

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, APRIL 1, 2013 TIME: 6:30PM

## AGENDA

- **6:00PM – ANTICIPATED “NON-MEETING” WITH COUNSEL REGARDING LITIGATION – RSA 91-A:2 I (c)**
- **6:30PM – WORK SESSION – ZONING ORDINANCE AMENDMENT RE: NEIGHBORHOOD COMMERCIAL USES**

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

### PRESENTATIONS

1. Ben Anderson, Executive Director of Prescott Park Arts Festival Re: Update on New Pavilion Building in Prescott Park
2. Memorial Bridge Site Improvements in and around Scott Avenue and Daniel Street including Memorial Park

### **V. ACCEPTANCE OF MINUTES – MARCH 18, 2013**

### **VI. PUBLIC COMMENT SESSION**

### **VII. PUBLIC HEARINGS**

- A. PROPOSED AMENDMENTS TO CHAPTER 10 – ZONING ORDINANCE – ARTICLE 12 – SIGNS, SECTION 10.1230 – SIGN DISTRICTS, SECTION 10.1240 – PERMITTED SIGN TYPES, SECTION 10.1250 – SIGN DIMENSIONAL STANDARDS, SECTION 10.1290 – SIGN DEFINITIONS, AND SECTION 10.1270 – ADDITIONAL SIGN REGULATION
- B. PROPOSED AMENDMENTS TO CHAPTER 10 – ZONING ORDINANCE – ARTICLE 5 – DIMENSIONAL AND INTENSITY STANDARDS, SECTION 10.515 – MEASUREMENT RULES, SECTION 10.516 – EXCEPTIONS TO YARD REQUIREMENTS AND ARTICLE 15 – DEFINITIONS, AND SECTION 10.1530 – TERM OF GENERAL APPLICABILITY
- C. PROPOSED AMENDMENTS TO CHAPTER 10 – ZONING ORDINANCE – ARTICLE 6 – OVERLAY DISTRICTS, SECTION 10.630 – HISTORIC DISTRICT AND SECTION 10.635.20 – WORK SESSIONS.

### **VIII. APPROVAL OF GRANTS/DONATIONS**

*There are no items on under this section of the agenda*

## IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First Reading of Resolution Authorizing the Borrowing of up to Three Million Three Hundred Thousand Dollars (\$3,300,000.00) Through the Issue of Bonds and Notes for Additional Costs for the Construction, Expansion and Renovation of the Portsmouth Middle School (***Sample Motion – move to approve first reading on a \$3.3 Million Dollar Bond Authorization and schedule a public hearing and adoption at the April 15, 2013 City Council meeting***)
- B. Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance – Article 12 – Signs, Section 10.1230 – Sign Districts, Section 10.1240 – Permitted Sign Types; Section 10.1250 – Sign Dimensional Standards, Section 10.1290 – Sign Definitions, and Section 10.1270 – Additional Sign Regulation (***Sample Motion – move to pass second reading and schedule a third and final reading on the proposed Ordinance, at the April 15, 2013 City Council meeting.***)
- C. Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance – Article 5 – Dimensional and Intensity Standards, Section 10.515 – Measurement Rules, Section 10.516 – Exceptions to Yard Requirements and Article 15 – Definitions, Section 10.1530 – Term of General Applicability (***Sample Motion – move to pass second reading and schedule a third and final reading on the proposed Ordinance, at the April 15, 2013 City Council meeting.***)
- D. Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance – Article 6 – Overlay Districts, Section 10.630 - Historic District and Section 10.635.20 – Work Sessions (***Sample Motion – move to pass second reading and schedule a third and final reading on the proposed Ordinance, at the April 15, 2013 City Council meeting.***)

## X. CONSENT AGENDA

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

- A. Request for Approval of Pole License to install 2 poles, 1 located on Sagamore Avenue and 1 located on Austin Street that are in need of replacement (***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***)
- B. Request for Approval of Pole License to install 1 pole and 110 feet of Underground Conduit and 1 pad mounted transformer located on Daniel Street. The transformer and conduit system are associated with the Memorial Bridge construction (***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***)

- C. Letter from Doug Bates, Greater Portsmouth Chamber of Commerce, requesting permission to hang Harbour Trail Flags at 24 key sites for the 2013 season **(Anticipated action – move to refer to the City Manager with power)**
- D. Letter from Alyssa Salmon, Big Brothers Big Sisters of the Greater Seacoast, requesting permission to hold the 4<sup>th</sup> Annual Stiletto Race on Saturday, June 15, 2013 from 3:30 p.m. – 5:30 p.m. and to close Pleasant Street (rain date Sunday, June 16, 2013) **(Combined with Summer in the Streets Program through Pro Portsmouth) (Anticipated action – move to refer to the City Manager with power)**
- E. \*Acceptance of Donation to Recreation Department in memory of Thomas Leary
  - Kenneth C. and Priscilla A. Bowlen - \$25.00**(Anticipated action – move to approve and accept the donation to the Portsmouth Recreation Department, as listed)**
- F. Letter from Wendy McCoole, Executive Director, BreastCancerStories.org, requesting change of date of CelebratePink 5K Road Race and Walk to Saturday, September 14, 2013 **(Anticipated action – move to refer to the City Manager with power)**

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

- A. Letter from Attorney Paul McEachern on behalf of Beth Gross-Santos regarding the merger of lots at 79 Lois Street. Also attached is a memorandum from Rick Taintor, Planning Director regarding the request **(Sample motion – move to approve the merger of lots as requested by Attorney Paul McEachern in letter dated March 15, 2013 in accordance with RSA 674:39-aa)**
- B. Letter from Doug Bates, President, Greater Portsmouth Chamber of Commerce requesting permission to conduct a Veterans Council 5K Road Race on Saturday, May 18, 2013 at 9:00 a.m. **(Sample motion – move to refer to the City Manager with power)**

## 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 Bonding Resolution:
  - 1.1 First Reading of Resolution Authorizing the Borrowing of up to Three Million Three Hundred Thousand Dollars (\$3,300,000.00) Through the Issue of Bonds and Notes for Additional Costs for the Construction, Expansion and Renovation of the Portsmouth Middle School **(Action on this matter should take place under Section IX of the Agenda)**

2. Public Hearings/Second Readings of Proposed Resolution and Ordinance Amendments:
  - 2.1 Public Hearing/Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance – Article 12 – Signs (**Action on this matter should take place under Section IX of the Agenda**)
  - 2.2. Public Hearing/Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance – Article 5 – Dimensional and Intensity Standards and Article 15 – Definitions (**Action on this matter should take place under Section IX of the Agenda**)
  - 2.3 Public Hearing/Second Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance – Article 6 – Overlay Districts, Section 10.630 - Historic District and Section 10.635.20 – Work Sessions (**Action on this matter should take place under Section IX of the Agenda**)

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

1. Request for a Parking Lot Agreement Re: Middle Street Baptist Church
2. Request from Memorial Bridge Illumination Committee Re: Ratification of Loan Request
3. Applications for Sidewalk Cafes Providing Alcohol Service
  - a) Popovers on the Square
  - b) Ri Ra
  - c) State Street Saloon
  - d) Surf
4. Report Back Re: Request by Christopher McInnis to Rezone Parcels at 678 and 680 Maplewood Avenue from Single Residence B (SRB) to Business (B)
5. License Request for 103 Congress Street, The District Restaurant

**Informational Items**

1. Events Listing
2. Schedule for Budget Presentations – April 6, 2013

**B. MAYOR SPEAR**

1. Appointment to be Considered:
  - Michael Barker – Appointment to the Taxi Commission
2. Appointments to be Voted:
  - Ruth Griffin – Reappointment to the Portsmouth Housing Authority
  - Shelley Saunders – Reappointment as an Alternate to the Conservation Commission
3. \*Establish Public Input Session Re: Restart Process for Building Parking Garage at Worth Lot – Proposed Date, Monday, May 13, 2013 at 6:30 p.m.

**C. COUNCILOR SMITH**

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the March 14, 2013 meeting (***Sample motion – move to approve and accept the action sheet and minutes of the March 14, 2013 Parking & Traffic Safety Committee meeting***)

**XIII. MISCELLANEOUS/UNFINISHED BUSINESS**

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

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

*\*Indicates Verbal Report*

**INFORMATIONAL ITEMS**


1. Notification that the Conservation Commission Minutes of the February 13, 2013 meeting are available on the City's website for your review
2. Notification that the Site Review Technical Advisory Committee Minutes of the March 5, 2013 meeting are available on the City's website for your review
3. Notification that the Planning Board Minutes of the November 15, 2012 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.**

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# M E M O R A N D U M

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**TO:** John P. Bohenko, City Manager  
**FROM:** Rick Taintor, Planning Director   
**DATE:** March 26, 2013  
**RE:** Proposed Zoning Ordinance Amendment – Neighborhood Commercial Uses

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The process of developing the City's current Master Plan began with two phases of Study Circles in the spring and summer of 2003, and the Plan's final recommendations were reviewed and endorsed in the third Study Circles phase. The Master Plan was adopted in 2005 by both the Planning Board and the City Council, and since then it has served as a guide to the Planning Board and Planning Department in the revision of the Zoning Ordinance and other land use regulations.

The Land Use chapter of the 2005 Master Plan includes the following goal, objective and strategy:

- Goal:** Maintain the existing balance of places to work, live, recreate, and do business in the City through an appropriate mix of commercial and residential growth and redevelopment.
- Objective:** Permit small scale commercial and service uses in appropriate locations in residential areas in order to promote neighborhood cohesiveness, reduce automobile usage, and encourage walking.
- Strategy:** Carry out a study to identify potential locations and appropriate uses, and accompanying development standards, for neighborhood commercial areas.

In a September 2011 work session on zoning issues, the Planning Board requested staff to prepare a proposal for allowing limited neighborhood-oriented commercial uses in residential areas. Draft zoning language was presented to the Board at its meeting on February 16, 2012, and was subsequently discussed in a joint work session with the Planning Board and the Historic District Commission on April 24, 2012. The Planning Board reviewed the proposed amendment at its meeting on January 24, 2013, and discussed a revised draft at its meeting on February 21, 2013.

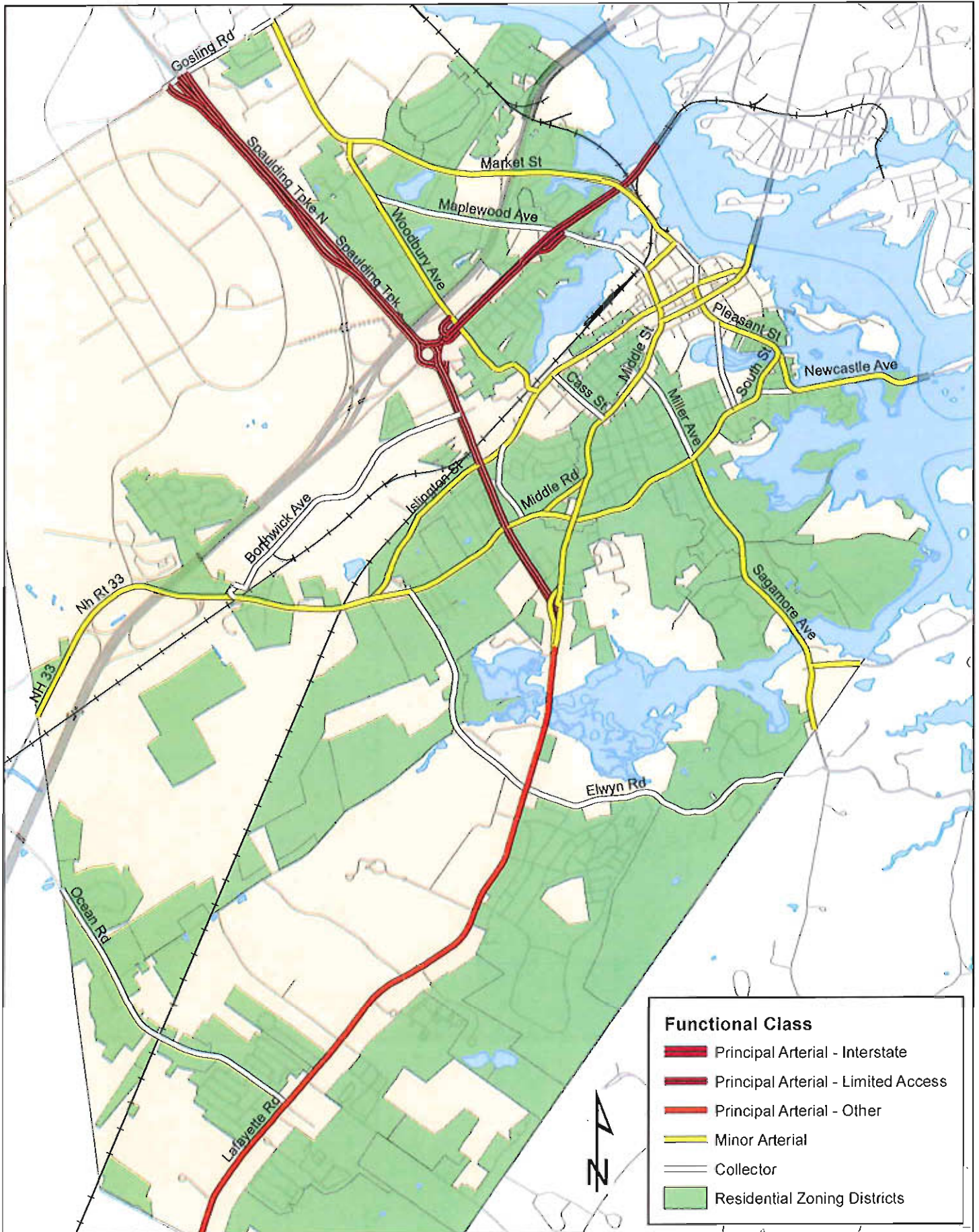
The proposed amendment would allow Neighborhood Commercial Uses in residential districts by conditional use permit. As stated in the proposed ordinance, the purpose of this amendment is to allow limited retail uses that are convenient to residential neighborhoods and consistent with the character of the surrounding residential area. The concept would be similar to neighborhood markets that have existed in various neighborhoods of the City in the past.

The proposed ordinance includes standards for lot dimensions, building and site design, off-street parking, signs and hours of operation. The standards are intended to ensure that any retail use approved under the ordinance would have a neighborhood focus rather than attracting a major portion of its business from other areas. For example, the maximum allowed floor area is 2,000 sq. ft. For comparison, the former Red Ginger store on South Street has 1,264 sq. ft. of floor area, while the Middle Street Market has 3,715 sq. ft. of ground floor area. In contrast, a typical new convenience store located in a typical commercial district would have a floor area of 4,000 to 5,000 sq. ft.

The proposed zoning ordinance limits neighborhood commercial uses to intersections on arterial or collector streets as shown in the Master Plan. Arterials that pass through residentially-zoned areas include Lafayette Road, Market Street, Islington Street, Middle Road, Middle Street, South Street, New Castle Avenue, Sagamore Avenue and Banfield Road. Collectors include roads such as Maplewood Avenue, Miller Avenue, Elwyn Road, Peverly Hill Road and Ocean Road. (See attached maps for the locations of all arterials and collectors in the City.)

The conditional use permit allows for discretionary review by the Planning Board and requires findings that the proposed use would not create adverse impacts on the neighborhood.

