

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: TUESDAY, JANUARY 22, 2013 TIME: 7:00PM

AGENDA

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

PRESENTATIONS

1. Report Back Re: Donations for Veterans Memorial in Memorial Park
2. Basing KC-46A at Pease
3. Comprehensive Annual Financial Report (CAFR) – Scott McIntyre of Melanson, Heath & Company, P.C. Auditors' Financial Report for the Year Ending June 30, 2012 (Annual Audit)

V. ACCEPTANCE OF MINUTES – JANUARY 7, 2013

VI. PUBLIC COMMENT SESSION

VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant for Art-Speak (***Sample motion – move to accept a grant to Art-Speak to be used for operational support of Art-Speak, as presented***)
- B. Acceptance of Police Department Grants:
 - Grant from Police Standards and Training in support of Deputy Chief Corey MacDonald's attendance at the Senior Management Institute for Police at Boston University - \$1,000.00
 - Grant from the Fuller Foundation, Inc. to provide training and equipment to investigators and prosecutors - \$5,000.00

(Sample motions – move to approve and accept the grants to the Portsmouth Police Department, as listed)

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First Reading of Proposed Ordinance Amendment to Chapter 1, Article XIV, Section 1.14 – Municipal Fund Balance (***Sample motion – move to pass first reading and schedule a public hearing and second reading on the proposed Fund Balance Ordinance, at the February 4, 2013 City Council meeting***)

- B. Third and Final Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards, Section 10.535 – Dimensional Standards in the Central Business Districts, Relating to the Height Requirements in the CBA and CBB Districts ***(Sample motion – move to pass third and final reading of the proposed Ordinance, as presented)***

IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. *Acceptance of Donation to the Coalition Legal Fund:
- Town of Carroll - \$1,000.00
- (Anticipated action – move to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund)***
- B. *Acceptance of Donations to Recreation Department in the amount of \$610.00 in memory of Thomas Leary:
- Robert D. and Mary F. Stella - \$20.00
 - Catherine E. and Dennis P. Fitzgerald - \$25.00
 - Franzoso Revocable Living Trust, Eugene R. Franzoso, Trustee & Colleen R. Franzoso Trustee - \$25.00
 - Charity Lower and Matthew Maniates - \$25.00
 - James G. Sullivan - \$25.00
 - Jerold R. Tostenson - \$40.00
 - Alexander N. Bouzakine and Elena V. Bouzakina - \$50.00
 - Liberty Mutual Commercial Insurance Leadership Team - \$100.00
 - The Electric Barn, Inc. - \$100.00
 - Creek Athletic Club - \$100.00
 - Ernestine L. Morrow - \$100.00
- (Anticipated action – move to approve and accept the donations to the Portsmouth Recreation Department, as listed)***
- C. Letter from Deirdre Barrett and Kimberly McGlinchey, ECO Club Advisors of Portsmouth High School, requesting permission to hold the 3rd Annual “Run for the Sol” 5k Road Race in collaboration with great Bay Community College on Saturday, May 11, 2013 from 1:00 p.m. – 3:00 p.m. ***(Anticipated action – move to refer to the City Manager with power)***
- D. Letter from Jeanine Sylvester, Runner’s Alley, LLC, requesting permission to hold the 16th Annual Runner’s Alley/Redhook Brewery Memorial 5k on Sunday, May 26, 2013 at 11:00 a.m. ***(Anticipated action – move to refer to the City Manager with power)***
- E. Letter from Calvin Sanborn, AIDS Response Seacoast, requesting permission to hold the 17th Annual Seacoast AIDS Walk and Dog Walk on Sunday, May 5, 2013 from 10:00 a.m. – 5:00 p.m., further permission to place 5 temporary 2’ by 4’ A-frame signs to mark the route ***(Anticipated action – move to refer to the City Manager with power)***

- F. Request for Approval of Pole License to install 150 feet of underground conduit located on Vaughan Street ***(Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes)***

