

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, OCTOBER 22, 2012 TIME: 7:00PM

## AGENDA

- I. CALL TO ORDER [7:00PM or thereafter]
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE
  
- V. ACCEPTANCE OF MINUTES *(There will be no minutes on for acceptance)*
  
- VI. PUBLIC COMMENT SESSION
  
- VII. PUBLIC HEARING
  - A. PROPOSED ORDINANCE WHICH WOULD AMEND THE ZONING ORDINANCE, CHAPTER 10, TO REZONE 143 DANIEL STREET (FORMER CONNIE BEAN PROPERTY) FROM MUNICIPAL TO CENTRAL BUSINESS B (CBB) AND ALSO, TO PLACE THAT PROPERTY IN THE DOWNTOWN OVERLAY DISTRICT (DOD)
  
- VIII. APPROVAL OF GRANTS/DONATIONS
  - A. \*Acceptance of Donation to the Coalition Legal Fund
    - Town of Moultonborough - \$6,500.00*(Sample motion – move to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund)*
  
- IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES
  - A. First reading of Proposed Ordinance amending Chapter 7, Article IX, Section 7.901 (E) – Penalties of the City Ordinances to amend Section 7.105 (A) Parking Violation – Expired Meter Fine Amount from \$10.00 to \$15.00 ***(Sample motion – move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance, as presented, at the November 13, 2012 City Council meeting)***
  
  - B. Second Reading of Proposed Ordinance which would amend the Zoning Ordinance, Chapter 10, to Rezone 143 Daniel Street (former Connie Bean Property) from Municipal to Central Business B (CBB) and also, to place that property in the Downtown Overlay District (DOD) ***(Sample motion – move to pass second reading and refer to a third and final reading of the proposed Ordinance Amendments, as presented, at the November 13, 2012 City Council meeting)***

C. Third and final reading of Various Housekeeping Amendments to the City's Code of Ordinances.

- Chapter 1, Article VI – RESIDENCY REQUIREMENTS – delete in its entirety
- Chapter 3, Article I, Section 3.111 – HOGS – delete in its entirety
- Chapter 5, Article I, Section 5.102 – RESIDENTS OF THE CITY – delete in its entirety
- Chapter 5, Article I, Section 5.103 – AGE LIMIT – delete in its entirety
- Chapter 6, Article VI – DANCING – delete in its entirety
- Chapter 9, Article II – SUNDAY ORDINANCES – delete in its entirety

***(Sample motions – move to pass third and final reading of the proposed Ordinance Amendments, as presented)***

D. Third and final reading of Ordinance Amendment to Chapter 7, Article I, Section 7.102 – Parking Meter Zones

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

***(Sample motion – move to pass third and final reading of the proposed Ordinance Amendments, as presented)***

## X. CONSENT AGENDA

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

- A. Letter from Jacqui Bryan and Marci Francis, Susan G. Komen Race for the Cure, requesting permission to hold the Annual Susan G. Komen New Hampshire Race for the Cure 5K on Saturday, May 11, 2013 (***Anticipated action – move to refer to the City Manager with power***)
- B. Letter from Caroline Piper and Dave Anderson, Friends of the South End, requesting permission to hold the Annual Fairy House Tour Event on Saturday, September 21<sup>st</sup> and Sunday, September 22<sup>nd</sup> 2013 (***Anticipated action – move to refer to the City Manager with power***)
- C. Letter from Karen Butz Webb, Executive Director, Project Safety Association, requesting permission to hold the 2<sup>nd</sup> Annual Project Safety 5K Road Race on Saturday, September 28, 2013 (***Anticipated action – move to refer to the City Manager with power***)
- D. Request for Approval of Pole License to install/replace an underground conduit system located on Farm Lane (***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. Request for Approval of Pole License to install/replace an underground conduit system located on Griffin Road (***Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes***)
- F. Request for License from Jamie Belilah owner of Jamie Belilah Expert European Skin Care, for property located at 85 Daniel 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 Jamie Belilah owner of Jamie Belilah Expert European Skin Care, for a projecting sign at property located at 85 Daniel 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***