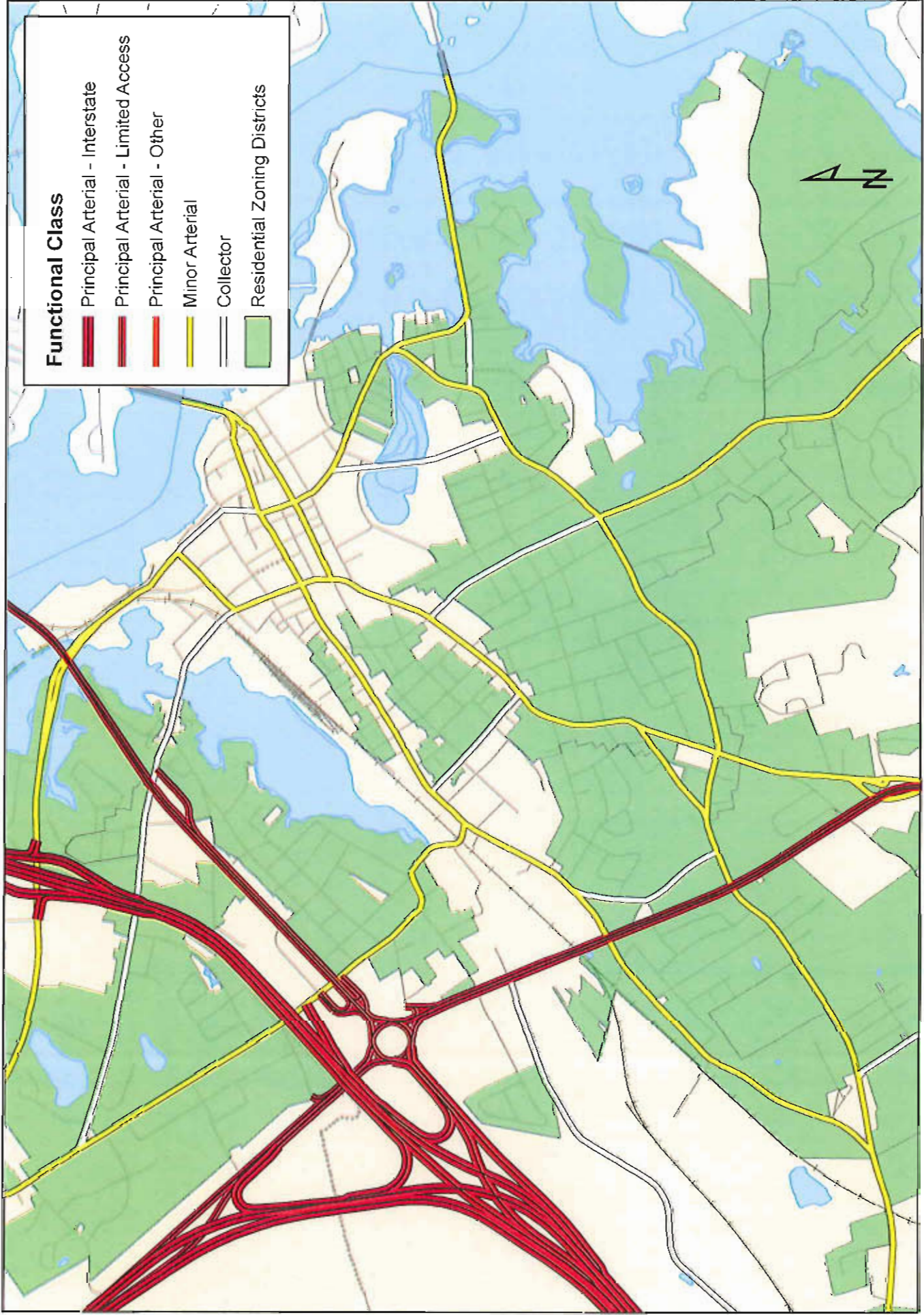
At its meeting on February 21, 2013, the Planning Board voted 6-1 to recommend that the Zoning Ordinance be amended by inserting a new Section 10.750 – Neighborhood Commercial Uses, as set forth in the attached proposed ordinance.



Roads Classified as Arterials and Collectors

0 1,500 3,000 4,500 6,000 Feet





Roads Classified as Arterials and Collectors

ORDINANCE #  
THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, Article 7 – Flexible Development, be amended by inserting the following new Section 10.750:

**Section 10.750 Neighborhood Commercial Uses**

**10.751 Purpose**

10.751.10 The purpose of this section is to allow Neighborhood Commercial Uses (NCU) in limited areas for retail trade uses that are designed in scale with surrounding residential uses.

10.751.20 The alternative development standards set forth herein are intended to ensure that NCUs are compatible with the surrounding residential districts and with the overall development goals of the City. Specific objectives include:

10.751.21 To increase convenience and reduce motor vehicle trips by permitting limited neighborhood commercial uses to be located in proximity to residential areas;

10.751.22 To protect the character of residential areas surrounding such commercial uses by establishing location, dimensional, **building**, site, and **off-street parking** standards that are compatible with those established for residential uses; and

10.751.23 To limit neighborhood commercial uses to discrete clusters rather than allowing continuous or scattered commercial development in residential districts.

**10.752 Neighborhood Commercial - Conditional Use Permit**

10.752.10 In all residential districts, in addition to the uses allowed by right or by special exception, the Planning Board may grant a conditional use permit to authorize an NCU conforming to the criteria and standards set forth herein.

10.752.20 Commercial uses allowed as NCUs are limited to **convenience goods 1, convenience goods 2, and retail sales** conducted within a **building**.

10.752.30 The NCU shall comply with all zoning, site plan and subdivision regulations that apply, other than those waived or modified hereunder. Hours of operation shall be subject to the requirements of Section 10.756.20.

**10.753 Location Standards**

10.753.10 The NCU shall have frontage on an arterial or collector **street** as shown in the Master Plan, and shall either be located at an intersection with another **street** or abut another NCU that is located at an intersection.

10.753.20 Notwithstanding the foregoing paragraph, an NCU may be established in a **building** that was constructed and used for retail sales prior to the adoption of this Ordinance.

10.753.30 No more than two NCUs shall be located at an intersection and mid-block NCUs shall be located at least 500 feet from another NCU.

**10.754 Dimensional Standards**

The following standards apply to a NCU in place of the corresponding standards in Section 10.531:

Maximum front yard	10'
Minimum yards*	
Side	5'
Rear	10'
Minimum frontage	70'
Maximum building height	35'
Maximum gross floor area of the NCU	2,000 sf
Maximum building coverage	50%
Minimum open space	15%

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\* Except as provided in Section 10.755.22

**10.755 Building & Site Design Standards**

10.755.10 Pedestrian Orientation

10.755.11 The principal entrance to a **building** shall face an arterial or collector **street** as shown in the Master Plan. The principal entrance to a **building** on a **corner lot** may be at the corner of the **building** facing the intersection.

- 10.755.12 The principal entrance to a **building** shall not require passage through an **off-street parking** lot or garage to gain access.
- 10.755.13 At least 33 percent of the ground floor area of a façade facing a **street** or pedestrian-oriented space shall be comprised of clear windows that allow views of indoor space or product display areas. For the purpose of this provision, the ground floor area of a façade is the portion between sidewalk level and 9 feet above sidewalk level.

#### 10.755.20 Building Design Standards

New **buildings** shall be designed in accordance with the prevailing style of the existing buildings within the surrounding neighborhood, and shall comply with the following standards:

- 10.755.21 New buildings shall be consistent in height and roof design (including roof structures such as dormers) with existing buildings along the street or block.
- 10.755.22 New building setbacks from street and lot lines shall be consistent with existing abutting buildings along the street or block.
- 10.755.23 New building materials and details shall be similar to those used on the existing buildings on the street or block.
- 10.755.24 Rooftop mechanical equipment shall be screened from public view by roof forms or other appropriate screening devices.

#### 10.755.30 Off-Street Parking Requirements

- 10.755.31 The amount, location, and design of **off-street parking** required for a NCU shall comply with Section 10.1110 of this Ordinance. The Planning Board may reduce or waive this requirement in instances where sufficient on-street parking exists.
- 10.755.32 Bicycle parking for at least 2 bicycles shall be provided within 50 feet from the building entrance, and with a minimum of 2 feet of clearance between the bicycle parking space and any building or pedestrian way. The Planning Board may reduce or waive this requirement in

instances where sufficient public bicycle parking is provided or where adequate alternative bicycle parking is provided.

**10.756 Additional Requirements**

- 10.756.10 The NCU shall be limited to the ground-floor use of the **structure**.
- 10.756.20 The operating hours of the NCU shall be limited to between 6:00 a.m. and 7:00 p.m.
- 10.756.30 The NCU shall be limited to no more than three employees on site at any one time.
- 10.756.40 The NCU shall be limited to one **projecting** sign no larger than 6 square feet or one **wall sign** no larger than 16 square feet in area. Signs may be lit by external illumination only.
- 10.756.50 All trash and recycling materials shall be stored indoors.

**10.757 Review and Approval Process**

10.757.10 Required Information

The NCU conditional use permit application shall include the following additional information unless waived by the Planning Board:

- 10.757.11 Location of all existing or proposed **structures**;
- 10.757.12 Elevations for all sides of all **buildings**;
- 10.757.13 Description and illustration of the existing or proposed **building** materials and colors;
- 10.757.14 Location and illustration of each amenity to be provided (for example, sidewalk improvements, parking facilities, open space areas, benches, pedestrian scale lighting and/or bicycle racks);
- 10.757.15 Documentation of how the proposed NCU will comply with each standard set forth in Sections 10.753 through 10.755.

10.757.20 Planning Board Findings

Prior to granting a conditional use permit for project under this section, the **Board** shall make all of the following findings:

10.757.21 The proposed project is consistent with the purpose and intent set forth in Section 10.751; and

10.757.22 The proposed project (and any conditions of approval) meets the NCU standards in Section 10.750; and

10.757.23 The anticipated impacts of the proposed NCU on traffic, property values, public infrastructure and facilities, stormwater runoff or environmental factors will be more beneficial to the surrounding properties than the anticipated impacts of a conventional development of the site.

10.757.30 Modifications of Standards

In granting a conditional use permit, the Planning Board may modify specific standards and requirements set forth in this Section provided that the Planning Board finds such modification will: support the goals, objectives and strategies in the Master Plan; promote design flexibility; and further enhance the overall quality and character of the project; and that such modification is consistent with the purpose and intent set forth in Section 10.751.

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 COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: MONDAY, MARCH 18, 2013

PORTSMOUTH, NH  
TIME: 6:00 PM [or thereafter]

At 6:00 p.m., a work session was held regarding a request for additional appropriation for Middle School project.

### **I. CALL TO ORDER [7:00PM or thereafter]**

Mayor Spear called the meeting to order at 7:55 p.m.

### **II. ROLL CALL**

Present: Mayor Spear, Assistant Mayor Lister, Councilors Coviello, Kennedy, Novelline Clayburgh, Lown, Dwyer, Smith and Thorsen

### **III. INVOCATION**

Mayor Spear asked everyone to join in a moment of Silent Prayer.

### **IV. PLEDGE OF ALLEGIANCE**

Councilor Kennedy led the Pledge of Allegiance to the Flag.

### **PROCLAMATION**

1. Music in Our Schools Month – Steve Cirillo, PHS – Performing Arts Department Head

Assistant Mayor Lister read the Proclamation declaring March as Music in Our Schools Month and Mayor Spear presented it to Steve Cirillo, Performing Arts Department Head for Portsmouth High School. Mr. Cirillo accepted the proclamation with thanks and appreciation.

Councilor Novelline Clayburgh thanked Mr. Cirillo for his work over the years stating that her 3 children all participated in the program and had fantastic experiences. She also thanked the Parents Music Club for their support as well.

### **PRESENTATION**

1. \*Report Back Re: Recreation Department Transition from Old Connie Bean Center to New Connie Bean Center

Recreation Director Rus Wilson and Middle School Principal John Stokel gave a brief update of the transition of the Connie Bean Center and the positive impact on both recreation programs and school physical education and after school programs.

Councilor Novelline Clayburgh asked if the sign from the old Connie Bean Center has been brought to the new center. Recreation Director Wilson stated yes. Councilor Novelline Clayburgh stated that she has only heard complaints about one issue which is the whistle blowing during basketball games being heard at the other courts. Recreation Director Wilson stated that is true, but they get used to the sounds as they play.

Councilor Novelline Clayburgh asked if we still need more courts or does this meet our needs. Recreation Director Wilson stated we still need more as we really haven't gained anything, we just run the programs more efficiently.

Assistant Mayor Lister stated that this has been a successful collaboration and is a major focal point of the City.

Councilor Kennedy stated we did gain as the space is now used on weekends where it wasn't before. Councilor Kennedy asked if there is a savings in the budget. Recreation Director Wilson stated yes and it is being used on the senior services coordinator. City Manager Bohenko clarified that the costs are not necessarily split down the middle but confirmed that there is a slight savings.

Councilor Dwyer asked if there were any issues with the flooring as this was mentioned during the work session. Recreation Director Wilson stated no.

#### **V. ACCEPTANCE OF MINUTES – MARCH 4, 2013**

**Councilor Coviello moved to accept and place on file the Minutes of March 4, 2013 City Council Meeting. Seconded by Assistant Mayor Lister and voted.**

#### **VI. PUBLIC COMMENT SESSION**

Tom Carroll – spoke regarding his ongoing issue regarding the rust dust and debris on Market Street and stated that there was a response to his right-to-know request, but feels it wasn't written based on his request, but because others had complained as well. He stated that it was stated that the Legal Department researched for 8.5 hours and wonders why it would require that much time. He stated that this issue should be taken to the State Legislature as it is not only a problem on the street but is now in the driveway of the Noble Meadows Condos.

Bob Hassold – spoke in support of building a parking garage on the Worth Lot stating that the parking problem is growing steadily each year. He stated the Council talks about it, conducts studies, then ignore the studies and feels that people are being short-sighted when ruling out the Worth Lot site. He stated that the same thing happened when the High/Hanover garage was built, as businesses were inconvenienced during construction but are now reaping the benefits of busy streets. He stated that the idea of having satellite parking around the City is not a solution and there should be one central spot in the downtown. He concluded by stating that he has spoken with people who will no longer shop downtown because of the lack of parking.

Natalie Hassold – stated she agrees with the previous speaker and wishes more people would speak out in favor of the Worth Lot. She referred to a recent editorial by Jim Splaine which spoke against the Worth Lot and stated she respectfully disagrees. She stated it could be built unobtrusively to fit into the area and then the McIntyre site could be developed with more open space and less parking. She concluded by stating that this must be built now.



Bob Shouse – began by speaking in support of the request for additional Portsmouth Middle School Funding stating that we cannot stop at this point. He stated we are preserving a building and the location in the downtown next to the library is ideal. Next, he discussed the parking issue stating that the Chamber of Commerce and Economic Development Commission are both supporting and urging that a parking garage be built on the Worth Lot. He stated the problem is acute and the solution is well overdue. He stated whether it is on the Parrott Avenue Lot or the WorthLot, it needs to be done as soon as possible.

**Assistant Mayor Lister moved to suspend the rules to move Item X.C.1 on the agenda for consideration. Seconded by Councilor Coviello and voted.**

### **C. COUNCILOR DWYER**

1. \*Middle School Project Re: Additional Appropriation

**Councilor Dwyer moved to bring back for first reading a Bonding Resolution up to \$3.3 million dollars at the April 1, 2013 meeting, seconded by Assistant Mayor Lister.**

City Manager Bohenko reviewed the timeline stating that if the first reading is held on April 1<sup>st</sup>, then the public hearing would be held on April 15<sup>th</sup> and at that time it could be voted on and would require a 2/3<sup>rd</sup> vote. He stated the Council could also choose to postpone the vote.

Councilor Lown stated he will respectfully oppose putting this on the taxpayers. He stated that this is a complex issue with engineering, political and legal aspects. He stated that he commends the JBC on their work but is disappointed that we are here. He then addressed the various points stating that politically the Council who approved this project gave their promise that this project was a guaranteed maximum price project with a built in contingency, but now we are back looking for an additional \$3.3 million. He stated he doesn't dispute anything that the JBC has presented and agrees that the timing was right to do the project, etc. He stated that from a legal viewpoint, the contract contains a section regarding unknown conditions and he is not convinced that all of the issues discussed fall under that category. He continued that Guaranteed Maximum Price means just that and the taxpayers should be able to rest easy that the project will come in at that Guaranteed Maximum Price. He concluded that now 3 years later, it is not guaranteed and is 8% higher than the original commitment and the taxpayers are not responsible for the delays, etc. He stated he will vote in favor of a public hearing, but will not support the bonding of additional funds.

Councilor Kennedy stated she agrees and encourages the public to speak on the issue. She continued that she also wants a written statement from the State and the School Board on what will happen if this is not funded. She stated that this is actually a 6 million dollar overage as originally we gave up \$2.8 million and now are looking for \$3.3 million additional. She concluded that she feels we should have known that the pilings were bad as this was the same issue when the library was built and she feels that the Clerk of the Works was responsible, not the Joint Building Committee.

Councilor Coviello stated that even if there was outright deception and we are angry, he will not risk the tens of millions of dollars at stake to meet the State reimbursement criteria. He stated he agrees with the sentiments expressed, but feels we need to finish the project.

Councilor Dwyer stated she appreciates Councilors Lowns' comments regarding this being a political issue but she doesn't care about that. She stated that she does care about the legal aspect and is why Assistant City Attorney Woodland has worked so hard on this. She stated that reading contracts requires an expertise as there are terms that laymen may not be able to interpret. She stated she is glad these questions are being asked but there are gray areas. She stated we are talking about a 40% reimbursement from the State including the \$3.3 million and we can't take it out of the Connie Bean fund or we wouldn't get the reimbursement.