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Carl Walton and Paul Schurman, Veterans of Foreign Wars, regarding consideration for Tenancy of former U.S. Army Reserve Center on Cottage Street ***(Sample motion – move to refer to the City Manager for report back)***
- B. Letter from Attorney John Bosen regarding Easement Deed from the City of Portsmouth for property located at 582 Greenside Avenue ***(Sample motion – move to authorize the City Manager to negotiate and execute an easement deed from the City to Alan S. Van Wert and Cheryl L. Jameson for the purpose of allowing the single family residence located at 582 Greenside Avenue to remain in its current location, notwithstanding its minor encroachment into the municipal right-of-way at that location)***

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

Items Which Require Action Under Other Sections of the Agenda

- 1. Consideration of First Reading of Proposed Resolution and Ordinance Amendments:
 - 1.1 First Reading of Proposed Ordinance Amendment to Chapter 1, Article XIV, Section 1.14 – Municipal Fund Balance ***(Action on this item should take place under Section VIII of the Agenda)***
- 2. Third and Final Reading of Proposed Resolution and Ordinance Amendments:
 - 2.1 Third and Final Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards, Section 10.535 – Dimensional Standards in the Central Business Districts, Relating to the Height Requirements in the CBA and CBB Districts ***(Action on this item should take place under Section VIII of the Agenda)***
- 3. 582 Greenside Avenue ***(Action on this item should take place under Section X of the Agenda)***

City Manager's Items Which Require Action

1. Report Back Re: Zoning for Assisted Living Facilities (*Postponed from the January 7, 2013 City Council meeting to the January 22, 2013 City Council meeting*)
2. Elderly and Disabled Exemptions
3. Request to Renew Seacoast Growers' Association (Farmers' Market) Proposed 2013 License Agreement
4. Proposed Lease of 299 Vaughan Street for a Public Parking Lot
5. Proposed Payment in Lieu of Taxes (PILOT) Re: Betty's Dream
6. Acquisition of Easements Re: McDonough/Brewster Streets
7. Request to Establish a Work Session Re: Letter and Petition of Islington Creek Neighborhood Association regarding the Boarding House at 21 Brewster Street
8. Request to Establish a Work Session Re: Wastewater

Informational Items

1. Events Listing
2. City Council Work Session Re: Capital Improvement Plan

B. MAYOR SPEAR

1. Appointments to be Voted:
 - Alison Hamilton, Citizens Advisory Committee
 - Anthony Blenkinsop, reappointment to the Planning Board
2. Report Back from Committee Re: Robin Rousseau

C. COUNCILOR DWYER

1. *Request for Closure of Chestnut Street on February 20, 2013 Re: African Burying Ground Candlelight Memorial (***Sample motion – move to authorize the City Manager to close Chestnut Street on the evening of February 20, 2013 for the African Burying Ground Candlelight Memorial, and further to authorize the City Manager to take whatever actions necessary to implement this event***)

XII. MISCELLANEOUS/UNFINISHED BUSINESS

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

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

**Indicates Verbal Report*


INFORMATIONAL ITEMS

1. Notification that the Historic District Commission Minutes of the September 5, 2012 meeting are available on the City's website for your review
2. Notification that the Site Review Technical Advisory Committee Minutes of the September 11, 2012 meeting are available on the City's website for your review
3. Notification that the Site Review Technical Advisory Committee Minutes of the October 2, 2012 meeting are available on the City's website for your review
4. Notification that the Site Review Technical Advisory Committee Minutes of the January 8, 2013 meeting are available on the City's website for your review

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

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: January 17, 2013
To: Honorable Mayor Eric Spear and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on January 22, 2013 City Council Agenda

Presentations:

1. **Report Back Re: Donations for Veterans Memorial in Memorial Park.** You may recall that in 2012 Attorney Noucas wrote to the City Council regarding an offer from his clients Jim and Laurie Teetzel. The letter states that, "as a means of reinforcing the concept of the Memorial Bridge as a tribute to American Veterans Jim and Laurie are pledging \$25,000 towards construction of a new tribute to American Veterans in Memorial Park."

Over the past several months, staff has been working with Jim Teetzel, Attorney Noucas, representatives of NHDOT and the bridge contractor Archer Western on a concept for the memorial to be constructed in the new Memorial Park and to include granite markers with bronze wreaths representing the branches of the military service as well as granite markers with engraved American, State of New Hampshire and City of Portsmouth flags. It is anticipated that the materials for the memorials will be recycled from the original Memorial Bridge abutments. **Attached is a preliminary concept of the memorial and its location within the park.** All costs associated with the project will be donated by the Teetzels with some in-kind donations from Archer Western.