- G. Request for License from Rita Fabbriatore owner of Pickwick’s Mercantile, for property located at 64 State 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 Rita Fabbriatore owner of Pickwick’s Mercantile, for a projecting sign at property located at 64 State 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***

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

- A. Letter from Billie Tooley requesting permission to donate a bench for placement in Haven Park on Pleasant Street in parents memory.
- B. Letter from Christopher McInnis, Trustee, Portsmouth City Investment Realty Trust, Airgead Realty Trust & Talam Realty Trust, requesting Change in Zoning of 678 and 680 Maplewood Avenue and 261 Myrtle Avenue ***(Sample motion – move to refer to the Planning Board for a report back)***
- C. School Department 2012 Progress Report

## 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 First reading of Proposed Ordinance amending Chapter 7, Article IX, Section 7.901 (E) – Penalties of the City Ordinances to amend Section 7.105 (A) Parking Violation – Expired Meter Fine Amount from \$10.00 to \$15.00 (**Action on this item 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 which would amend the Zoning Ordinance, Chapter 10, to Rezone 143 Daniel Street (former Connie Bean Property) from Municipal to Central Business B (CBB) and also, to place that property in the Downtown Overlay District (DOD) (**Action on this item should take place under Section IX of the Agenda**)
  3. Third and Final Reading Proposed Resolution and Ordinance Amendments:
    - 3.1 Third and Final Reading of Various Housekeeping Amendments to the City's Code of Ordinances
      - Chapter 1, Article VI – RESIDENCY REQUIREMENTS – delete in its entirety
      - Chapter 3, Article I, Section 3.111 – HOGS – delete in its entirety
      - Chapter 5, Article I, Section 5.102 – RESIDENTS OF THE CITY – delete in its entirety
      - Chapter 5, Article I, Section 5.103 – AGE LIMIT – delete in its entirety
      - Chapter 6, Article VI – DANCING – delete in its entirety
      - Chapter 9, Article II – SUNDAY ORDINANCES – delete in its entirety
- (Action on this item should take place under Section IX of the Agenda)**

3.2 Third and Final Reading of Proposed Ordinance Amendment to Chapter 7, Article I, Section 7.102 – Parking Meter Zones

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

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

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

1. Proposed Portwalk Licenses and Easements
2. Proposed Refinancing of Osprey Landing
3. Spinney and Middle Road Easements and Transfers

**Informational Items**

1. Events Listing
2. Retreat Agenda – October 27, 2012
3. Report on waiver of City Council referrals to the Planning Board under City Ordinance, Chapter 11, Article VI (leases, licenses, temporary easements)

**B. MAYOR SPEAR**

1. Appointments to be Considered:
  - Karina Quintans to the Planning Board (alternate)
  - Robert Marchewka reappointment to the Economic Development Commission
  - Jeffrey Mountjoy reappointment to the Housing Endowment Fund
2. Appointments to be Voted:
  - Appointment of Francesca Marconi Fernald to the Peirce Island Committee
  - Appointment of George Melchior to the Historic District Commission as a regular member *(currently an alternate)*
  - Reappointment of John Leith to the Portsmouth Housing Authority (Considered at the April 16, 2012 Council Meeting).
3. Resignation:
  - James Feehley from the Taxi Commission

**C. ASSISTANT MAYOR LISTER**

1. Proposed Amendments to the City Manager's Employment Agreement

**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 informational items for this 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.**

**CITY OF PORTSMOUTH  
PORTSMOUTH, NH 03801**

**Office of the City Manager**

**Date:** October 18, 2012  
**To:** Honorable Mayor Eric Spear and City Council Members  
**From:** John P. Bohenko, City Manager   
**Re:** City Manager's Comments on October 22, 2012 City Council Agenda

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***Acceptance of Grants and Donations:***