Councilor Thorsen stated that this Council will make sure we have a middle school and it will be done properly, but we need to answer the question of how much is our back against the wall. He stated he doesn't want to spend more than necessary and whether or not he votes for the bonding will depend on how the questions are answered. He stated we may need to hold a non-public session for the answers, and concluded that there isn't anyone that doesn't want to get the job done.

**Motion voted.**

## **VII. APPROVAL OF GRANTS/DONATIONS**

- A. \*Acceptance of COAST Community Funds Grant Award

**Councilor Kennedy moved to approve and accept the COAST Community Funds Grant Award and further, authorize the City Manager to execute the agreement. Seconded by Assistant Mayor Lister and voted.**

## **VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES**

- A. First Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance – Article 12 – Signs

**Councilor Novelline Clayburgh moved to pass first reading and schedule a public hearing and second reading on the proposed Ordinance, at the April 1, 2013 City Council meeting, seconded by Councilor Smith.**

Councilor Kennedy stated she didn't understand why the signs are going from 16 feet to 12 feet. Planning Director Rick Taintor explained that the existing sign allowance is 16 sq. ft. and they are reducing it to 12 sq. ft. because 16 feet is excessive for the narrow sidewalks. He stated there will be a presentation at the April 1<sup>st</sup> meeting. Councilor Kennedy wants an explanation why it is allowed elsewhere.

**Motion voted.**

- B. First Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance – Article 5 – Dimensional and Intensity Standards and Article 15 – Definitions

**Councilor Novelline Clayburgh moved to pass first reading and schedule a public hearing and second reading on the proposed Ordinance, at the April 1, 2013 City Council meeting, seconded by Councilor Lown.**

Councilor Kennedy stated she would like to know if there will be a control on the noise issue i.e. HVAC, power generators etc.

Councilor Dwyer stated they would still need to meet the noise ordinance requirements.

**Motion passed 8-1, Councilor Kennedy voted opposed.**

- C. First Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance – Article 6 – Overlay Districts, Section 10.630 - Historic District and Section 10.635.2 – Work Sessions

**Councilor Coviello moved to pass the first reading and schedule a public hearing and second reading on the proposed Ordinance, at the April 1, 2013 City Council meeting. Seconded by Assistant Mayor Lister and voted.**

#### **IX. CONSENT AGENDA**

**Councilor Coviello moved to adopt the Consent Agenda. Seconded by Assistant Mayor Lister and voted.**

- A. Letter from Jill Teeters, March of Dimes, requesting permission to hold the 2013 Seacoast March for Babies on Saturday, May 18, 2013 from 9:00 a.m. to 1:00 p.m. (***Anticipated action – move to refer to the City Manager with power***)
- B. Letter from Kathie Lynch, Portsmouth Little League, Inc., requesting permission to install temporary signage to be located at the Plains and Hislop Park baseball fields during the 2013 baseball season (***Anticipated action – move to refer to the City Manager with power***)
- C. Request for Approval of Pole License to install 6 poles on Islington Street in conjunction with the NH DOT's Islington/By-Pass Bridge replacement (***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***)
- D. 2013 Omnibus Sidewalk Obstruction Renewals – See Attached Listings (***Anticipated action – move to refer to the City Manager with power***)
- E. Letter from Robert L. Sutherland, Jr., St. John's Lodge requesting permission to hold the 5k "Out of Hibernation" Road Race on Saturday, April 13, 2013 (***Anticipated action – move to refer to the City Manager with power***)

#### **X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

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

## **XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

### **A. CITY MANAGER**

1. City Council Policy No. 2010-02 – Pertaining to Sidewalk Materials on Richards Avenue

City Manager Bohenko explained the background of the request stating that as the result of on-going water, sewer and roadway improvement projects, we have received a number of requests from residents to install sidewalk materials other than those currently specified as part of City Council Policy No. 2010-02 which prescribes sidewalk materials to be brick in the Historic District which have historically been brick to be allowed based on a vote of the City Council. He continued that as part of the on-going Richards Avenue Sewer Separation project, City Staff has received a petition from residents on the Middle Street end of Richards Avenue to allow brick sidewalks from Middle Street to Parrott Avenue. He concluded by stating that the goal of the Public Works Department is to provide sidewalks which are safe, constructed of consistent material and are easily maintained. If brick materials outside of the Historic District are allowed, staff recommends that an entire block is of a consistent material to avoid a patch-work of materials. Additionally, the staff recommends that any additional cost to construct the brick sidewalks be borne by the requesting property owners which has been done in the past with property owners paying their proportional share.

Mayor Spear stated that other similar projects are coming up so others may request the same. City Manager Bohenko stated that is correct.

Councilor Lown asked if we know if the other property owners are willing to pay or not or what if one of them doesn't want to pay for it.

Assistant Mayor Lister asked if this is paid in one lump sum or can it be paid over time. City Manager Bohenko stated either way, it is up to the Council.

Discussion ensued regarding brick versus concrete sidewalks.

**Councilor Novelline Clayburgh moved to approve the use of brick sidewalks in the area from Middle Street to Parrott Avenue with all property owners agreeing to pay the difference in costs from concrete to brick, seconded by Councilor Lown.**

Councilor Coviello stated he feels this is opening up a can of worms although he likes this option because of the commitment of the residents to contribute.

Councilor Lown asked if concrete or brick is more cost effective. Public Works Director Parkinson explained that both are durable but brick actually lasts longer as concrete does deteriorate from salt. He stated that either one is fine.

**Councilor Lown moved to suspend the rules to allow a speaker. Seconded by Councilor Kennedy and voted.**

Chris Norwood of 19 Richards Avenue, President of his condo association - stated that 24 properties are in the area of the request but wonders why the City wouldn't pay for the portion that is in the Historic District (7 properties). He stated he is in favor of this request but just wants clarification.

City Manager Bohenko explained that the policy states that the portion greater in length is what the entire street is supposed to be which is concrete so if they want the brick on the sidewalk this vote will set the precedent, it needs to be continuous by block and not piecemeal.

Councilor Thorsen stated he is agrees that this should not be done piecemeal but he supports this as the residents will be paying for it. He wonders if having brick in front of a property increases property value or not which if so, it could be an investment in the tax base.

Councilor Kennedy stated she has been on the Historic District Committee since June and knows how hard it is to get any changes so she would have a hard time not granting this request.

**Councilor Novelline Clayburgh amended original motion by adding “over a period of 5 years”, Councilor Lown, the seconder, agreed.**

Discussion ensued regarding the precedent this would be setting and potential divisiveness amongst neighbors who may not be willing to pay their share. City Manager Bohenko stated he will work with the neighbors.

**Voted 8-1 to approve use of brick sidewalks in the area from Middle Street to Parrott Avenue with all property owners agreeing to pay the difference in costs from concrete to brick over a period of 5 years. Councilor Coviello voted opposed.**

Councilor Dwyer stated that this isn't going to be good for the staff to have to administer and feels that the Council needs to review the Policy again at a future date.

2. Request for License Agreement Re: 135 Bow Street, Harbour Place, Insurcomm

**Councilor Smith moved to authorize the City Manager to negotiate and enter into a License Agreement with Insurcomm to work on the fire project at 135 Bow Street, Harbour Place, seconded by Assistant Mayor Lister.**

Councilor Kennedy asked about the reference to July 30<sup>th</sup> in the request. City Manager Bohenko clarified that was the original request but he did not agree with that so it will expire on May 31<sup>st</sup>, with an option for an additional 30 days if deemed necessary.

**Motion passed.**

3. Request for License Agreement Re: 110 State Street, Insurcomm

**Councilor Smith moved to authorize the City Manager to negotiate and enter into a License Agreement with Insurcomm to work on the fire project at 110 State Street. Seconded by Councilor Lown and voted.**

**Informational Items**

1. Events Listing
2. Report Back Re: Artwill Avenue
3. Work Session Re: Neighborhood Commercial Use
4. Update on Upcoming Budget Schedule

City Manager Bohenko stated that regarding the upcoming budget schedule, he would like to dedicate April 16<sup>th</sup> to Water/Sewer budget as that will require a thorough review and April 29th will be the final budget review if needed.

5. Report Back Re: Wright Avenue Parking Lot

City Manager Bohenko stated that the new design provides 38 spaces instead of the original 45 spaces due to the Fire Department requirements of providing a 22 foot wide aisle adjacent to the proposed redevelopment of the old Rosa Restaurant lot.

Councilor Kennedy is concerned with the loss of 9 parking spaces and feels this needs additional discussion.

City Manager Bohenko reiterated that this changed is based on the Life Safety Code requirements.

Councilor Dwyer stated she agrees with having a review of that entire area in general due to all of the changes occurring there.

Mayor Spear stated that he would also like to announce that he is calling for a work session to be held on Monday, April 8, 2013 regarding Water/Sewer which is meant to be a follow up of their recent meeting on March 13<sup>th</sup> and was less than an hour long. He stated this is a complex issue and we are getting to the point where the consent decree requires a final design by July 1<sup>st</sup>.

**B. MAYOR SPEAR**

1. Appointments to be Considered:
  - Ruth Griffin – Reappointment to the Portsmouth Housing Authority
  - Shelley Saunders – Reappointment as an Alternate to the Conservation Commission

The reappointments of Ruth Griffin to the Portsmouth Housing Authority and Shelley Saunders as an alternate to the Conservation Commission were considered and will be voted at the April 1, 2013 Council Meeting.

**C. COUNCILOR DWYER**

1. Middle School Project Re: Additional Appropriation (Previously addressed)

#### **D. COUNCILOR SMITH**

##### 1. Citizens Committee for the 2023 Quadricentennial Celebration

Councilor Smith stated that he has brought forward an outline of what community groups and organizations should be involved in the planning and overseeing of the year-long 400<sup>th</sup> Anniversary. He stated the planning needs to begin now as it involves marketing, advertising, scheduling, promotions, etc. He stated the names of people can be brought forward at a later time and the Chamber of Commerce, School Department, etc. can appoint their own designees.

Assistant Mayor Lister stated he appreciates the passion but wonders what the difference is between a Citizens or Council Committee and a Mayor Blue Ribbon Committee.

Discussion ensued regarding the difference between the two types of committees.

Mayor Spear stated he was intending to bring forward a Blue Ribbon Committee, but feels we do not need two committees. He stated if this Citizens Committee is formed, he will not support it.

Councilor Dwyer stated that the key is to find the right structure that can last a long time and have continuity. She stated it should be set up like a Board with member terms.

Councilor Novelline Clayburgh suggested that Mayor Spear could form a Blue Ribbon Committee and appoint Councilor Smith as the Chair.

Councilor Smith stated he doesn't care how the committee is set up it just needs to be done now. He stated he has already been working on this for 6 months and knows people that want to be involved. He stated this has many facets including fundraising, advertising, a history book is being written, etc. He stated there are only a couple of other communities that are older than us and they have already started planning. He concluded by stating he is not interested in the politics of it.

**Councilor Kennedy moved to form a Council Committee for the 2023 Quadricentennial Celebration, seconded by Councilor Smith.**

Councilor Thorsen stated that even though the committee will dissolve in 9 ½ months, the charge of the committee should be to set the long-range plan and give feedback to the Council.

Councilor Lown stated this is reminiscent of the famous "Rule 23" issue.

**Motion voted.**

## **XII. MISCELLANEOUS/UNFINISHED BUSINESS**

Councilor Lown asked for an update regarding the status of the Parking and Traffic Safety Committee recommendation of a parking garage site and why the issue of the Worth Lot cannot be voted up or down by the committee.

Councilor Smith stated that when their work is done on the issue, they will present their recommendation. He stated that the Council voted the Worth Lot off the table. He stated the committee has decided to take a diversified approach with decks throughout the downtown area and Parrott Avenue Lot is the first area that will be evaluated by the staff.

Councilor Lown asked “hypothetically” if someone on the committee wanted to vote on the Worth Lot, could it then come back before the Council. Councilor Smith stated this was brought up and there was no second.

Councilor Dwyer stated that people are now contacting the Economic Development Commission members in support of the Worth Lot. She stated that the Council did not vote down the Worth Lot as a site, but voted not to discuss it. She asked for clarification if it requires a Councilor on the prevailing side of the vote to bring it back for reconsideration, or can any Councilor do that. City Attorney Sullivan stated that to bring back a vote for reconsideration, then a Councilor on the prevailing side would have to bring it forward. Any Councilor can bring back a different motion.

Councilor Coviello stated it is unclear among the members of the Parking and Traffic Safety Committee that they can bring up the Worth Lot for consideration. Councilor Smith disagrees and asked City Manager Bohenko to clarify as he was in attendance.

City Manager Bohenko stated that he doesn't feel that it was clear that there was not a second to a motion rather than the conversation moved on to something else. He stated that meeting was intended to be informational as a report from the Chair regarding the informal public input gathering.

Councilor Coviello stated he would like Councilor Smith to clarify to the Parking and Traffic Safety Committee members that they can vote on the Worth Lot as an option. Councilor Smith stated they know that but are looking for a more distributed parking system downtown.

Councilor Kennedy stated that Councilors should attend the Parking and Traffic Safety Committee meetings if they are interested in the actions being taken. She stated she attended the informal gathering at Bagel Works and people wanted them to move on from the Worth Lot and provide sustainable, walkable solutions. She stated she doesn't feel that we should be “directing” a Councilor on how to conduct his meetings and that Councilor Smith is following the mission that was given to the committee.

Councilor Coviello stated that he shouldn't have to attend all other committee meetings to be able to ask questions of the Council representative.



Councilor Novelline Clayburgh stated that if they do put a parking deck at the Parrott Avenue Lot then they should have a green space on the top which would provide a nice view of the pond.

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

**Councilor Novelline Claburgh moved to adjourn at 9:40 p.m. Seconded by Councilor Coviello and voted.**

A handwritten signature in black ink, appearing to read 'V. French', written in a cursive style.