As a means of reporting back to the Council on this offer, there will be a presentation on the proposed concept of the memorial to veterans in the park on Tuesday evening.

2. **Basing of KC-46A at Pease.** On Tuesday evening, William Sylla, on behalf of the 157th Air Refueling Wing, will make a presentation regarding the re-affirmation of the City Council's Resolution of June 6, 2011 for continuing support of the Global Mobility Mission currently flown by their KC-135 aircraft (see attached information from presentation discussion May 2011) and the basing of the KC-46A at Pease to continue this mission, as well as the economic, educational, and employment benefits of the base.
3. **Comprehensive Annual Financial Report (CAFR) – Scott McIntyre of Melanson, Heath & Company, P.C. Auditors' Financial Report for the Year Ending June 30, 2012 (Annual Audit).** On the inside cover of your packet, I am providing you with a copy of the City's Comprehensive Annual Financial Report (CAFR), which includes the financial statements for the fiscal year ending June 30, 2012 (Annual Audit). The Fiscal Year 2012 Audit was prepared by the firm of Melanson, Heath & Company, P.C. Also, enclosed on the inside cover of your packet is the Management Letter for the year ending June 30, 2012, prepared by our auditor. On Tuesday evening, Scott McIntyre from Melanson, Heath & Company will be in attendance to make a presentation on the aforementioned report.

Acceptance of Grants and Donations:

1. **Acceptance of Grant for Art-Speak.** Art-Speak requests that the City Council accept a \$250 grant from the Geoffrey E. Clark and Martha Fuller Clark Fund of the New Hampshire Charitable Foundation (see attached letter). The grant is for operational support of Art-Speak, the City's Cultural Commission.

I would recommend the City Council move to accept a grant to Art-Speak to be used for operational support of Art-Speak, as presented. Action on this item should take place under Section VII of the Agenda.

2. **Acceptance of Police Department Grants.** Attached under Section VII of the Agenda is a memorandum, dated December 19, 2012, from John F. Golomb, Chairman of the Portsmouth Police Commissioners, and Police Chief Stephen J. DuBois, requesting that the City Council approve the following grants:
 1. A grant for a maximum amount of \$1,000 from Police Standards and Training in support of Deputy Chief Corey MacDonald's attendance at the Senior Management Institute for Police at Boston University. The Institute commences June 2, 2013.
 2. A grant in the amount of \$5,000 from the Fuller Foundation, Inc. to provide training and equipment to investigators and prosecutors.

The Police Commission is submitting this information pursuant to City Policy Memorandum #94-36 for City Council approval and acceptance.

I would recommend that the City Council move to approve and accept the grants to the Portsmouth Police Department, as listed. Action on this matter should take place under Section VII of the Agenda.

Items Which Require Action Under Other Sections of the Agenda:

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

- 1.1 **First Reading of Proposed Ordinance Amendment to Chapter 1, Article XIV, Section 1.14 – Municipal Fund Balance.** As a result of the January 7th City Council meeting, under Section VIII of the Agenda, I am bringing back for first reading the **attached proposed Ordinance amendment** to Chapter 1, Article XIV, Section 1.14 – Municipal Fund Balance, which would maintain an unassigned fund balance of not less than 10% with a goal of 17%.

Please note further that use of unassigned fund balance typically should be used for appropriations that are nonrecurring in nature.

As you will recall, at the October 27, 2012 City Council Retreat, there was a request to review the existing Fund Balance Ordinance to determine if it needed any revisions that would place the City in a better position to obtain a AAA bond rating. As you are aware, the City presently has a bond rating of AA+ which is one step below AAA.

Since 1997, the City has received four bond upgrades which have been attributed directly to financial policies that the City has enacted (stable tax rate, health insurance stabilization fund, leave at termination fund, capital improvement plan and fund balance ordinance).

In reviewing AAA ratings in other communities, it appears that the one thing they have in common is a fund balance policy and/or an ordinance that strives to maintain an unassigned fund balance between 10% and 17% of general fund appropriations.