1. **Acceptance of Donation to the Coalition Legal Fund.** The City has received a check from the Town of Moultonborough in the amount of \$6,500.00 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 VIII of the Agenda.*

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

1. **First Reading of Proposed Resolution and Ordinance Amendments:**
  - 1.1 **First Reading of Proposed Ordinance amending Chapter 7, Article IX, Section 7.901 (E) – Penalties of the City Ordinances to amend Section 7.105 (A) Parking Violation Expired Meter Fine Amount from \$10.00 to \$15.00.** As a result of the October 1<sup>st</sup> City Council meeting, the Council requested an ordinance change with respect to the fine charged for Expired Meter Violation from \$10.00 to \$15.00. Attached under Section IX of the Agenda, I am bringing back for first reading the aforementioned Ordinance.

*I would recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance, as presented, at the November 13, 2012 City Council meeting. Action on this item 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 which would amend the Zoning Ordinance, Chapter 10, to Rezone 143 Daniel Street (former Connie Bean Property) from Municipal to Central Business B (CBB) and also, to place that property in the Downtown Overlay District (DOD).** As a result of the October 1<sup>st</sup> City Council meeting, under Section IX of the Agenda, I am bringing back for public hearing and second reading the attached proposed Ordinance and map which would amend Zoning Ordinance, Chapter 10, to rezone 143 Daniel Street (former Connie Bean property) from Municipal to Central Business B (CBB) and also, to place that property in the Downtown Overlay District (DOD).

As you will recall, at the August 20, 2012 City Council meeting, the Council referred a proposed rezoning from Municipal to Central Business B (CBB), and also that it be included with the Downtown Overlay District (DOD) to the Planning Board for report back. Attached is a memorandum from Rick Taintor, Planning Director, regarding this matter. At its September 20, 2012 meeting, the Planning Board voted to recommend the rezoning of this property.

On Monday evening, Rick Taintor, Planning Director, will make a presentation regarding this matter.

*I would recommend the City Council move to pass second reading and schedule a third and final reading of the proposed Ordinance Amendments, as presented, at the November 13, 2012 City Council meeting. Action on this item should take place under Section IX of the Agenda.*

3. **Third and Final Reading Proposed Resolution and Ordinance Amendments:**

- 3.1 **Third and Final Reading of Various Housekeeping Amendments to the City's Code of Ordinances.** As a result of the October 1st City Council meeting, under Section IX of the Agenda, I am bringing back for third and final reading the attached Ordinance with various housekeeping amendments to the City's Code of Ordinances as follows:

- 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.)*

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

- 3.2 **Third and Final Reading of Proposed Ordinance Amendment to Chapter 7, Article I, Section 7.102 – Parking Meter Zones.** As a result of the October 1st City Council meeting, under Section IX of the Agenda, I am bringing back for third and final reading the [attached proposed Ordinance amendment](#) to Chapter 7, Article I, Section 7.102 – Parking Meter Zones. Also, [attached is a map](#), regarding the following proposed amendment:

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.**

Also, I have [attached an economic impact sheet](#) regarding this matter.

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



## ***Consent Agenda:***

1. **Request for License 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):

- Jamie Belilah, owner of Jamie Belilah Expert European Skin Care, for property located at 85 Daniel Street
- Rita Fabbriatore, owner of Pickwick's Mercantile, for property located at 64 State Street

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

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

1. **Proposed Portwalk Licenses and Easements.** Parade Office LLC (Portwalk) requests City Council authorization for the City Manager's execution and delivery of three (3) documents. (These are all elements of a site plan approved by the Planning Board.) Each of these documents relate to Phase III of the Portwalk development, the area being used at the present time as a municipal parking lot. **The documents are attached.** A brief description of each is as follows:

- A. EASEMENT AND LICENSE AGREEMENT – This document would allow Portwalk to construct roof overhangs (cornices) in City airspace at six (6) locations described as easement areas 1 through 6 in the attached deed. It would also allow Portwalk to construct doors which would swing into the public right-of-way or airspace in two (2) locations described as license areas 1 and 2 in the attached document. The form of document attached in this memorandum has been reviewed and approved by the City's Planning, Public Works and Legal departments.
- B. PARKING SPACE LICENSE AND SIDEWALK LICENSE AGREEMENT – This agreement would authorize the use by Portwalk of six (6) on-street parking spaces on Hanover Street, two (2) on-street parking spaces on Deer Street and all of the sidewalks abutting the property on Hanover Street, Maplewood Avenue and Deer Street for construction purposes. The use of those areas would be required to be in conformance with a Construction Management and Mitigation Plan (CMMP) which the City administration will negotiate and enter into with Portwalk. The License would be for a twenty-four (24) month construction period. Except for final review of the descriptions of the areas involved, this document has been reviewed and approved by the City's Planning, Public Works and Legal departments.
- C. NON-EXCLUSIVE EASEMENT TO CONSTRUCT TEMPORARY SUPPORT OF SUBSURFACE CONSTRUCTION – By this document the City would give Portwalk the

authority to utilize a construction method for the project which would consist of numerous steel rods to be drilled underneath City streets surrounding the project for the purpose of upholding subsurface walls during the early construction stages. After their use for this purpose the steel rods would be abandoned in place beneath the City streets. This will be the first time such a construction method has been utilized in the City of Portsmouth. It should be noted this method has been used elsewhere. In particular we have reviewed an agreement under which the City of Boston authorized the Brigham and Women's Hospital to utilize this construction method for hospital construction in 2012. The use of these steel rods (called tie-backs) has been thoroughly examined by the City's Public Works Department. The attached agreement has been reviewed by the City's Planning and Legal departments. Moreover, an outside consultant, R.W. Gillespie & Associates, Inc. has opined that the method can be utilized without damage to City property. An important facet of the attached agreement is that the current property owner, and all future property owners, will be liable to indemnify and hold the City harmless from any damage or claims caused by use of the construction method or by the fact that the steel rods will remain underneath the City streets even subsequent to construction of the new building. After this extensive review, neither the City's Planning, Public Works nor Legal departments object to the use of the tie-backs in the event that the City Council authorizes that to occur by approving the attached easement document.

*I would recommend the City Council move to authorize the City Manager to execute and deliver an Easement and License Agreement; a Parking Space License and Sidewalk License Agreement and a Non-Exclusive Easement to Construct Temporary Support of Subsurface Construction for the benefit of Parade Office LLC, all as presented.*

2. **Proposed Refinancing of Osprey Landing.** Attached is a letter from John M. Sullivan, Attorney for Inishmaan Associates L.P., which outlines the proposed refinancing of the Osprey Landing Project.

Essentially, Inishmaan desires to conduct an overall refinancing of the Osprey Landing property in order to take advantage of the current loan market conditions. The City now holds a fifth mortgage securing contingent repayment of a 1.3 million dollar loan of Community Development Block Grant (CDBG) funds made in 1994. Inishmaan is asking the City to re-work that loan.

As part of its overall refinancing, Inishmaan will restructure all of its debt, including the primary funding provided by HUD and the NH Housing Finance Authority. Inishmaan seeks to restructure its debt with the City in such a way that the CDBG loan would become fourth in priority rather than fifth and stand behind \$10.5 million dollars in HUD and NHHFA loans rather than \$16.4 million which originally stood ahead of the City loan. Moreover, whereas the current City mortgage would not be repaid unless the project were sold to an entity which did not operate the rental units as currently restricted, under the proposed refinancing the City could anticipate repayment of the loan, based upon current projection of available funds, between 2022 and 2026.



Of especial importance, the refinancing proposal in no way diminishes the affordability protections in place at this time.

The refinancing as proposed by Inishmaan would require the negotiation, drafting, execution and recording of a new note, mortgage, regulatory agreement, assignment of leases and related documents.