Valerie A. French  
Deputy City Clerk

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, April 1, 2013 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH, on Proposed Amendments to Chapter 10 – Zoning Ordinance – Article 12 – Signs, Section 10.1230 – Sign Districts, Section 10.1240 – Permitted Sign Types, Section 10.1250 – Sign Dimensional Standards, Section 10.1290 – Sign Definitions, and Section 10.1270 – Additional Sign Regulations. 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

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KELLI L. BARNABY, CMC/CNHMC  
CITY CLERK  
#12517 1tp 3/21

**ORDINANCE #**  
**THE CITY OF PORTSMOUTH ORDAINS**

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, be amended to read as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

(1) Amend Article 12 – Signs, Section 10.1230 – Sign Districts, as follows:

10.1232 Unless otherwise specified by ordinance, the sign districts shall correspond to underlying zoning districts as follows:

Sign Districts	Underlying Zoning Districts
Sign District 3	Central Business A Central Business B Business
Sign District 4	<b>Business</b> Office Research

(2) Amend Article 12 – Signs, Section 10.1240 – Permitted Sign Types, as follows:

~~40.1242 Wall signs and parapet signs are permitted only for ground-floor uses and single-use buildings.~~

**10.1242 One parapet sign, or one wall sign above the first floor, may be allowed for each street façade, provided that the use is primarily above the first floor. The parapet sign or wall sign shall not be placed on a floor higher than the highest floor occupied by the applicable use.**

(3) Amend Article 12 – Signs, Section 10.1250 – Sign Dimensional Standards, as follows:

10.1251.10 The maximum aggregate sign area shall be as follows:

	Sign District					
	1	2	3	4	5	6
Per linear foot of lot frontage	0.5	n.f	n.f	1.5	1.5	1.5
Per linear foot of building frontage per establishment	0.5	1.0	2.0	1.5	1.5	2.0

(4) Amend Article 12 – Signs, Section 10.1290 – Sign Definitions, by amending the definition of “aggregate sign area” as follows:

**Aggregate Sign Area**

The total sign area of all signs on a lot or building, as indicated by the context, **excluding the area of freestanding signs allowed by Article 12.**

(5) Amend Article 12 – Signs, Section 10.1250 – Sign Dimensional Standards, as follows:

10.1251.20 The maximum sign area for individual signs shall be as follows:

	Sign District					
	1	2	3	4	5	6
Projecting sign						
Ground floor use	2	16	<b>46 12</b>	16	16	16

[All dimensions in square feet]

~~10.1253.50 A projecting sign shall be no closer than 6 inches to the building to which it is attached, and shall project no more than 4 feet from the building or one-third of the width of the sidewalk, whichever is less.~~

**10.1253.50 A projecting sign shall project no closer than 1 foot to the edge of the vehicular travel way, if any.**

(6) Amend Article 12 – Signs, Section 1270 – Additional Sign Regulations, as follows:

10.1271.10 A use in a building with more than one exterior wall facing a street may have signs on each such wall, up to the maximum sign area per ~~business linear foot of building frontage per establishment.~~

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:

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Eric Spear, Mayor

ADOPTED BY COUNCIL:

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Kelli L. Barnaby, City Clerk

ZO amend 10-1200 signs.doc

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, April 1, 2013 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH, on Proposed Amendments to Chapter 10 – Zoning Ordinance – Article 5 – Dimensional and Intensity Standards, Section 10.515 – Measurement Rules, Section 10.516 – Exceptions to Yard Requirements and Article 15 – Definitions, Section 10.1530 – Terms of General Applicability. 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

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KELLI L. BARNABY, CMC/CNHMC  
CITY CLERK  
#12517  
1P 3/21

ORDINANCE #  
THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, Article 5 – Dimensional and Intensity Standards and Article 15 – Definitions, be amended to read as follows (deletions from existing language stricken; additions to existing language **bolded**; remaining language unchanged from existing):

(1) Amend Section 10.515 – Measurement Rules, as follows:

10.515.10 Building Coverage and Yards

Calculations of building coverage and determinations of yards shall not include:

- (a) gutters, cornices or eaves projecting not more than 30 inches from a vertical wall; or
- (b) structures (such as decks and patios) less than 18 inches above ground level; or
- (c) **mechanical systems (i.e. HVAC, power generators, etc.) that are less than 36 inches above the ground level with a mounting pad not exceeding 10 square feet; are set back at least 10 feet from a property line; and are not located closer to the street than the front of the principal structure.**

(2) Amend Section 10.516 – Exceptions to Yard Requirements, by inserting the following new Section 10.516.40:

10.516.40 Projections Into Required Yards

The following building elements may project into required yards as indicated:

Projecting Element	Maximum Projection Into Yard
Balconies or bay windows, not exceeding 50% of the building face in total	2 feet
Open and uncovered terraces, decks, steps or stoops less than 4 feet in height	Up to one-half the required yard
Unenclosed porches, steps or stoops more than 4 feet in height	6 feet

**- DRAFT -**

<b>Porticos (either enclosed or unenclosed) less than 20 square feet in area</b>	<b>5 feet</b>
<b>Roof eaves or overhangs</b>	<b>2 feet</b>
<b>Fire escapes, fire towers, storm enclosures, awnings, or similar architectural features</b>	<b>4 feet</b>

(3) Amend Section 10.1530 – Terms of General Applicability, by inserting the following new definition:

**Portico**

**A small porch composed of a roof supported by columns, often found in front of a doorway.**

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



**LEGAL NOTICE**

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, April 1, 2013 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH, on Proposed Amendments to Chapter 10 – Zoning Ordinance – Article 6 – Overlay Districts, Section 10.630 – Historic District and Section 10.635.20 – Work Sessions. 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**

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

#12517 11P 3/21

ORDINANCE #  
THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, be amended to read as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

(1) Amend Article 6 – Overlay Districts, Section 10.630 – Historic District, as follows:

10.635.20 Work Sessions

[...]

10.635.22 Upon **receipt of a written** request (**containing a conceptual site plan and conceptual level information listed under 10.634.20**) by a potential applicant for a work session, either prior to or after the submission of an application for a Certificate, the Commission shall, at a regularly scheduled public hearing or other authorized time, convene into a work session. The purpose of this session shall be to consider and comment on various design alternatives, issues and options for any project coming under this Section with the aim of providing guidance in preparing an application for public hearing.

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:

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Eric Spear, Mayor

ADOPTED BY COUNCIL:

---

Kelli L. Barnaby, City Clerk

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

**RESOLUTION # – 2013**

**A RESOLUTION AUTHORIZING THE BORROWING OF UP TO THREE MILLION THREE HUNDRED THOUSAND DOLLARS (\$3,300,000) THROUGH THE ISSUE OF BONDS AND NOTES FOR ADDITIONAL COSTS FOR THE CONSTRUCTION, EXPANSION AND RENOVATION OF THE PORTSMOUTH MIDDLE SCHOOL.**

**RESOLVED:** That the sum of Three Million Three Hundred Thousand Dollars (\$3,300,000) is appropriated for additional costs associated with the construction, expansion and renovation of the Portsmouth Middle School necessary to accommodate the educational specifications and space needs required for delivery of a middle school curriculum as adopted by the Portsmouth School Board and administered by the Joint Building Committee;

This authorization is an addition to the \$15,000,000 issued on May 15, 2010 and \$22,500,000 issued on December 14, 2011 for the design, construction, expansion and renovation of the Portsmouth Middle School;

That to meet this appropriation, the City Treasurer, with the approval of the City Manager, is authorized to borrow up to Three Million Three Hundred Thousand Dollars (\$3,300,000) through the issue of bonds and notes of the City under the Municipal Finance Act;

That the expected useful life of the project is determined to be at least 30 years, and;

That this Resolution shall take effect upon its passage.

**APPROVED:**

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**ERIC SPEAR, MAYOR**

**ADOPTED BY THE CITY COUNCIL**

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

**AMORTIZATION AND PAYMENT SCHEDULE-20 YEAR**

<b>BOND</b>	3,300,000													
<b>YEARS</b>	20													
<b>RATE</b>	3.50%													
		<b>Year Beginning Balance</b>	<b>Principal</b>	<b>Interest</b>	<b>Total Payment</b>	<b>Ending Balance</b>	<b>40% Reimbursement</b>	<b>Net Payment</b>						
FY 15		3,300,000	165,000	115,500	280,500	3,300,000	66,000	214,500						
FY 16		3,135,000	165,000	109,725	274,725	3,135,000	66,000	208,725						
FY 17		2,970,000	165,000	103,950	268,950	2,970,000	66,000	202,950						
FY 18		2,805,000	165,000	98,175	263,175	2,805,000	66,000	197,175						
FY 19		2,640,000	165,000	92,400	257,400	2,640,000	66,000	191,400						
FY 20		2,475,000	165,000	86,625	251,625	2,475,000	66,000	185,625						
FY 21		2,310,000	165,000	80,850	245,850	2,310,000	66,000	179,850						
FY 22		2,145,000	165,000	75,075	240,075	2,145,000	66,000	174,075						
FY 23		1,980,000	165,000	69,300	234,300	1,980,000	66,000	168,300						
FY 24		1,815,000	165,000	63,525	228,525	1,815,000	66,000	162,525						
FY 25		1,650,000	165,000	57,750	222,750	1,650,000	66,000	156,750						
FY 26		1,485,000	165,000	51,975	216,975	1,485,000	66,000	150,975						
FY 27		1,320,000	165,000	46,200	211,200	1,320,000	66,000	145,200						
FY 28		1,155,000	165,000	40,425	205,425	1,155,000	66,000	139,425						
FY 29		990,000	165,000	34,650	199,650	990,000	66,000	133,650						
FY 30		825,000	165,000	28,875	193,875	825,000	66,000	127,875						
FY 31		660,000	165,000	23,100	188,100	660,000	66,000	122,100						
FY 32		495,000	165,000	17,325	182,325	495,000	66,000	116,325						
FY 33		330,000	165,000	11,550	176,550	330,000	66,000	110,550						
FY 34		165,000	165,000	5,775	170,775	-	66,000	104,775						
<b>Totals 20 year</b>			<b>3,300,000</b>	<b>1,212,750</b>	<b>4,512,750</b>		<b>1,320,000</b>	<b>3,192,750</b>						
				<b>Average Payment</b>	<b>225,638</b>		<b>Average Net Payment</b>	<b>159,638</b>						

**MIDDLE SCHOOL  
ISSUED and PROJECTED DEBT SCHEDULES  
and SCHOOL BUILDING AID**

**CITY OF PORTSMOUTH, NEW HAMPSHIRE  
LONG-TERM DEBT SERVICE FORECAST MODEL**


		FY 13	FY 14	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20	FY 21	FY 22	FY 23	FY 24	FY 25	FY 26	FY 27	FY 28	FY 29	FY 30	FY 31	FY 32
<b>Schools</b>																					
<b>05/16/10 Middle School Renovation</b>	<b>3.27%</b>	<b>15,000,000</b>																			
Principal-Last Pmt FY 30	20 YR	750,000	750,000	750,000	750,000	750,000	750,000	750,000	750,000	750,000	750,000	750,000	750,000	750,000	750,000	750,000	750,000	750,000	750,000	750,000	750,000
Interest		478,125	463,125	446,250	427,500	397,500	367,500	333,750	300,000	266,250	243,750	219,375	195,000	168,750	142,500	116,250	88,125	60,000	30,000		
<b>12/14/11 Middle School Renovation</b>	<b>2.86%</b>	<b>22,500,000</b>																			
Principal-Last Pmt FY 32	20 YR	1,125,000	1,125,000	1,125,000	1,125,000	1,125,000	1,125,000	1,125,000	1,125,000	1,125,000	1,125,000	1,125,000	1,125,000	1,125,000	1,125,000	1,125,000	1,125,000	1,125,000	1,125,000	1,125,000	1,125,000
Interest		805,781	777,656	738,281	687,656	631,406	586,406	558,281	524,531	473,906	417,656	372,656	338,906	305,156	265,781	225,000	187,734	149,063	109,688	67,500	22,500
<b>Total Middle School Issued Debt Principal Due</b>		<b>1,875,000</b>	<b>1,875,000</b>	<b>1,875,000</b>	<b>1,875,000</b>	<b>1,875,000</b>	<b>1,875,000</b>	<b>1,875,000</b>	<b>1,875,000</b>	<b>1,875,000</b>	<b>1,875,000</b>	<b>1,875,000</b>	<b>1,875,000</b>	<b>1,875,000</b>	<b>1,875,000</b>	<b>1,875,000</b>	<b>1,875,000</b>	<b>1,875,000</b>	<b>1,875,000</b>	<b>1,875,000</b>	<b>1,125,000</b>
<b>Total Middle School Issued Debt Interest Due</b>		<b>1,283,906</b>	<b>1,240,781</b>	<b>1,184,531</b>	<b>1,115,156</b>	<b>1,028,906</b>	<b>953,906</b>	<b>892,031</b>	<b>824,531</b>	<b>740,156</b>	<b>661,406</b>	<b>592,031</b>	<b>533,906</b>	<b>473,906</b>	<b>408,281</b>	<b>341,250</b>	<b>275,859</b>	<b>209,063</b>	<b>139,688</b>	<b>67,500</b>	<b>22,500</b>
<b>Total Middle School Issued Debt</b>		<b>3,158,906</b>	<b>3,115,781</b>	<b>3,059,531</b>	<b>2,990,156</b>	<b>2,903,906</b>	<b>2,828,906</b>	<b>2,767,031</b>	<b>2,699,531</b>	<b>2,615,156</b>	<b>2,536,406</b>	<b>2,467,031</b>	<b>2,408,906</b>	<b>2,348,906</b>	<b>2,283,281</b>	<b>2,216,250</b>	<b>2,150,859</b>	<b>2,084,063</b>	<b>2,014,688</b>	<b>1,192,500</b>	<b>1,147,500</b>
<b>Issued Debt Related Revenues</b>																					
GF School Building Aid on \$15m (Middle School 40%)		(302,873)	(302,873)	(302,873)	(302,873)	(302,873)	(302,873)	(302,873)	(302,873)	(302,873)	(302,873)	(302,873)	(302,873)	(302,873)	(302,873)	(302,873)	(302,873)	(302,873)	(302,873)	(302,873)	(302,873)
GF School Building Aid On \$22.5m (Middle School 40%)		(451,210)	(451,210)	(451,210)	(451,210)	(451,210)	(451,210)	(451,210)	(451,210)	(451,210)	(451,210)	(451,210)	(451,210)	(451,210)	(451,210)	(451,210)	(451,210)	(451,210)	(451,210)	(451,210)	(451,210)
<b>Total Issued Debt Related Revenues-Middle School</b>		<b>(302,873)</b>	<b>(754,083)</b>	<b>(754,083)</b>	<b>(754,083)</b>	<b>(754,083)</b>	<b>(754,083)</b>	<b>(754,083)</b>	<b>(754,083)</b>	<b>(754,083)</b>	<b>(754,083)</b>	<b>(754,083)</b>	<b>(754,083)</b>	<b>(754,083)</b>	<b>(754,083)</b>	<b>(754,083)</b>	<b>(754,083)</b>	<b>(754,083)</b>	<b>(754,083)</b>	<b>(451,210)</b>	<b>(451,210)</b>
<b>Total Net Issued Debt-Middle School</b>		<b>2,856,033</b>	<b>2,361,698</b>	<b>2,305,448</b>	<b>2,236,073</b>	<b>2,149,823</b>	<b>2,074,823</b>	<b>2,012,948</b>	<b>1,945,448</b>	<b>1,861,073</b>	<b>1,782,323</b>	<b>1,712,948</b>	<b>1,654,823</b>	<b>1,594,823</b>	<b>1,529,198</b>	<b>1,462,167</b>	<b>1,396,776</b>	<b>1,329,980</b>	<b>1,260,605</b>	<b>741,290</b>	<b>696,290</b>
<b>Projected Future Debt</b>																					
<b>Jan-14 Middle School Renovation</b>	<b>3.60%</b>	<b>3,300,000</b>																			
Principal-Last Pmt FY 34	20 YR			165,000	165,000	165,000	165,000	165,000	165,000	165,000	165,000	165,000	165,000	165,000	165,000	165,000	165,000	165,000	165,000	165,000	165,000
Interest				115,500	109,725	103,950	98,175	92,400	86,625	80,850	75,075	69,300	63,525	57,750	51,975	46,200	40,425	34,650	28,875	23,100	17,325
<b>Total Middle School Projected Future Debt</b>		<b>-</b>	<b>-</b>	<b>280,500</b>	<b>274,725</b>	<b>268,950</b>	<b>263,175</b>	<b>257,400</b>	<b>251,625</b>	<b>245,850</b>	<b>240,075</b>	<b>234,300</b>	<b>228,525</b>	<b>222,750</b>	<b>216,975</b>	<b>211,200</b>	<b>205,425</b>	<b>199,650</b>	<b>193,875</b>	<b>188,100</b>	<b>182,325</b>
<b>Projected Future Debt Related Revenues</b>																					
GF School Building Aid on \$3.3m (Middle School 40%)				(66,000)	(66,000)	(66,000)	(66,000)	(66,000)	(66,000)	(66,000)	(66,000)	(66,000)	(66,000)	(66,000)	(66,000)	(66,000)	(66,000)	(66,000)	(66,000)	(66,000)	(66,000)
<b>Total Net Projected Future Debt-Middle School</b>		<b>-</b>	<b>-</b>	<b>214,500</b>	<b>208,725</b>	<b>202,950</b>	<b>197,175</b>	<b>191,400</b>	<b>185,625</b>	<b>179,850</b>	<b>174,075</b>	<b>168,300</b>	<b>162,525</b>	<b>156,750</b>	<b>150,975</b>	<b>145,200</b>	<b>139,425</b>	<b>133,650</b>	<b>127,875</b>	<b>122,100</b>	<b>116,325</b>
<b>Total Net Debt-Issued and Projected Debt-Middle School</b>		<b>2,866,033</b>	<b>2,361,698</b>	<b>2,519,948</b>	<b>2,444,798</b>	<b>2,352,773</b>	<b>2,271,998</b>	<b>2,204,348</b>	<b>2,131,073</b>	<b>2,040,923</b>	<b>1,956,398</b>	<b>1,881,248</b>	<b>1,817,348</b>	<b>1,751,573</b>	<b>1,680,173</b>	<b>1,607,367</b>	<b>1,538,201</b>	<b>1,483,830</b>	<b>1,388,480</b>	<b>863,390</b>	<b>812,616</b>

**PORTSMOUTH SCHOOL DEPARTMENT**

**MEMO**

March 27, 2013

To: John P. Bohenko, City Manager

From: Stephen Bartlett, Business Administrator 

Re: Letter from N.H. Department of Education

Attached you will find a letter from Dr. Judith Fillion, Director for the Division Of Program Support for the NH Department of Education in response to my request for assurance that an additional bond issue for the Middle School Project would be reimbursed using the same methodology as the two previous bonds totaling \$ 37.5 million. She has confirmed that the reimbursement will apply to an additional bond, as long as the total of all three bonds does not exceed the original approved amount of \$40,855,00.00.