As part of the discussion at the January 7, 2013 meeting regarding this matter, there were two inquiries which required a report back as follows:

Question 1:

Councilor Thorsen - What is the marginal benefit between an AA+ and AAA rating?

Below is an estimate of the interest savings the City would realize on a \$20 million bond issue, issued for 20 years, if the City's bond rating was upgraded to AAA from AA+. These interest rates are compiled by Municipal Market Data (MMD), which collects interest rate information on bonds in the market and reports the rates daily by rating category and by maturity dates. The analysis shows, under current market conditions, the City would expect to save approximately \$236,000 in interest over the life of a \$20 million, 20 year bond issue as a result of the upgrade.

Estimated current benefit of an upgrade from AA+ to AAA on \$20 million Bond Issue

Year	AAA	AA+	AA	Interest Rate Difference Between AA+ and AAA	Assumed Principal	Interest
1 2014	0.20	0.23	0.25	0.03%	1,000,000	19,950
2 2015	0.34	0.39	0.43	0.05%	1,000,000	19,700
3 2016	0.47	0.52	0.57	0.05%	1,000,000	19,250
4 2017	0.61	0.69	0.77	0.08%	1,000,000	18,750
5 2018	0.76	0.85	0.93	0.09%	1,000,000	17,950
6 2019	0.88	0.98	1.07	0.10%	1,000,000	17,100
7 2020	1.09	1.19	1.29	0.10%	1,000,000	16,150
8 2021	1.31	1.42	1.52	0.11%	1,000,000	15,150
9 2022	1.51	1.62	1.73	0.11%	1,000,000	14,100
10 2023	1.70	1.81	1.92	0.11%	1,000,000	13,000
11 2024	1.82	1.94	2.05	0.12%	1,000,000	11,900
12 2025	1.90	2.02	2.13	0.12%	1,000,000	10,750
13 2026	1.98	2.10	2.22	0.12%	1,000,000	9,600
14 2027	2.06	2.18	2.30	0.12%	1,000,000	8,400
15 2028	2.13	2.25	2.37	0.12%	1,000,000	7,200
16 2029	2.20	2.32	2.44	0.12%	1,000,000	6,000
17 2030	2.26	2.38	2.50	0.12%	1,000,000	4,800
18 2031	2.32	2.44	2.56	0.12%	1,000,000	3,600
19 2032	2.38	2.50	2.62	0.12%	1,000,000	2,400
20 2033	2.44	2.56	2.68	0.12%	1,000,000	1,200
Total					20,000,000	236,950

It is important to note that the difference in interest rates between different rating categories, referred to as the quality spread, is not fixed. When interest rates are high, the quality spread expands. So, although the interest cost difference between a AAA rated credit and a AA+ rated credit is relatively small right now, as rates rise, the quality spread will expand and the City can expect the impact to be greater.

Question 2:

Councilor Kennedy-What other types of criteria do the rating agencies use to assign a bond rating?

The City uses both Standard and Poor's and Moody's Investors Services to assign a credit rating before issuing bonds. Publications from both agencies use similar evaluation criteria for management to utilize and better position their governments for maximum stability in the short and long-term.

When reviewing an entity, Standard and Poor's states "*Proactive budget and liability planning, strong liquidity management, and the establishment of reserves are among the factors the strongest issuers share.*" Moody's Investor's Services states "*A strong governmental management team prepares well for economic downturns, maintains strong controls during boom times, and manages well during all economic cycles*".

The following are key focus areas for rating agencies:

- **Focus on Structural Balance - Conservative Budgeting Techniques**
Preparing a balanced budget where recurring revenues match recurring expenditures. Not relying on one-time measures without the appropriate re-alignment of revenues and expenditures.
 - Recurring revenues match recurring expenditures
 - Conservative revenue forecasting
- **Fund Balance Policies**
A formalized policy for Fund Balance which identifies target level and the instances in which reserves may be used.
 - Unassigned Fund Balance Ordinance
 - Total Fund Balance
- **Established Stabilization Reserves**
A formalized financial reserve policy to provide financial flexibility and stability.
 - Health Insurance Stabilization Fund
 - Leave at Termination Fund
 - Reserve for Debt