Municipal staff including Community Development, Planning and Legal Departments, have reviewed the proposal and believe it to be in the City's best interest to proceed with it.

The City Attorney has recommended the proposed motion to replace a somewhat more cumbersome resolution as proposed in the letter from Attorney John Sullivan.

*Therefore, I would recommend the City Council move to authorize the City Manager, "to negotiate and execute any and all documents of any type necessary to implement the refinancing and restructuring of the mortgage indebtedness to the City of Portsmouth of Inishman Associates L.P. as described in a letter dated October 1, 2012 addressed to City Attorney Robert P. Sullivan from Attorney John M. Sullivan".*

3. **Spinney and Middle Road Easements and Transfers.** Paul Sanderson, Trustee of the Lynn J. Sanderson and Frances T. Sanderson Revocable Trust, has obtained subdivision and site plan approval from the Planning Board to develop certain parcels off of Spinney Road. The approved subdivision calls for adjustments to a number of lot lines in favor of abutting property owners and the establishment of new lots. As part of those approvals, there are multiple conveyances of easements and rights-of-way to the City. The property interests to be conveyed to the City are shown on the [attached photographs](#) (which do not show the new lot lines) and which are described below:
  - (1) An easement, approximately 20' by 20' feet on the westerly side of Spinney Road, to maintain an existing municipal catch basin;
  - (2) An easement, approximately 10' x 10' feet, on the westerly side of Spinney Road, for the purpose of maintaining a subsurface water main, hydrant and associated infrastructure;
  - (3) An easement, triangular in shape at the corner of Lot 13-1 on the westerly side of Spinney Road, for the purpose of maintaining a subsurface sewer main and associated infrastructure;
  - (4) Conveyance in fee of a 15-foot strip on the easterly side of Spinney Road and conveyance of a portion of Spinney Road itself over which the City has certain rights, but not a fee interest;
  - (5) An easement approximately 100' x 15' feet on the south side Sewall Road for the purpose of drainage;

- (6) An easement to have the right to maintain a certain rain garden to be constructed on private property off of Sewell Road (the easement places no duty on the City to maintain the rain garden, but allows the City to do so if the owner fails to maintain it); and
- (7) An easement, approximately 20' x 108' feet on the westerly side of Middle Road, for the purpose of documenting the City's existing drainage infrastructure and flowage.

*I would recommend the City Council move to authorize the City Manager to accept the easements and conveyances relative to the subdivision and site plan approval granted to Paul Sanderson, Trustee for property located off of Spinney Road and Middle Road.*

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

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on October 1, 2012. In addition, this now can be found on the City's website.
2. **City Council Retreat Agenda,** For your information, [attached is a copy of the Agenda for the City Council Retreat](#) scheduled for Saturday, October 27, 2012 at the Library's Levenson Room.
3. **Report on Waiver of City Council Referrals to the Planning Board under City Ordinance, Chapter 11, Article VI (leases, licenses, temporary easements).** [Attached is a report from Rick Taintor, Planning Director,](#) regarding waivers of City Council referrals to the Planning Board under City Ordinance, Chapter 11, Article VI (leases, licenses, temporary easements). As the report explains, when the Zoning Ordinance was enacted in December 2009, a section of the previous Zoning Ordinance was deleted and moved to the City's general Ordinances with some wording changes. The relocated section was the provision requiring the City Council to refer certain proposed actions to the Planning Board for review and report back.

Recently, it became apparent that the wording changes were too expansive and have resulted in conflicts with established City procedure regarding licenses, leases and temporary easements.

The revised City Ordinance allows the Planning Board to waive any City Council referral required by the City Ordinance. Therefore, at its meeting on September 20, 2012, the Planning Board voted to waive all referrals from the City Council to the Planning Board for leases of land with a lease term less than 5 years, all leases of buildings, all temporary easements and all licenses, and to make this waiver retroactive to December 21, 2009.