I would like to clarify two terms which appear in Dr. Fillion's letter for City Councilors that may not be familiar with the building aid program details. First, when she refers to the A24P, she is talking about the form I provided at the work session, which is the basis for project reimbursement approval. Our form was submitted in December of 2008 and approved in January of 2009 with a reimbursable bond total of \$ 40,855.00. Past practice has been and based on the attached letter will continue to be to reimburse an amount up to the approved bonding limit in the A24P.

She also uses the term "tail". It is important to note that there is a difference between the moratorium on the funding of future projects recently discussed in the media and funding the reimbursement of the state's share of existing obligations for projects that have already been approved and are underway. The pre-moratorium reimbursement methodology is to reimburse a predetermined percentage of the principal on a yearly basis over the life of the bond until the approved total for a project has been reimbursed. Because bonds are paid back over a long periods of time, typically twenty years, there were a large number of projects that were only partially reimbursed when the new project moratorium was instituted. The balance of state support still owed to various school districts and municipalities in total is referred to as the "tail". At this time, the building aid appropriation included in biennial budgets is to cover the state's existing commitment as opposed to new projects.

**Steve Bartlett**

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**From:** Fillion, Dr. Judith D. <Judy.Fillion@doe.nh.gov>  
**Sent:** Wednesday, March 27, 2013 10:59 AM  
**To:** Steve Bartlett  
**Subject:** School Building Aid

The calculated amount for the middle school project will be adjusted based on the A24P submitted on Dec. 30, 2008. This is consistent with past practice in the assignment of School Building Aid based on information contained in that form. That adjustment will be reflected in the FY 16 "tail" which falls in the next biennium. That budget will not be funded by the legislature until the end of June 2015.

Please note that the legislature appropriates funds on a biennial basis. The current proposal for FY 14 and FY 15 continues the moratorium for two more years with a proposed budget that covers the current "tail". Should less funding be available all projects would be prorated. Therefore increasing the calculated amount does not guarantee funding in any one year.

Dr. Judith D. Fillion, Director  
Division of Program Support  
NH Department of Education  
(603) 271-3855  
[Judith.Fillion@doe.nh.gov](mailto:Judith.Fillion@doe.nh.gov)

**InterOffice Memo**

**To:** John P. Bohenko, City Manager  
**From:** Tom Richter, Engineering Technician  
**Date:** March 13, 2013  
**Subject:** PSNH License Agreement 63-0546

---

I have reviewed the pole location information provided by PSNH for Petition and Pole License 63-0546.

This request is to license two poles, one located on Sagamore Avenue and one located on Austin Street that were in need of replacement. Even though the new poles are located in the same position as the old ones PSNH could not find existing licenses for these poles and licenses are being requested at this time.

These replacement poles pose no impact to existing city infrastructure. The Public Works Department recommends approval of this license.

Attached are pictures of the poles. Please call with any questions you may have.

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





**Public Service  
of New Hampshire**

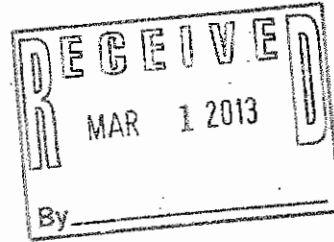
60 W. Pennacook Street, Manchester, NH 03101

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

The Northeast Utilities System

February 28, 2013

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 pole(s) located in City of Portsmouth, New Hampshire.

Enclosed for your review find three copies of PSNH Petition and Pole License number 63-0546 for City of Portsmouth review.

Upon approval, please have each copy of the Petition and Pole License signed by the proper authority.

Retain the Petition and Pole License copy labeled "**Portsmouth**" and mail the remaining signed copies along with any invoice for payment to PSNH in the enclosed self-addressed envelope.

If the Petition and Pole License is not approved, please return all copies to PSNH with an explanation.

Please contact me by telephone or e-mail with any questions you may have.

Thank you.

*Lisa-Marie Pinkes*

Lisa-Marie Pinkes  
Customer Operations Support - Licensing  
Public Service of New Hampshire  
PO Box 330  
Manchester, NH 03105-9989  
Tel. 603-634-2218  
E-Mail: pinkel@nu.com

Enclosure(s)

### PETITION AND POLE LICENSE

#### PETITION

Manchester, New Hampshire

February 14, 2013

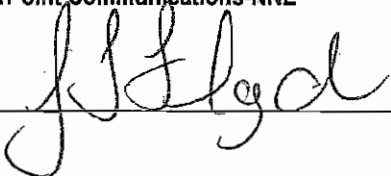
To the City Council of the City of Portsmouth New Hampshire.

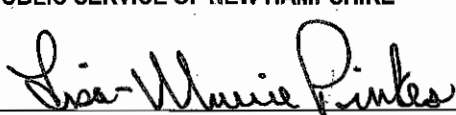
PUBLIC SERVICE OF NEW HAMPSHIRE and Northern New England Telephone Operations LLC d/b/a FairPoint Communications-NNE, request a license to install and maintain underground conduits, cable and wires, and maintain poles and structures with wires, cables, conduits and devices thereon, together with such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

License two ( 2) pole(s), 136/36, 49/5 located on Sagamore Avenue/Austin Street in the City of Portsmouth.

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

PUBLIC SERVICE OF NEW HAMPSHIRE

BY: 

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 14th day of February, 2013, 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. 63-0546, dated 9/25/2012, 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 09/25/2012 LICENSE NO. 63-0546  
 MUNICIPALITY: Portsmouth STATE HWY. DIV. NO. 6  
 STREET / ROAD: Sagamore Avenue/Austin Street STATE LICENSE NO. \_\_\_\_\_  
 PSNH OFFICE: Portsmouth WORK REQUEST# 1481358  
 PSNH ENGINEER: Richard St Cyr WORK FINANCIAL # 9P020123  
 TELCO ENGINEER: \_\_\_\_\_ TELCO PROJECT # \_\_\_\_\_

Pole Numbers		Pole Sz-CI	Eq BH	INSTALL	REMOVE	REF	100% LTS	J/O	100% TEL	Span	Dist. from:	Remarks	DOC REQ
LTS	TEL			POLE	PB	⊗	⊗	∧	∧				
49/5		45/2										STRAIGHT REPLACEMENT	m
92/5												ANCHOR	
137/29PB		30/4										NEW PUSH BRACE	
140/23PB		30/4										NEW PUSH BRACE	
140/29												ANCHOR	
136/36		45/2										STRAIGHT REPLACEMENT	m
136/64		45/2										STRAIGHT REPLACEMENT	
136/64S												ANCHOR	
5/28												ANCHOR	

ADDENDUM PER RSA 231:163

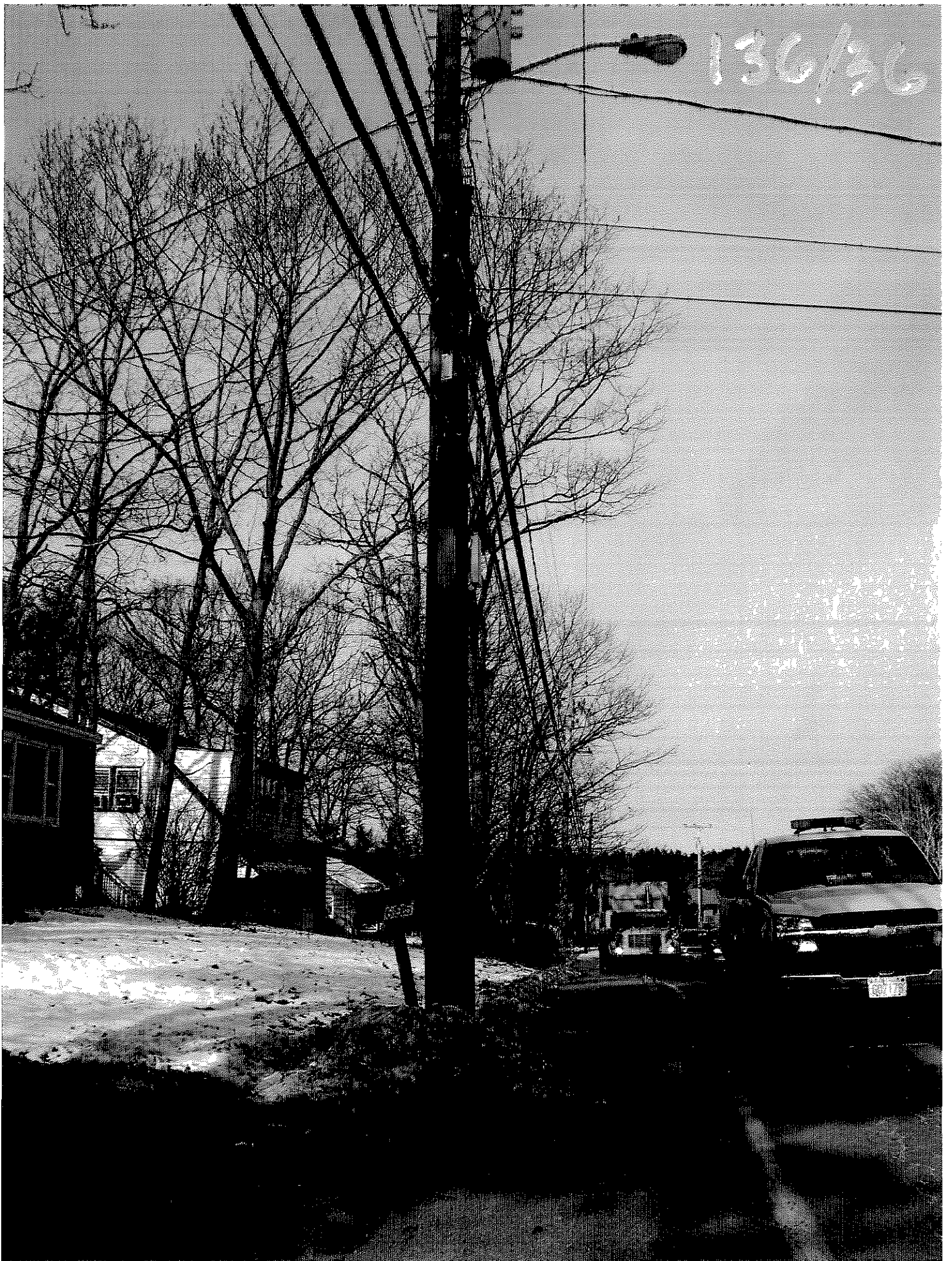
- 1) All licensee(s) and any other entity using and/or occupying property of the City pursuant to a license, lease or other agreement shall provide for the payment of properly assessed real and personal property taxes by the party using or occupying said property no later than the due date.
- 2) All 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:**

49





136/46

**InterOffice Memo**

**To:** John P. Bohenko, City Manager  
**From:** Tom Richter, Engineering Technician  
**Date:** March 11, 2013  
**Subject:** PSNH License Agreement 63-0558

---

I have reviewed the pole and underground conduit location information provided by PSNH for Petition and Pole License 63-0558.

This request is to license 110 feet of underground conduit and one pad mounted transformer located on Daniel Street in accordance with the attached Location Plan and Site Plan. This transformer and conduit system are associated with the Memorial Bridge construction. The reference pole 1/Y currently has an existing license.

The installation of this system posed no impact to existing city infrastructure. The Public Works Department recommends approval of this license.

Attached is a picture of the site and a site plan of the area. Please call with any questions you may have.

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

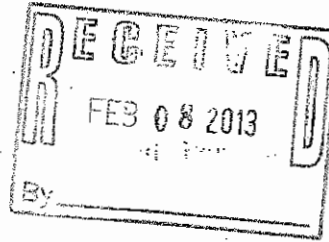


**Public Service  
of New Hampshire**

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



February 7, 2013

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 pole(s) located in City of Portsmouth, New Hampshire.

Enclosed for your review find two copies of PSNH Petition and Pole License number 63-0558 for City of Portsmouth review.

Upon approval, please have each copy of the Petition and Pole License signed by the proper authority.

Retain the Petition and Pole License copy labeled "**Portsmouth**" and mail the remaining signed copies along with any invoice for payment to PSNH in the enclosed self-addressed envelope.

If the Petition and Pole License is not approved, please return all copies to PSNH with an explanation.

Please contact me by telephone or e-mail with any questions you may have.

Thank you.

*Lisa-Marie Pinkes*

Lisa-Marie Pinkes  
Customer Operations Support - Licensing  
Public Service of New Hampshire  
PO Box 330  
Manchester, NH 03105-9989  
Tel. 603-634-2218  
E-Mail: pinkel@nu.com

Enclosure(s)



**PETITION AND POLE LICENSE  
PETITION**

Manchester, New Hampshire

February 7, 2013

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

PUBLIC SERVICE OF NEW HAMPSHIRE requests 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), 110 Feet of Underground Cable on Daniel Street in the City of Portsmouth.

**PUBLIC SERVICE OF NEW HAMPSHIRE**

BY: *Lisa-Marie Pinkes*  
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 7th day of February, 2013, that, PUBLIC SERVICE OF NEW HAMPSHIRE be 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" No. 63-0558, dated 2/5/2013, attached to and made a part hereof.

Town of Portsmouth, New Hampshire

Town of Portsmouth, New Hampshire

BY: \_\_\_\_\_

BY: \_\_\_\_\_

BY: \_\_\_\_\_

BY: \_\_\_\_\_

BY: \_\_\_\_\_

BY: \_\_\_\_\_

Received and entered in the records of the Town of Portsmouth, New Hampshire, Book \_\_\_\_\_, Page \_\_\_\_\_

Date: \_\_\_\_\_

ATTEST: \_\_\_\_\_

Town Clerk

# POLE LOCATION PLAN

DATE 02/05/2013

MUNICIPALITY: Portsmouth

STREET / ROAD: Daniel Street

PSNH OFFICE: Portsmouth

PSNH ENGINEER: Nick kosko

TELCO ENGINEER: \_\_\_\_\_

LICENSE NO. 63-0558

STATE HWY. DIV. NO. 6

STATE LICENSE NO. \_\_\_\_\_

WORK REQUEST# 1911451

WORK FINANCIAL # 9P220328

TELCO PROJECT # \_\_\_\_\_

Pole Numbers		Pole Sz-CI	Eq BH	INSTALL	REMOVE	REF	100% LTS	J/O	100% TEL	Span	DIST. FROM	Remarks	DOC REQ				
LTS	TEL			POLE	PB	⊕	⊕	⋈	⋈					↓			
1 YT1				<p>This area is futured to be a Park for the City of Portsmouth once Memorial Bridge is complete</p> <p style="text-align: center;">Pad is located 40' from Curb</p> <p style="text-align: center;">Total Length 110' Trench</p>												Install new Pad mount TX 500KVA Pad Secondaries are cust. Provided	
1 Y		45-2	JO	<p style="text-align: center;">Reference Pole. New URD takeoff</p>													
				<p style="font-size: 2em; letter-spacing: 0.5em;">D a n i e l S t</p>													

ADDENDUM PER RSA 231:163

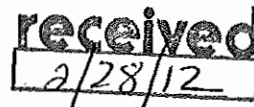
- 1) All licensee(s) and any other entity using and/or occupying property of the City pursuant to a license, lease or other agreement shall provide for the payment of properly assessed real and personal property taxes by the party using or occupying said property no later than the due date.
- 2) All 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:**







February 27, 2013

Mayor Eric Spear  
City of Portsmouth  
1 Junkins Avenue  
Portsmouth, NH 03801

Dear Mayor Spear:

Summer is fast approaching, and at the Greater Portsmouth Chamber of Commerce we are gearing up for the busy tourism season ahead. Our new Harbor Guide – The Official Guide to Portsmouth & the Seacoast, will arrive shortly and be distributed throughout the Seacoast and New Hampshire State Information Centers. We are welcoming back our seasonal Visitor Assistants and Portsmouth Harbour Trail Tour Guides, who will soon assist visitors and lead groups on bus and walking tours throughout the city.

We hope to again be able to display flags marking key sites along the historic Portsmouth Harbour Trail. The purpose of the Trail is to:

- Focus attention on Portsmouth's rich history
- Entice people to visit the historic houses and Strawberry Banke, as well as patronize our downtown businesses
- Attract people to our many wonderful cultural events.