- **Debt Management Policy**
A formalized debt plan that includes target and maximum debt levels, target for pay-as-you-go funding of capital work, and incorporation of these debt policies into a multi-year capital plan.
 - Pay-as-you-go financing Capital Outlay
 - City Policy is to use no more than 10% of annual appropriations toward net debt service payments
 - Remain below the allowable debt limit

- **Strong Liquidity Management**
 - Ability to manage Cash Flow
 - Strong reserves

- **Succession and Contingency Planning**
Ability to identify mid-year changes in revenues and expenditures and respond quickly.
 - Fund balance policies for contingency planning
 - Government's Management organizational structure

- **Other Factors**
 - Economic Development plans that suit the particular strengths and needs of the community
 - Demographics- Median Household Income
 - Tax Base
 - Economic Growth

The City has implemented most of the aforementioned criteria and is working on those areas that we feel can be strengthened.

I would recommend the City Council move to pass first reading and schedule a public hearing and second reading on the proposed Fund Balance Ordinance, at the February 4, 2013 City Council meeting. Action on this matter should take place under Section VIII of the Agenda.

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

- 2.1 **Third and Final Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards, Section 10.535 – Dimensional Standards in the Central Business Districts, Relating to the Height Requirements in the CBA and CBB Districts.** As a result of the January 7th City Council meeting, under Section VIII of the Agenda, I am bringing back for third and final reading the **attached proposed Zoning Ordinance amendment** addressing building height in the Central Business Districts. **Also, attached is a memorandum from Rick Taintor, Planning Director, regarding this matter.**

At the December 3rd meeting, representatives of several downtown developers raised concerns about potential impacts of the amendment. In response to these concerns, the Planning Department staff revised the initial proposal and met with a group of architects and designers to discuss the revised draft. The revised amendment is simpler than the previous version and would make the following changes to the building height provisions in the Central Business Districts:

- a) Require that within 25 feet of a street line, no portion of a building be higher than 50 feet above the street in the CBA district or 60 feet above the street in the CBB district. (The “street line” is the edge of the municipal right of way, which in the downtown area is approximately at the back of the sidewalk.)
- b) Exempt from this requirement are parapet walls, railings, fences, and roof appurtenances (such as HVAC equipment or antennas) that are no more than 2 feet above the roof surface.

In order to accommodate two identified development projects that have initiated a formal process with the City’s land use boards (and thereby demonstrated significant investment in project design), the proposed ordinance also exempts applications which have been the subject of legal notice for a hearing before the Zoning Board of Adjustment.

Finally, as the City Council is aware, during 2013 the Planning Department will be preparing a form-based zoning ordinance for the downtown area. This project will include opportunities for public input, and will provide an opportunity to thoroughly consider and address a range of urban design issues including appropriate building height.

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

3. **582 Greenside Avenue.** Under Written Communications, [attached is a letter from Attorney John Bosen dated January 10, 2013 regarding 582 Greenside Avenue.](#)

In about 1940, a home was built on Greenside Avenue in Pannaway Manor. Greenside Avenue is the street most closely parallel to the main runway at Pease International Tradeport.

In 1983 it was discovered that the home had been built two feet into the municipal right-of-way. [See attached plan of Richard Cuoco dated October 13, 1983.](#) In 1988 the then owners of the property Keith Goodwin and Alice Law requested that the City Council grant them an easement to allow the property to stay in the location in which it was constructed. The matter was studied by the Planning Board and the City Council with the result being that an easement was granted.

However, within the last few months it was determined that the 1988 easement had been recorded by the property owner outside the chain of title to the property. Therefore, it does not serve its intended purpose. Accordingly, the current property owners Alan S. Van Wert and Cheryl L. Jameson are requesting that the present City Council authorize the current City Manager to re-execute an easement deed similar to that executed by former City Manager Calvin Canney in 1988.

Since 1988 neither the building nor the property lines have changed location. Therefore, the analysis conducted by the Planning Board and the City Council at that time would remain unchanged. The purpose of requesting that the City Council to authorize the City Manager to execute a new easement deed is simply to correct a recording error from 1988.

