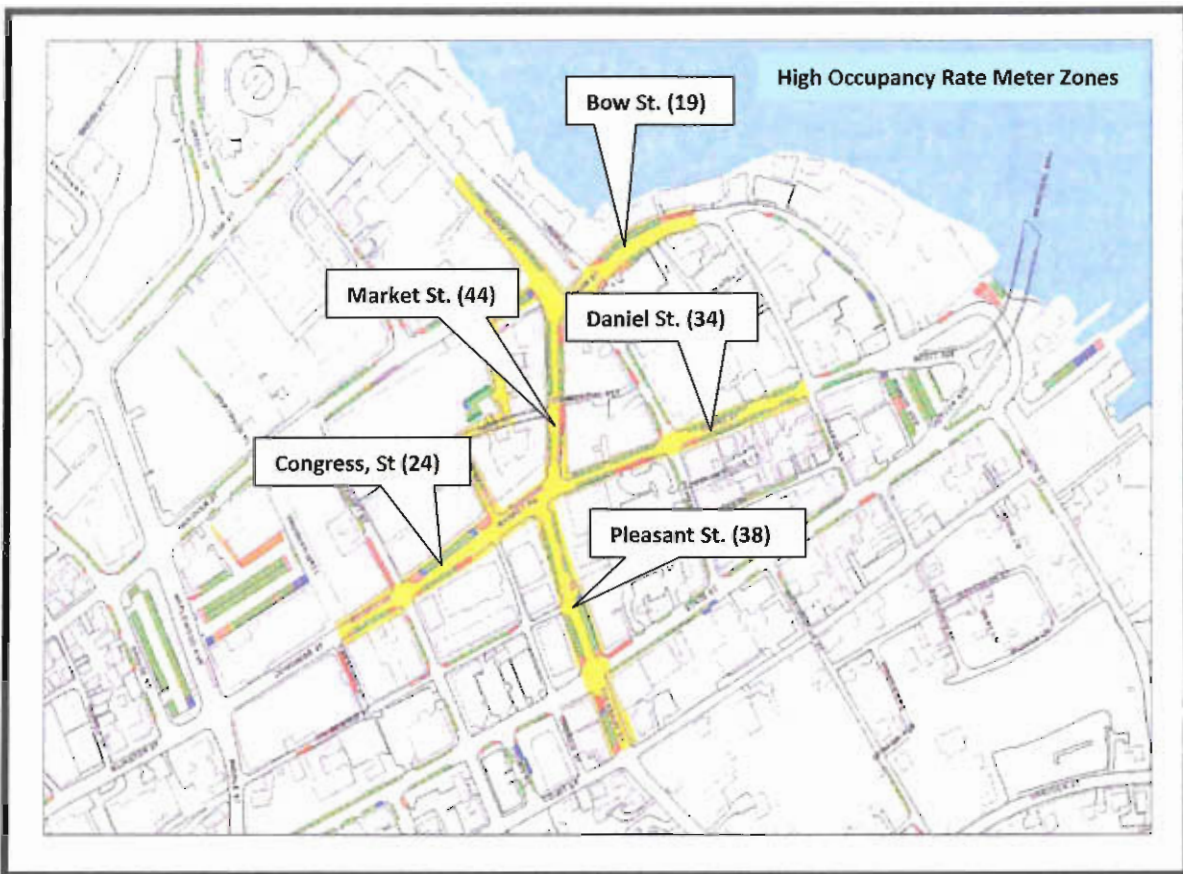


Figure 1

Phase #1, Strategy #2: Increase all 2-hour on-street time limits to 3-hours. *Institute with passage of the Parking Omnibus.*

Daniel St., starting at Chapel St. through to Market Square (34 metered spaces)

Bow St., starting at Chapel St. through to Market St. (19 metered spaces)

Congress St., Market Square through to Chestnut St. (24 metered spaces)

Pleasant St. from Court St. through to Market Square (38 metered spaces)

Market St. starting from Moffatt-Ladd House through to Market Square (44 metered spaces)

Total metered spaces in downtown: **782** (Not including Sheafe and Livermore Streets)

Total metered spaces in High Occupancy Area: **159**

Total metered spaces outside HOA: **623** (Not including Sheafe and Livermore Streets)



CITY OF PORTSMOUTH, N.H.
BOARDS AND COMMISSIONS

APPOINTMENT APPLICATION

Instructions: Please print or type and complete all information.
Please submit resume' along with this application.

Committee: PTS Initial applicant

Name: Shari Donnermeyer Telephone: 603-498-5728

Could you be contacted at work? YES NO If so, telephone# ↑

Street address: 193 Gosport

Mailing address (if different): —

Email address (for clerk's office communication): ssd529@aol.com

How long have you been a resident of Portsmouth? since '87

Occupational background:

Sales management at WHER
and at Comcast here in Portsmouth

Please list experience you have in respect to this Board/Commission:

I've participated in a lot of board
work -

PPAF
Chamber

Current Chair of
Greater Pbs Chamber

Harbor Trail

PEP 2000 - created Holiday Home
Town

OVER
➔

Have you contacted the chair of the Board/Commission to determine the time commitment involved? YES/NO

Would you be able to commit to attending all meetings? YES/NO

Reasons for wishing to serve:

like to give back to community +
be involved

Please list any organizations, groups, or other committees you are involved in:

Chamber - Chair of Board

PPAF Capital Campaign

Rotary - Program Committee

Please list two character references not related to you or city staff members:
(Portsmouth references preferred)

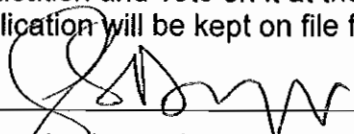
1) Nancy Clayburgh
Name, address, telephone number

2) Doug Bates
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

1. This application is for consideration and does not mean you will necessarily be appointed to this Board/Commission; and
2. The Mayor will review your application, may contact you, check your references, and determine any potential conflict of interests; and
3. This application may be forwarded to the City Council for consideration at the Mayor's discretion; and
4. If this application is forwarded to the City Council, they may consider the application and vote on it at the next scheduled meeting.
5. Application will be kept on file for one year from date of receipt.

Signature:



Date:

8/28/2012

If you do not receive the appointment you are requesting, would you be interested in serving on another board or commission? Yes No

Please submit application to the City Clerks Office, 1 Junkins Avenue, Portsmouth, NH 03801

6/27/2012