Groups of all kinds schedule guided tours throughout the season. They range from school children to Rhode Scholar participants, bus passengers to visitors on foot, corporate and conference groups, and local residents.

The Chamber's Tourism Department requests permission from the City Council to hang Portsmouth Harbour Trail Flags at 24 key sites for the 2013 season. We have received positive comments on the distinctive bright blue flags and plan to continue using the same colors and design as the past eight years.

We request the City Council consider this issue at your next meeting. If you have any question or request additional information please do not hesitate to contact me.

Thank you,

A handwritten signature in cursive script, appearing to read "Doug Bates".

Doug Bates  
President

A handwritten signature in cursive script, appearing to read "Joan Chawziuk".

Joan Chawziuk  
Tour Coordinator

received  
3/25/13



Big Brothers Big Sisters  
of the Greater Seacoast  
4 Greenleaf Woods #201  
Portsmouth, NH 03801

T 603 430 1140  
F 603 430 7760

www.bbbsgs.org

March 22, 2013

Mayor Eric Spear  
Portsmouth City Council  
1 Junkins Avenue  
Portsmouth, NH 03801

Dear Mayor Spear and the Portsmouth City Council,

Big Brothers Big Sisters of the Greater Seacoast would like to respectfully request approval to close Pleasant Street on Saturday, June 15, 2013 from 3:30 p.m. – 5:30 p.m. for the 4th Annual *Stiletto Race*. We further request to reserve the following Sunday, June 16, 2013 for a rain date.

Our Young Philanthropists for Mentoring (YP4M) Committee will be organizing the Stiletto Race this year. The YP4M Committee is a group of young professionals who help raise financial support and awareness for Big Brothers Big Sisters of the Greater Seacoast.

Last year's Stiletto Race was very successful, raising over \$8,000 and garnering positive media coverage. All proceeds from this event will support Big Brothers Big Sisters' mission to provide children facing adversity with strong and enduring, professionally supported, one-to-one relationships that change their lives for the better, forever.

Big Brothers Big Sisters of the Greater Seacoast will work with your Council and the Fire and Police Departments to make this a successful and minimally disruptive event. We will require every participant to sign a release of liability waiver as well.

Please know that our agency is willing to work with your Council to select an alternative date and/or time and/or street to host this event if necessary.

If you have any questions regarding this proposal, please contact me at [development@bbbsgs.org](mailto:development@bbbsgs.org) or 603-430-1140 x 14. We look forward to continued collaboration with the City of Portsmouth.

Sincerely,

Alyssa Salmon  
Development and Communications Director





March 26, 2013

Portsmouth City Council  
John Bohenko, City Manager  
City of Portsmouth  
1 Junkins Avenue  
Portsmouth, NH 03801

**Re: Date Change Request for the CelebratePink 5K Road Race & Walk**

Dear City Manager Bohenko & Portsmouth City Council Members,

Thank you in advance for approving the date for our CelebratePink 5K that was previously submitted to you as part of the Portsmouth Community Road Race Series.

Since that time it has come to our attention that the (new) Memorial Bridge may be available to once again include as a part of our course. As you know, our run/walk traveled over the bridge into Kittery the first two years, and given that this is the 5<sup>th</sup> anniversary of the CelebratePink 5K we would be honored to be able to do that once again (pending proper approvals).

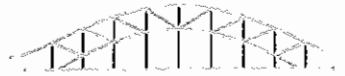
In order for our course to include the bridge we will need to stage it closer to the bridge to accommodate our participants. I understand and appreciate that September 21<sup>st</sup> – the approved date of our event – is the same date as the Fairy House Tours and precludes us from moving our race closer to the south end of the City. I also understand that there are no large events planned for the Saturday before – September 14<sup>th</sup> – in downtown Portsmouth.

**We respectfully request to change the date of our CelebratePink 5K to the morning of September 14<sup>th</sup>.** Because we have already started to promote this year's event date online and in print, we also ask (if possible) that this request be expedited to allow us to update our promotional efforts immediately.

With Many Thanks,

Wendy McCoole  
Executive Director, Founder & Survivor  
BreastCancerStories.org (soon to be renamed My Breast Cancer Support)





**SHAINES & McEACHERN, PA**  
**Attorneys at Law**

received  
3-18-13

March 15, 2013

Hon. Eric Spear and Members of the City Council  
c/o Rick Taintor, Planning Director  
1 Junkins Ave.  
Portsmouth, NH, 03801

Re: 79 Lois Street, Portsmouth Tax Map 232, Lot 14

Dear Mayor Spear and Members of the City Council;

On behalf of Beth Gross-Santos, 79 Lois Street, Portsmouth, pursuant to RSA 674:39-aa, II, I ask that the seven lots which were merged into one lot by the City be restored to their prior status. Upon this event, Ms. Gross-Santos will merge the three lots facing Marjorie Street having a combined frontage of 120 feet into one lot and the four lots with frontage on Lois Street into one lot.

I believe the request of Ms. Gross-Santos must be complied with as a matter of right. The legal description of the seven lots remains upon the deeds. The small shed now straddling the rear lot line will be removed to a location upon the Lois Street lot so as to comply with existing set backs

I enclosed a copy of the current tax map. The original lots in this area were all 40' by 80'. It is Mr. Gross-Santos' intent to reduce the existing seven lots into two lots, one fronting on Lois Street and the other on Marjorie Street.

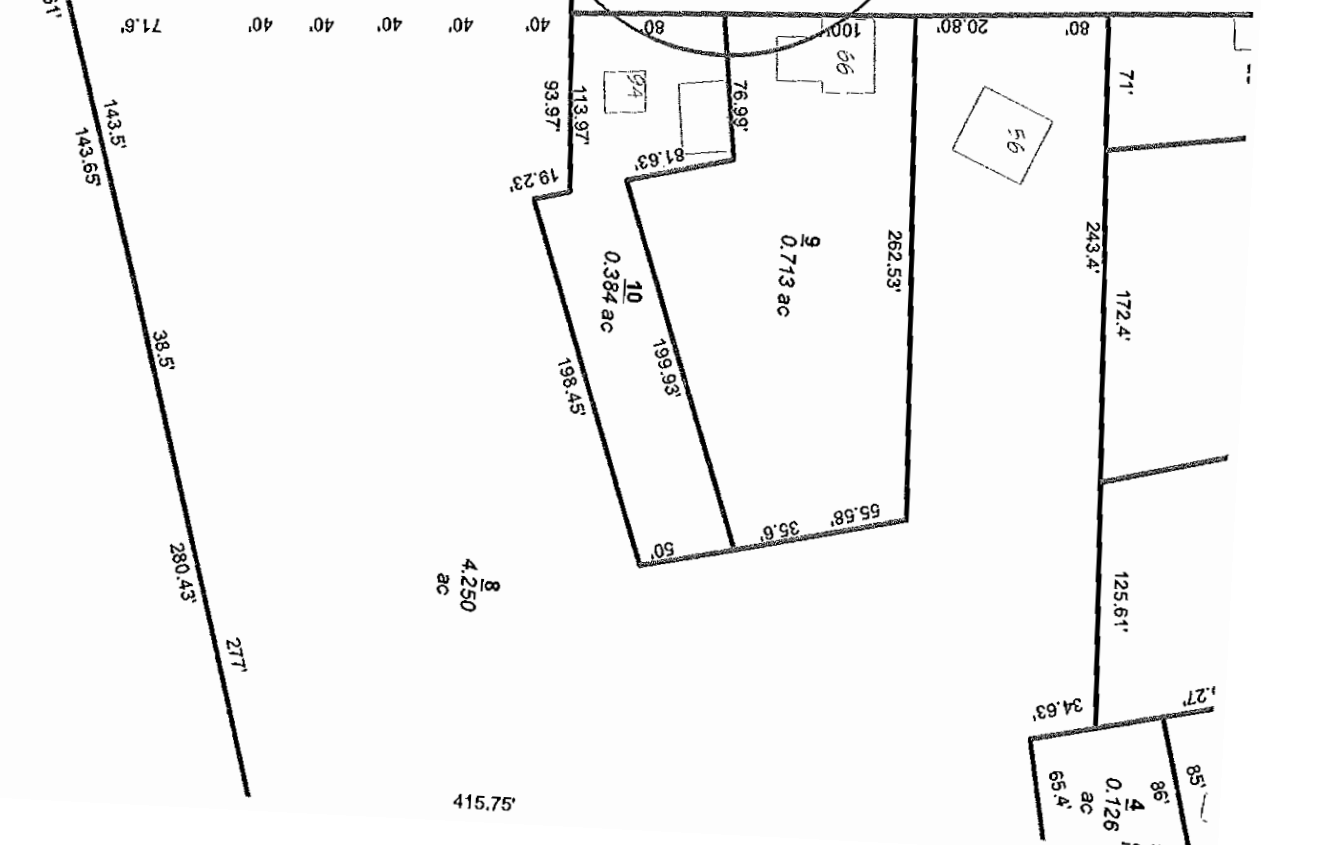
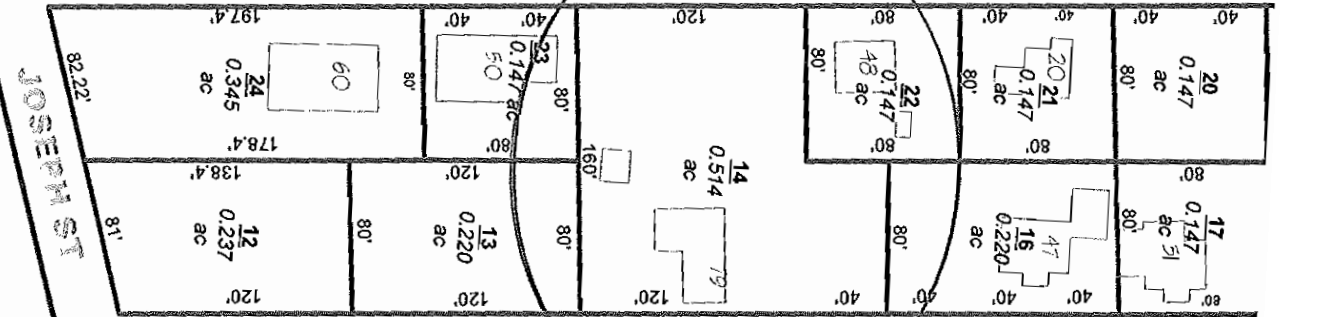
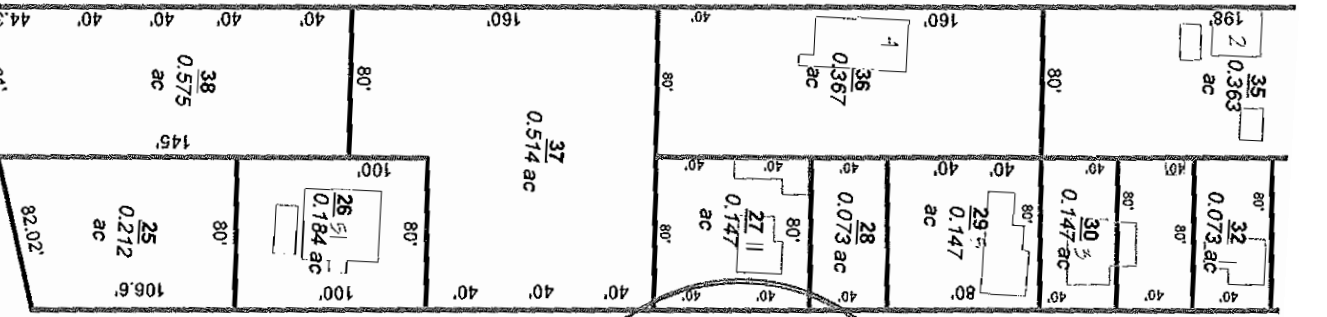
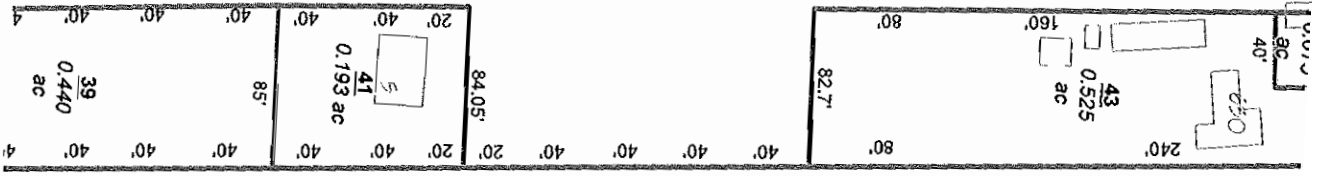
Thank you for your consideration.

Very truly yours,

  
Paul McEachern

PM/rlm  
Encl.

cc: Robert P. Sullivan, Esq.  
Rick Taintor




115.71

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# MEMORANDUM

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TO: John P. Bohenko, City Manager  
FROM: Rick Taintor, Planning Director   
DATE: March 25, 2013  
RE: Request from Beth Gross-Santos for Restoration of Involuntarily Merged Lots at 79 Lois Street Under RSA 674:39-aa

MAR 25 2013

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In a letter dated March 15, 2013, Paul McEachern on behalf of Beth Gross-Santos has requested that the City Council restore seven lots, merged by City action, to their premerger status. The letter states that if the request is granted, the owner will apply to voluntarily merge the seven lots into two new lots, one (with the existing dwelling) fronting on Lois Street and the other fronting on Marjorie Street.

## Property Description

The property that is the subject of this request is located at 79 Lois Street and is shown on Assessors Map 232 as Lot 14. The Assessors Map indicates that the existing lot contains 0.514 acre (22,390 sq. ft.) and has 160 feet of frontage on Lois Street and 120 feet of frontage on Marjorie Street. The lot is located in the Single Residence B zoning district, which requires a minimum lot area of 15,000 sq. ft., 100 feet of continuous street frontage, and 100 feet of lot depth.

Each of the original seven lots was 40 feet wide by 80 feet deep. The request states that the seven lots "were merged into one lot by the City" but does not include any documentation about the history of the parcels.

The existing lot contains a single-family dwelling and a shed, each of which cross one of the lot lines that are proposed to be restored. The applicant has indicated that if this request is granted, the shed will be removed and the lot line that runs through the dwelling will be eliminated through a voluntary lot merger.

## Zoning Issues

Prior to submitting the current request, the owner applied to the Zoning Board of Adjustment for nine variances to allow the existing lot to be subdivided into two lots, as follows:

### 79 Lois Street (land to be retained with existing house)

1. Lot area: allow 12,768 s.f. where 15,000 s.f. is required.
2. Lot area per dwelling unit: allow 12,768 s.f. where 15,000 s.f. is required.
3. Lot depth: allow 80 ft. where 100 ft. is required.
4. Rear yard setback: allow 25 ft. where 30 ft. is required

Marjorie Street lot (proposed house lot)

5. Lot area: allow 9,600 s.f. where 15,000 s.f. is required.
6. Lot area per dwelling unit: allow 9,600 s.f. where 15,000 s.f. is required.
7. Lot depth: allow 80 ft. where 100 ft. is required.
8. Rear yard setback: allow 14 ft. where 30 ft. is required.
9. Front yard setback: allow 15 ft. where 30 ft. is required.

The owner subsequently requested that the BOA postpone consideration of these variances pending action by the City Council on the request to restore the involuntarily merged lots to their premerger status. If the Council grants this request, and the owner subsequently submits a request to voluntarily merge the seven lots into two lots, variances will still be required to construct a dwelling on the new Marjorie Street lot.

### **Statutory Requirements**

The statute, RSA 674:39-aa, assigns the responsibility for "restoration of involuntarily merged lots" to the City Council. The statute distinguishes between "involuntary" and "voluntary" mergers as follows:

- "Involuntary merger" and "involuntarily merged" mean lots merged by municipal action for zoning, assessing, or taxation purposes without the consent of the owner.
- "Voluntary merger" and "voluntarily merged" mean a merger under RSA 674:39-a, or any overt action or conduct that indicates an owner regarded said lots as merged such as, but not limited to, abandoning a lot line.

The statute states that "The municipality shall have the burden of proof to show that any previous owner voluntarily merged his or her lots."