I would recommend the City Council move to authorize the City Manager to negotiate and execute an easement deed from the City to Alan S. Van Wert and Cheryl L. Jameson for the purpose of allowing the single family residence located at 582 Greenside Avenue to remain in its current location, notwithstanding its minor encroachment into the municipal right-of-way at that location. Action on this item should take place under Section X of the Agenda.

Consent Agenda:

1. **Acceptance of Donation to the Coalition Legal Fund.** The Town of Carroll has donated funds in the amount of \$1,000.00 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 IX of the Agenda.

2. **Acceptance of Donations to Recreation Department.** The City of Portsmouth Recreation Department has received the following donations in the amount of \$610.00 in memory of Thomas Leary:

➤ Robert D. and Mary F. Stella	\$ 20.00
➤ Catherine E. and Dennis P. Fitzgerald	\$ 25.00
➤ Franzoso Revocable Living Trust Eugene R. Franzoso Trustee Colleen R. Franzoso Trustee	\$ 25.00
➤ Charity Lower and Matthew Maniates	\$ 25.00
➤ James G. Sullivan	\$ 25.00
➤ Jerold R. Tostenson	\$ 40.00
➤ Alexander N. Bouzakine and Elena V. Bouzakina	\$ 50.00
➤ Liberty Mutual Commercial Insurance Leadership Team	\$100.00
➤ The Electric Barn, Inc.	\$100.00
➤ Creek Athletic Club	\$100.00
➤ Ernestine L. Morrow	\$100.00

I would recommend the City Council move to approve and accept the donations to the Portsmouth Recreation Department, as listed. Action on this matter should take place under Section IX of the Agenda.

City Manager's Items Which Require Action:

1. **Report Back Re: Zoning for Assisted Living Facilities (Postponed from the January 7, 2013 City Council meeting to the January 22, 2013 City Council meeting).** As you are aware, this matter was postponed from the January 7th City Council meeting to Tuesday's City Council meeting.

As you will recall, at the May 21, 2012 City Council meeting, the Council voted to request that the Planning Board review the Table of Uses to expand where assisted living facilities can be located. The Planning Board held a work session on September 13, 2012 and considered the matter further at its meetings on October 18, November 15 and December 20, 2012.

At its meeting on December 20, 2012, the Planning Board voted unanimously to recommend that the Zoning Ordinance be amended as presented in the **attached memorandum from Rick Taintor, Planning Director**. Further, the memorandum presents an overview of existing zoning for assisted living facilities and describes the considerations underlying the recommended Zoning Ordinance amendments.

I would recommend the City Council move to authorize the City Manager to bring back for first reading the proposed Zoning Ordinance amendment, as presented, at the February 4, 2013 City Council meeting.

2. **Elderly and Disabled Exemptions.** Annually, the City of Portsmouth reviews income and asset levels for both the Elderly and Disabled Exemptions pursuant to RSA 72:39-b and RSA 72.37-b and makes recommendations as to these levels.

Last year, the City Council adopted resolutions #1-2012 and #2-2012 which increased the income and asset levels for both the elderly and disabled exemptions by 2.9% from the previous year. The current elderly and disabled exemption income levels are \$34,486 for a single taxpayer, \$42,542 for married taxpayers, and an asset limit of \$114,958.

If qualified, for elderly taxpayers, the exemption off the assessed value of the property is as follows:

- Age 65 to 74 \$125,000
- Age 75-79 \$175,000
- Age 80 + \$225,000

If qualified, for disabled taxpayers, the exemption off the assessed value of the property is \$100,000.

This year the November to November CPI of the Boston-Brockton-Nashua November consumer price index (CPI) is 2.0%. Social Security benefits payable in January 2013, will see a 1.7% increase in SSI payments.

Option A:

If the City Council wishes to adjust the income and asset levels for both the elderly and disabled taxpayers by the November to November CPI of 2.0 %, this would increase the limits (rounded up) as follows:

- Single \$ 35,176 increase of \$690
- Married \$ 43,393 increase of \$851
- Asset Limit of \$117,257 increase of \$2,299

Option B:

If the City Council wishes to adjust the income and asset levels for both the elderly and disabled taxpayers by the Social Security increase of 1.7 %, this would increase the limits (rounded up) as follows:

- Single \$ 35,072 increase of \$586
- Married \$ 43,265 increase of \$723
- Asset Limit of \$116,912 increase of \$1,954

Option C:

If no increase, the income and asset limits would remain at their levels current as follows:

- Single \$ 34,486
- Married \$ 42,542
- Asset Limit of \$114,958

Any adjustment if approved would be for assessments as of April 1, 2013 for the 2013 tax year or FY14.