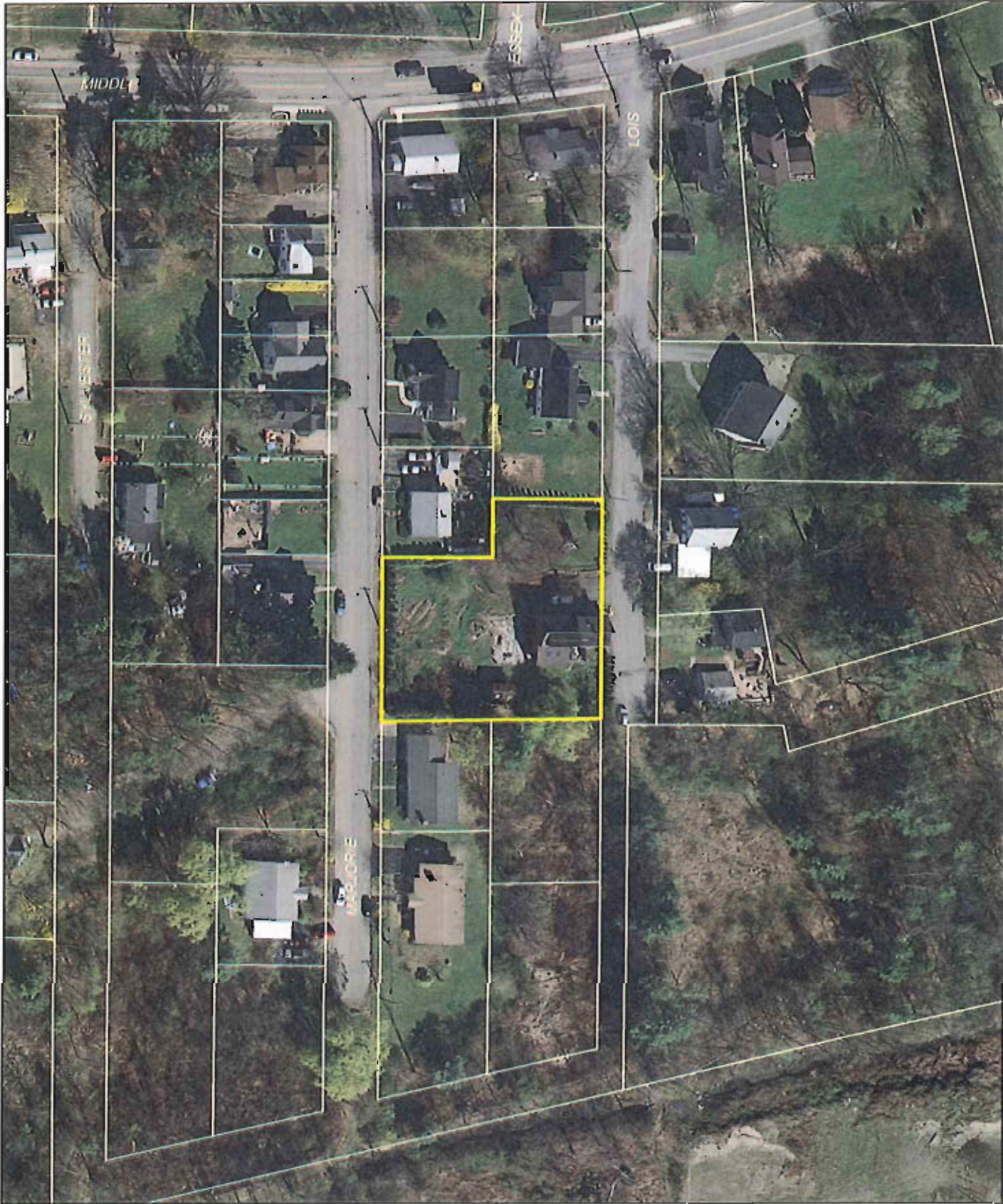
Unlike other situations where lots are proposed to be merged or separated, there is no role for the Planning Board in this process. If the merged lots meet the criteria in the statute, the Council must vote to restore them to their premerger status. The decision of the Council may be appealed to the Zoning Board of Appeals, but no standards for such appeals are set forth in the statute.

### **Attachments**

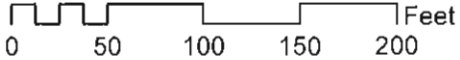
- Orthophoto with parcel lines
- Birds-eye views with approximate parcel lines

cc: Zoning Board of Adjustment

Request for Restoration of Involuntarily Merged Lots



79 Lois Street



Request for Restoration of Involuntarily Merged Lots  
79 Lois Street

(Lot lines are approximate)



MAR 26 2013

March 26, 2013

Portsmouth City Council  
John Bohenko, City Manager  
City of Portsmouth  
1 Junkins Avenue  
Portsmouth, NH 03801

Re: Veterans Count 5K Race – Saturday, May 18, 2013 at 9:00 AM

Dear City Manager Bohenko & Portsmouth City Council Members,

We ask permission to run a 5K Road Race on May 18, 2013 on a down and back course on Lang Road. The Course extends into Rye which has indicated its approval. This race is the kick off event for Veterans Count which is creating a Seacoast Chapter to support veterans on the Seacoast. This is not currently a Portsmouth Community Road Race Series Race; however we agreed to help them with this project. The course is attached.

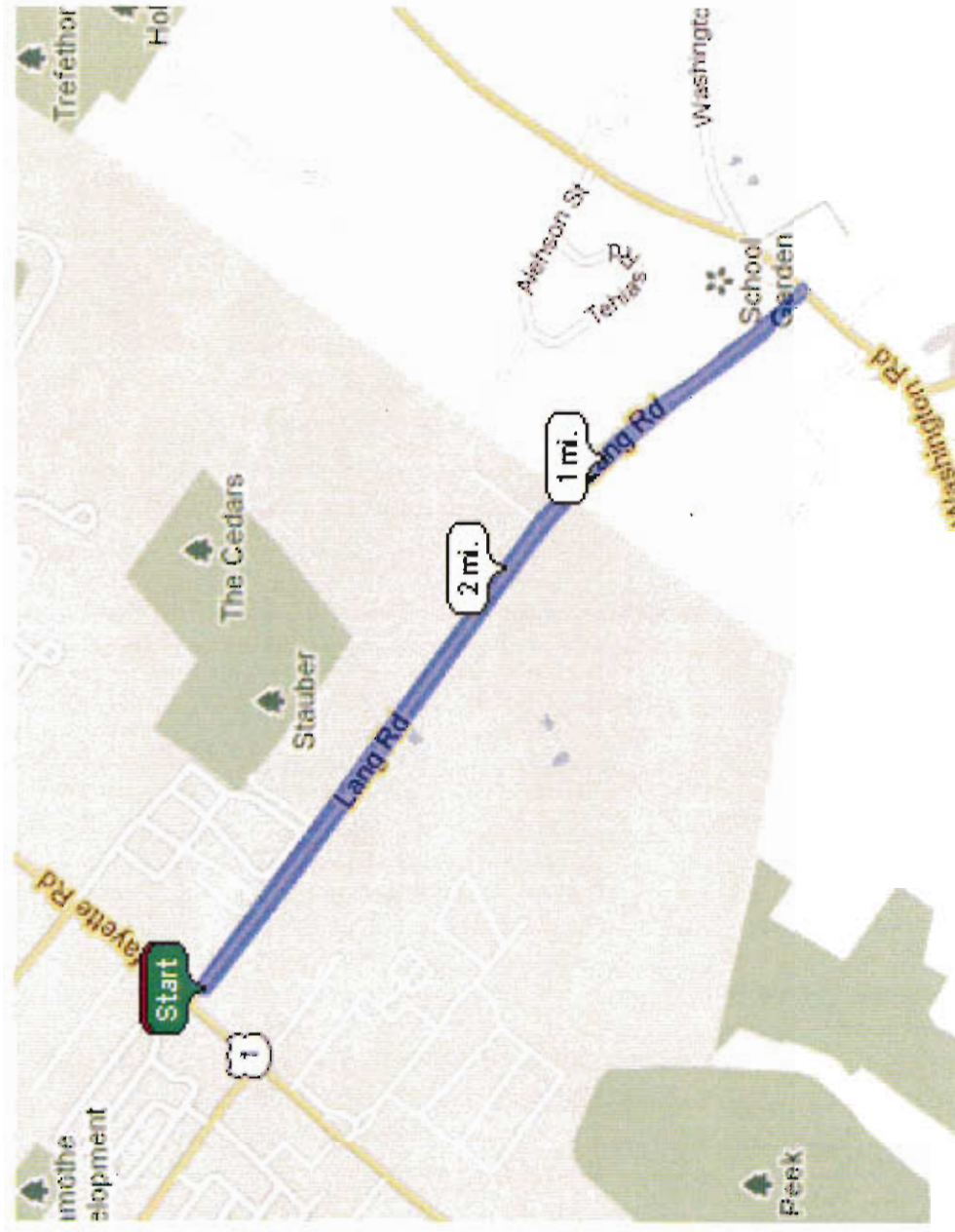
Respectfully Submitted,



Doug Bates  
President

Cc: Anne Sharpe via email

Veteran's Count SOS 5K – May 18, 2013




Race starts on Service Credit Union Property, 3003 Lafayette Road then exits onto Lang Road to Washington Street, Rye where it turns around and reverses course back to exit onto Service Credit Union property off Lang Road.



**CITY OF PORTSMOUTH  
PORTSMOUTH, NH 03801**

**Office of the City Manager**

**Date:** March 28, 2013  
**To:** Honorable Mayor Eric Spear and City Council Members  
**From:** John P. Bohenko, City Manager   
**Re:** City Manager's Comments on April 1, 2013 City Council Agenda

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***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.

.....

***Work Session:***

6:30 p.m.

1. **Zoning Ordinance Amendment Re: Neighborhood Commercial Uses.** As you will recall, at the March 18<sup>th</sup> City Council meeting, the Council scheduled a work session for Monday evening at 6:30 p.m., regarding the zoning ordinance amendment for neighborhood commercial uses. **Attached is a memorandum from Rick Taintor, Planning Director, as well as a copy of the Ordinance to be discussed.** The Planning Director will be making a presentation on Monday evening as well as answer any questions regarding this proposed zoning ordinance amendment.

***Presentation:***

1. **Presentation from Ben Anderson, Executive Director of Prescott Park Arts Festival Re: Update on New Pavilion Building in Prescott Park.** On Monday evening, Ben Anderson, Executive Director of the Prescott Park Arts Festival (PPAF), will make a presentation to the City Council regarding the status of the new Pavilion Building in Prescott Park and other elements of their capital campaign. As you are aware, this project is a public-private partnership between the City of Portsmouth and PPAF, which the City Council approved last year. The project will replace existing bathrooms and concession stand with new facilities.

2. **Memorial Bridge Site Improvements in and around Scott Avenue and Daniel Street including Memorial Park.** As requested by the City Council, on Monday evening, there will be a presentation by City staff and Jim and Laurie Teetzel, owners of Wilcox Industries, regarding the updated site plans for the Scott Avenue/Daniel Street improvements and for the proposed memorial to veterans in Memorial Park.

As you are aware, the replacement of the Memorial Bridge includes improvements to the Scott Avenue/Daniel Street area and to Memorial Park. Over the past several months, City staff has worked with NH DOT and the bridge contractor to refine the site plans for this area. You may also recall that, in conjunction with improvements to the bridge approach, Mr. and Mrs. Teetzel provided a \$25,000 donation for creation of a memorial to American Veterans at Memorial Park.

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

1. **First Reading of Proposed Bonding Resolution:**

- 1.1 **First Reading of Proposed Bonding Resolution Authorizing the Borrowing of up to Three Million Three Hundred Thousand Dollars (\$3,300,000) through the Issue of Bonds and Notes for Additional Costs for the Construction, Expansion and Renovation of the Portsmouth Middle School.** As you will recall on Monday, March 18<sup>th</sup>, the City Council requested that the City Manager bring back a bonding resolution authorizing an additional \$3.3 million dollars for the construction, expansion and renovation of the Portsmouth Middle School. **Attached is a copy of that Resolution.** Upon passage of first reading the City Council would have to establish a public hearing and adoption for the April 15<sup>th</sup> City Council meeting. I have also **attached a copy of the amortization schedule** that I provided to you at the last meeting. Further, I have attached a **correspondence from Steve Bartlett, School Business Administrator**, indicating that the State has confirmed the City's reimbursement if additional funds are bonded up to a maximum of \$40,855,000. Therefore, this means the City will receive the same reimbursement for principle as it has with the previous appropriation of \$37.5 million dollars.

*Move to approve first reading on a \$3.3 Million Dollar Bond Authorization and schedule a public hearing and adoption at the April 15, 2013 City Council meeting at 7:00 p.m. Action on this matter should take place under Section IX of the Agenda.*

2. **Public Hearings/Second Readings of Proposed Resolution and Ordinance Amendments:**

2.1 **Public Hearing/Second Reading of Proposed Amendments to Chapter 10 - Zoning Ordinance - Signs.** As a result of the March 18th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the **attached proposed amendments to Chapter 10 - Zoning Ordinance relating to sign regulations.**

The existing Zoning Ordinance divides the City into six sign districts. Each of the City's zoning districts fall into one of these six sign districts. Presently, Sign District 3 includes the Business, Central Business A and Central Business B Zoning Districts. The scale of development in the Business District is significantly different from the Central Business Districts. For this reason, the recommended amendment would move the Business Zoning District to Sign District 4, grouping it with the Office Research Zoning District.

The next proposed amendment modifies the standards for wall signs and parapet signs to allow expansion of their use in more situations than at present. The existing Ordinance restricts wall or parapet signs to ground-floor uses and single-use buildings. The amendment would allow one such sign above the first floor as long as it is related to the use.

The existing Ordinance sets standards for maximum aggregate sign area based on both lot frontage and building frontage. The proposed amendment deletes the standard for maximum aggregate sign area based on lot frontage and also excludes permitted freestanding signs from the computation of aggregate sign area.

The existing Ordinance controls the size of projecting signs through a combination of a maximum allowed sign area and allowed projection from the building over the sidewalk. The proposed 12 sq. ft. maximum sign area for projecting signs is larger than all but a few signs in the Central Business Districts, while the maximum allowed projection can be overly restrictive on certain streets with narrow sidewalks. By reducing the maximum sign area to a level consistent with the character of the downtown and relaxing the maximum allowed projection, the Ordinance can provide more flexibility for businesses to design signs that meet the City's objective of maintaining appropriately scaled signs while being appropriate to their specific location.

Finally, the proposed amendment adds language to clarify how to determine the maximum area allowed for wall signs located on buildings with more than one facade.

At its meeting on January 24, 2013, the Planning Board voted unanimously to recommend that the Zoning Ordinance be amended as presented.

Prior to the public hearing, David Allen, Deputy City Manager and Rick Taintor, Planning Director, will be making a presentation regarding this matter.

*I would recommend the City Council move to pass second reading and schedule a third and final reading on the proposed Ordinance, at the April 15, 2013 City Council meeting. Action on this matter should take place under Section IX of the Agenda.*

2.2 **Public Hearing/Second Reading of Proposed Amendments to Chapter 10 - Zoning Ordinance, Article 5 – Dimensional and Intensity Standards and Article 15 – Definitions.** As a result of the March 18th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the [attached proposed amendments Chapter 10 - Zoning Ordinance, Article 5 – Dimensional and Intensity Standards and Article 15 - Definitions.](#)

The first change is related to building coverage and yards. The amendment would exempt small ground-mounted mechanical equipment from calculations of building coverage and yards. Many dwellings throughout the City are already out of compliance with current building coverage limits. The proposed amendment would exempt owners of such properties from having to obtain variances for the installation of a ground-mounted HVAC unit or generator in a side or rear yard and would relieve all property owners of the burden of computing existing building coverage whenever such equipment is proposed.

The second change is related to projections into required yards. The amendment would add a new section allowing specified building elements (balconies, bay windows, decks, steps, roof eaves, fire escapes, etc.) to project into required yards. This change is proposed to promote architectural variety by accommodating limited projections of some building elements into yards where the main walls of a building comply with the yard requirements of the zoning district.

At its meeting on January 24, 2013, the Planning Board voted unanimously to recommend that the Zoning Ordinance be amended as presented.

Prior to the public hearing, David Allen, Deputy City Manager and Rick Taintor, Planning Director, will be making a presentation regarding this matter.

*I would recommend the City Council move to pass second reading and schedule a third and final reading on the proposed Ordinance, at the April 15, 2013 City Council meeting. Action on this matter should take place under Section IX of the Agenda.*

- 2.3 **Public Hearing/Second Reading of Proposed Amendments to Chapter 10 - Zoning Ordinance – Article 6 – Overlay Districts, Section 10.630 Historic District 10.635.20 - Work Sessions.** As a result of the March 18th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the attached proposed amendments to Chapter 10 – Zoning Ordinance – Article 6 – Overlay Districts, Section 10.630 Historic District 10.635.20 – Work Sessions.