The Assessor's office mails a notification annually to all elderly and disabled persons who currently receive this exemption to update their applications. All new applicants must submit an application and required documentation by April 15th of each year.

If the City Council wishes to make any adjustments in these exemptions, it would require an amendment to these resolutions as well as first reading, a public hearing and a majority vote of the City Council. If no adjustment, income and asset limits would remain at their current levels. I have [attached for your information the tax impact of the elderly and disabled exemptions for FY13.](#)

The City Council may choose from Option A, B or C and authorize the City Manager to bring it back for first reading.

I would recommend the City Council move to authorize the City Manager to proceed with Options A, B or C. If Option A or B is chosen, then I would recommend the City Council move to authorize the City Manager to bring it back for first reading at the February 4th City Council meeting, as presented. (This requires a public hearing and two readings with a majority vote.)

3. **Request to Renew Seacoast Growers' Association (Farmers' Market) Proposed 2013 License Agreement.** The Seacoast Growers' Association has requested renewal of their License Agreement. [Attached is a draft of the proposed 2013 License Agreement](#) with the Seacoast Growers' Association to allow a Farmers' Market at the municipal complex. The Seacoast Growers' Association has been conducting their Farmers' Market at the municipal complex over the past ten years. If this draft agreement meets with the approval of City Council, I would ask that you authorize me to enter into the proposed Agreement between the Seacoast Growers' Association and the City of Portsmouth for a License Agreement to conduct their Farmers' Market for 2013. I've requested that a representative of the Seacoast Growers' Association be in attendance on Tuesday evening to answer any questions you may have regarding this matter.

I would recommend the City Council move to authorize the City Manager to enter into a License Agreement with the Seacoast Growers' Association for 2013, as presented.

4. **Proposed Lease of 299 Vaughan Street for a Public Parking Lot.** Attached is a **correspondence from Jeff Johnston from Cathartes Development**, proposing that the City lease 299 Vaughan Street for a public parking lot. For your information, 299 Vaughan Street has existing buildings (see **attached aerial map**), that Mr. Johnston indicated would be removed after all approvals have been received. This would give the ability to create approximately 89 parking spaces on this site. The Lease Agreement would be similar to the agreement that we entered into with Parade Office LLC for the use of those spaces. As you are aware, the spaces that we leased from Parade Office LLC are no longer available (Portwalk site).

I have also **attached a Proposed Parking Lot Lease Agreement for 299 Vaughan Street**. The lease of 299 Vaughan Street would be at no cost to the City of Portsmouth. The City would operate the parking lot as it would any other leased lot. The public parking would be available as it was with the Portwalk lease 24 hours a day, seven days a week at .75 an hour.

The salient points of the agreement are as follows (based on the Lease Agreement dated February 1, 2010):

- Number of spaces: 89.
- Term: 10 years.
- Rate: .75/hour, 24 hours a day, seven days a week.
- Termination: By owner, anytime after the second full year of operation.
- Improvements: Paid by owner, design and construction cost is estimated at \$500,000.
- Operations: Gated, credit card only payment system with similar equipment. City would be reimbursed for staff time and costs.
- Management Fee: To the City of approximately \$1,250 per month (pro rated based on last agreement).
- Real Estate Taxes: Paid by owner.

If the City Council authorizes me to proceed with this proposed Agreement, we anticipate the parking lot could be available as early as May 2013 in time for the summer season.

Therefore, I am requesting that the City Council authorize the City Manager to enter into an agreement between the City of Portsmouth and Cathartes Development to lease a public parking lot for 89 spaces at 299 Vaughan Street.

5. **Proposed Payment in Lieu of Taxes (PILOT) Re: Betty's Dream.** Attached is a letter from Charles Griffin, Esquire, regarding a proposed payment in lieu of taxes (PILOT) for the Betty's Dream property. As the Council is aware, Betty's Dream is a facility in the west end of the City which exists entirely for the purpose of providing affordable housing to people with disabilities which cause them to be wheelchair bound. As a result of changes in state law as well in changes in the ownership structure of Betty's Dream, the City is involved in litigation with the facility with respect to its tax status years 2011 and 2012. After protracted negotiations between the City Assessor and Betty's Dream a proposed settlement of that case has been reached. The settlement terms are that if the City Council agrees to accept a payment in lieu of taxes in the amount of \$3,000 per year from Betty's Dream commencing with tax year 2011 and continuing to December 31, 2020, then the case will be settled for that period of time. No further tax payment will be due from Betty's Dream for that period.

I would recommend the City Council authorize the City Manager to proceed with the pilot and settlement of this issue.

6. **Acquisition of Easements Re: McDonough/Brewster Streets.** Attached is a memorandum from Suzanne Woodland, Assistant City Attorney, regarding acquisition of easements for a public works project to install new drain lines in this area. During significant rain events, flooding occurs at the end of Brewster Street and in the adjacent low areas north of McDonough Street. The Public Works Department proposes to install new drain lines and infrastructure to reduce this flooding. In order to do so, the City must acquire permanent easements to install these new drain lines at the end of Brewster Street and the surrounding area. In order to construct the drainage improvements, the permanent easements identified in Exhibit A must be acquired. These land acquisitions were referred to the Planning Board which recommended on October 18, 2012 that the City Council acquire the easements necessary for the project.

The following two easements are necessary:

- 1) Ahlgren Easement: negotiations are underway to finalize an easement with Mr. John Ahlgren who owns property at the end of Langdon and Brewster Streets (see Exhibit A and aerial map).

With regards to this matter, I am requesting the City Council accept an easement from Mr. Ahlgren as may be negotiated.

- 2) Railroad Easement: easements are also required from the Boston & Maine Railroad Corporation now known as Pan Am Railways and it is anticipated that these will need to be taken by eminent domain as has occurred with two other recent projects. One easement would allow for the placement of two 24-inch drain lines from the end of Brewster Street underneath the existing railroad lines to a new outfall on the North Mill Pond to be constructed. The second easement would allow for the installation of approximately 500 feet of new drain line along the south side of the existing tracks.

According to the Assistant City Attorney, it is likely the City will have to proceed with an eminent domain action to secure the easements necessary to lay the new drain lines. Staff recommends that a public necessity hearing be scheduled for the Council's next meeting on February 4, 2013 to determine that there is a need for this project and to undertake condemnation proceedings as may be necessary.

With regards to this matter, I am requesting the City Council schedule a public necessity hearing to be held at its next meeting on February 4, 2013 to acquire easements from Pan Am Railways through the eminent domain process.

Therefore, I would recommend the City Council move the following motions:

- 1) *Accept an easement from Mr. Ahlgren as may be negotiated; and,*
- 2) *Schedule a public necessity hearing to be held at the next City Council meeting on February 4, 2013 to acquire easements from Pan Am Railways through the eminent domain process.*

7. **Request to Establish a Work Session Re: Report Back on Letter and Petition of Islington Creek Neighborhood Association Re: Boarding House at 21 Brewster Street.** The Mayor recommends that a work session be established on February 4, 2013 at 6:00 p.m. prior to the regular City Council meeting, regarding the aforementioned issue.

Move to establish a work session on Monday, February 4, 2013 at 6:00 p.m., prior to the regular City Council meeting, regarding the report back on 21 Brewster Street Boarding House.

8. **Request to Establish a Work Session Re: Wastewater.** I am requesting that the City Council move to establish a work session on Tuesday, February 19, 2013 at 6:00 p.m., regarding wastewater.

I would recommend the City Council move to establish a work session on Tuesday, February 19, 2013 at 6:00 p.m., regarding wastewater.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on January 7, 2013. In addition, this now can be found on the City's website.
2. **City Council Work Session Re: Capital Improvement Plan.** This is a reminder that the City Council Work Session regarding the Capital Improvement Plan is scheduled for Monday, January 28, 2013 at 6:30 p.m., in the Eileen Dondero Foley Council Chambers.