Currently, there is no requirement for an applicant to provide the Planning Department and Historic District Commission with any conceptual planning or design prior to a requested work session. The proposed zoning amendment would specify that a conceptual site plan and design information must be submitted with a request for a work session with the HDC. This proposed change is intended to give Commissioners and staff an opportunity to review concept plans in preparation for work sessions.

At its meeting on January 24, 2013, the Planning Board voted unanimously to recommend that the Zoning Ordinance be amended as set forth.

Prior to the public hearing, David Allen, Deputy City Manager, will be making a presentation regarding this matter.

*I would recommend the City Council move to pass second reading and schedule a third and final reading on the proposed Ordinance, at the April 15, 2013 City Council meeting. Action on this matter should take place under Section IX of the Agenda.*

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

1. **Acceptance of Donation to Recreation Department.** The City of Portsmouth Recreation Department has received the following donation in memory of Thomas Leary:

➤ Kenneth C. and Priscilla A. Bowlen                      \$25.00

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

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

1. **Request for a Parking Lot Agreement Re: Middle Street Baptist Church.** In an effort to ease parking constraints from the Middle School project, the Middle Street Baptist Church has agreed to allow the City to utilize 17 parking spaces in their parking lot for use by employees of the Portsmouth Library for another year. Use of the lot will be limited to Monday through Friday, 8:30 a.m. to 9:30 p.m. each day. **The attached agreement** will be for one year.

In exchange for use of the spaces, the City will pay the Church \$1,000 per year and manage snow plowing and removal for the lot. As you know, the City has designated the subject parking spaces for permit parking and installed a key-locked security gate in the existing chain link fence to allow access to the Library. Enforcement of the 17 spaces is conducted by Parking Enforcement in conjunction with Library staff, on an as-needed basis.

In the event that Church services (funeral, weddings, etc.) preclude the use of the spaces, 24-hour advance notice will be given by the Church to the Library Director.

*I would recommend the City Council move to approve a one-year License Agreement between the Middle Street Baptist Church and the City of Portsmouth, as presented, and further, authorize the City Manager to execute this Agreement.*

2. **Request from Memorial Bridge Illumination Committee Re: Ratification of Loan Request.** As you are aware, on March 19, 2013, I met with the members of the Memorial Bridge Illumination Committee which is the volunteer group tasked with raising funds to light the new Memorial Bridge. You will recall that the City Council voted to act as the trustee for the funds raised for illumination in partnership with the Town of Kittery.

At the meeting, the Illumination Committee provided a progress report on their efforts to secure donations for illumination of the Memorial Bridge. The minimum cost to illuminate the bridge towers and the memorial plaque is \$150,000. To date, the group has raised pledges and cash in the amount of \$114,000. The **attached letter from Peter Somssich** outlines the status of the lighting project and the fundraising to date.

At the meeting, the NH DOT gave the Illumination Committee a deadline of March 29th to raise the \$150,000 for the basic illumination of the bridge. This is the latest possible date which allows NH DOT to request the necessary change order for the purchase of materials and labor to install the lighting and keep the project on schedule.

In order to meet the NH DOT deadline and to allow the Committee adequate time to raise the needed funds, the Illumination Committee has asked if the City of Portsmouth would consider an interim loan of \$36,000 to reach the \$150,000 budget needed for the DOT to issue the necessary change order.

I believe the illumination project is an opportunity to elevate the significance and appearance of the new bridge. With your concurrence, I recommend providing a short-term loan to the group using UDAG funds in an amount not to exceed \$36,000. **Attached is a copy of a draft Agreement.**

*I would recommend the City Council move to authorize the City Manager to enter into a Loan Agreement with the Memorial Bridge Illumination Committee, as presented.*

3. **Applications for Sidewalk Cafes Providing Alcohol Service.** As you are aware, in 2012, the City Council adopted City Council Policy 2012-02 titled “Policy Regarding Use of City Property for Sidewalk Café’s providing Alcohol Service”, a **copy of which is attached.** That policy allows Restaurants to apply for an Annual Service Agreement to occupy a defined portion of City sidewalk space for the purpose of creating a sidewalk café with the ability to serve alcohol. The policy outlines the criteria for both the application and the operations of the sidewalk café’s and calls for a 6 month term, typically running from mid April through mid October. The policy limits the number of sidewalk café’s in the City to six (6).

Last year five Area Service Agreements were issued. The establishments that were issued Agreements are as follows:

<b>Establishment</b>	<b>Location</b>	<b>Area</b>	<b>Fee</b>
State Street Saloon	268 State Street	340	\$3,400
Ri Ra Portsmouth	22 Market Square	447	\$4,470
Popovers	8 Congress St	723	\$7,230
District	103 Congress	467	\$4,670
Surf	99 Bow St	324	\$3,240

Four of the five establishments have submitted applications for the 2013 season. Those submitting applications at this time are Popovers, Ri Ra, State Street Saloon, and Surf. The District Restaurant has indicated that they will be submitting an application in the near future.

City staff representatives from Police, Fire, Public Works, Building Inspection, Health, and Code Enforcement have reviewed the applications of Popovers, Ri Ra, State Street Saloon, and Surf and found the applications complete and recommend issuance of the Area Service Agreements in accordance with City Council Policy 2012-02.

The Council will recall that the fee for the use of the public “Area” subject to the Area Service Agreement is \$10.00 per square foot, with a minimum season’s fee of \$2,000 and no pro-ration of the fee. The Agreements may be suspended at the sole discretion of the

City on an administrative basis and revoked in their entirety by vote of the City Council. Hours of operation are until 10:30 p.m. Monday through Saturday and until 10:00 p.m. on Sunday, with no smoking allowed in the “Area” at any time. Use of the “Area” may be precluded, modified or made subject to special conditions to accommodate municipal events. The sidewalk café “Area” will be separated from the public pedestrian space by black decorative metal fence.

- a) **Application for Sidewalk Café providing Alcohol Service from Popovers on the Square.** I am bringing forward for City Council action the **attached Area Service Agreement for Popovers on the Square for the 2013 season.** City staff has reviewed Popovers’ application and are recommending its approval as presented. Please note that the “Area” to be used by Popovers, along with a table-chair layout, is included as an **attachment to the Agreement.** The particulars of this application are as follows:

9 four-top tables  
1 two-top table  
38 chairs  
Area: 723 square feet  
Area Service Fee: \$7,230

*I would recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with Popovers on the Square for outdoor Alcohol Service on City land for the 2013 season subject to City Council Policy No. 2012-02 regarding use of City property for sidewalk cafés providing alcohol service.*

- b) **Application for Sidewalk Café providing Alcohol Service from Ri Ra.** I am bringing forward for City Council action the **attached Area Service Agreement for Ri Ra for the 2013 season.** City staff has reviewed Ri Ra’s application and are recommending its approval as presented. Please note that the “Area” to be used by Ri Ra, along with a table-chair layout, is included as an **attachment to the Agreement.** The particulars of this application are as follows:

5 four-top tables  
5 two-top tables  
30 chairs  
Area: 447 square feet  
Area Service Fee: \$4,470

*I would recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with Ri Ra for outdoor Alcohol Service on City land for the 2013 season subject to City Council Policy No. 2012-02 regarding use of City property for sidewalk cafés providing alcohol service.*



- c) **Application for Sidewalk Café providing Alcohol Service from State Street Saloon.** I am bringing forward for City Council action the **attached Area Service Agreement for State Street Saloon for the 2013 season.** City staff has reviewed State Street Saloon's application and are recommending its approval as presented. Please note that the "Area" to be used by State Street, along with a table-chair layout, is included as an **attachment to the Agreement.** The particulars of this application are as follows:

5 four-top tables  
20 chairs  
Area: 340 square feet  
Area Service Fee: \$3,400

*I would recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with State Street Saloon for outdoor Alcohol Service on City land for the 2013 season subject to City Council Policy No. 2012-02 regarding use of City property for sidewalk cafés providing alcohol service.*

- d) **Application for Sidewalk Café providing Alcohol Service from Surf.** I am bringing forward for City Council action the **attached Area Service Agreement for Surf for the 2013 season.** City staff has reviewed Surf's application and are recommending its approval as presented. Please note that the "Area" to be used by Surf, along with a table-chair layout, is included as an **attachment to the Agreement.** The particulars of this application are as follows:

2 four-top tables  
2 two-top tables  
12 chairs  
Area: 324 square feet  
Area Service Fee: \$3,240

*I would recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with Surf for outdoor Alcohol service on City land for the 2013 season subject to City Council Policy No. 2012-02 regarding use of City property for sidewalk cafés providing alcohol service.*

4. **Report Back Re: Request by Christopher McInnis to Rezone Parcels at 678 and 680 Maplewood Avenue from Single Residence B (SRB) to Business (B).** As you will recall, at the February 4, 2013 City Council meeting, the Council referred the **attached request** from Attorney Bernard Pelech, on behalf of Christopher McInnis, to rezone parcels at 678 and 680 Maplewood Avenue from Single Residence B (SRB) to Business (B), to the Planning Board for report back to the City Council. **Attached** is a **memorandum from Rick Taintor, Planning Director**, regarding this matter.

The two parcels total approximately 72,350 sq. ft. (1.66 acres) in area, and have approximately 134 feet of frontage on Maplewood Avenue. The larger parcel (adjacent to

I-95) is vacant, while the smaller parcel contains a dwelling. The land rises 15 to 20 feet in elevation from Maplewood Avenue to the utility easement, and then drops back down toward Central Avenue on the abutting parcel.

A similar request was considered by the Planning Board at its meeting on November 15, 2012. That request was to rezone the two parcels that are the subject of the current request as well as a portion of the abutting parcel at 261 Central Avenue. The issues that were raised at that time included impacts on the Myrtle Avenue residential neighborhood and traffic impacts on Maplewood Avenue. Following a public hearing, the Board voted to recommend that the City Council not rezone the land.

The Planning Director's memorandum outlines existing and proposed zoning, the concept plans and estimated rezoning impacts, and the surrounding zoning and land uses.

In summary, the parcels proposed for rezoning are at the existing boundary between the Business and Single Residence B zoning districts. Although residences are nearby on the north side of Maplewood Avenue and on the west side of Interstate 95, no parcel currently in residential use would be directly impacted by development on the subject site. Any new building on the site would be around 180 feet from the closest residence on Maplewood Avenue, about 360 feet from the closest house to the west (across I-95 on Edmond Road), and about 360 feet from the nearest existing dwelling on Myrtle Avenue. This development might be visible from up to three houses on the north side of Maplewood Avenue, and other commercial and residential properties along Maplewood Avenue would experience a marginal increase in traffic generated by the site.

The Planning Board held a public hearing on this request at its meeting on March 21, 2013. Thirteen residents (6 owners of property in the surrounding neighborhood and 7 residents in other areas of the City) expressed opposition to the rezoning proposal. In addition, two neighbors and three other City residents submitted correspondence opposing the rezoning.

Following the public hearing, the Planning Board voted unanimously to recommend that the City Council not vote to rezone the land as requested.

*I would recommend the City Council move to accept the Planning Board's recommendation that the City Council not vote to rezone the land as requested.*

5. **License Request for 103 Congress Street, The District Restaurant.** The District Restaurant seeks a license to allow a small portion of an awning to overhang a portion of the City property by approximately 3 square feet ([see attached letter from the Back Channel Canvas Shop describing the awning](#)). The HDC granted permission for the awning at its March 6, 2013 meeting. None of the awning supports will be mounted on City property. The Owner of the building from which The District Restaurant operates has given permission for the awning. City staff has reviewed the request and recommends an annual license.

*I would recommend the City Council move to authorize the City Manager to negotiate and enter into a license with The District Restaurant located at 103 Congress Street to allow an approximate 3 square foot overhang of its awning on City property.*

***Informational Items:***

1. **Events Listing.** For your information, **attached is a copy of the Events Listing** updated after the last City Council meeting on March 18, 2013. In addition, this now can be found on the City's website.
2. **Schedule for Budget Presentations – April 6, 2013.** For your information, **attached is the agenda for the FY14 Budget Work Session** on Saturday, April 6, 2013 from 9:00 a.m. to 3:00 p.m., in the Eileen Dondero Foley Council Chambers.

## PARKING LOT USAGE/MAINTENANCE AGREEMENT

Middle Street Baptist Church, 18 Court Street, Portsmouth, New Hampshire (hereinafter " Church"), and the City of Portsmouth a municipal corporation with an address of 1 Junkins Avenue, Portsmouth, New Hampshire, (hereinafter "City"), hereby enter this agreement with respect to the parking lot owned by the Church (Map 127, Lot 2) (hereinafter "the Lot") for the purposes and under the terms and conditions contained herein.

1. This agreement shall commence in effect on April 2, 2013 and continue in effect until April 1, 2014.
2. During the period in which this agreement is in effect the 17 parking spaces in the lot shown on the attached plan shall be available at the direction of the City for the purpose of allowing employees of the Portsmouth Library to park.
3. Parking under this agreement shall be limited from Monday through Friday of each week and from the hours of 8:30 a.m. to 9:30 p.m. each day. Except, however, that by prior written notice delivered to the Library Director not less than twenty-four (24) hours in advance, the Church may have use of the seventeen (17) spaces for specific Church events during these hours up to eight (8) times per calendar year. Such use of the spaces by the Church beyond the eight (8) times shall be at the discretion of the City.
4. The City shall post and maintain signage in a manner to be approved by the Church to designate the 17 spaces for library employee parking. The signs shall include information about the hours and days when such employees are permitted to use the spaces.
5. The City shall have the authority to provide regular and consistent enforcement of its rules and regulations governing the use of these parking spaces during the times stated to ensure that the parking spaces are only being used by authorized permit holders.
6. The City shall install a key-locked security gate in the existing chain link fence in a manner subject to the reasonable approval of the Church. Keys to the gate shall be provided to the Church and to the Library employees. The City shall remove the security gate upon termination of the agreement and restore the existing chain link fence to its original character.
7. The City shall plow snow, apply salt and sand, and remove snow as necessary from the Lot in accordance with its normal practices for City parking lots.
8. Except as described in this agreement all other the use of the lot shall be under the control of the Church.

9. The City agrees to indemnify and hold the Church harmless with respect to any and all claims for liability arising out of any use of the parking which is sanctioned, arranged, sponsored or conducted by the City, to the extent and under the terms and conditions under which the City itself is entitled to indemnification from the New Hampshire Local Government Center, Property and Liability Trust, under the terms of its member agreement as it may be in effect from time to time.
10. In exchange for the foregoing the City shall pay to Church the total annual compensation of \$1,000.00, which shall be due no later than July 31 of each year of the agreement.
11. This agreement may be terminated by the Church in the event that the City fails to maintain its obligations under it, after the City has been given written notice of such failure and a thirty (30) day period to cure it.

**For the City of Portsmouth**

**For Middle Street Baptist Church,  
Portsmouth, NH**

\_\_\_\_\_  
John P. Bohenko, City Manager

\_\_\_\_\_  
Taylor Moynihan, Chairman

Dated:\_\_\_\_\_

Dated:\_\_\_\_\_

Pursuant to vote of the City Council  
on \_\_\_\_\_

Pursuant to vote of the Middle Street Baptist  
Church Board of Trustees on  
\_\_\_\_\_



17 SPACES



## Illumination Committee of the Memorial Bridge Project

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(603) 436-5221  
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City of Portsmouth  
c/o John Bohenko, City Manager  
Portsmouth City Hall  
Portsmouth, NH

March 19, 2013

Dear John,

Thank you for allowing our Illumination Committee to meet with you and your staff as well as with representatives of NHDOT today at City Hall. As our committee reported to you, so far we have received a total of \$104,000 in pledges and cash for the Memorial Bridge Illumination Project. In addition, we have been promised a donation of ~\$10,000. From an electrical supplier as soon as the change order for the illumination installation infrastructure is signed. This donation would bring our total to \$114,000.

However, the NHDOT has requested that we provide them with a financial assurance of \$150,000. by March 29,2013 to allow for the timely purchasing and the scheduling of the needed work, so that the illumination project can go ahead.

While our committee is willing to immediately expedite the conversion of our pledges into cash in addition to intensifying our ongoing fundraising effort to reach our final goal of \$200,000., we are not confident that the \$150,000. goal can be reached by our committee by the March 29, 2013 deadline.

That is why we are requesting that the City of Portsmouth provide our committee a loan of \$36,000. to ensure that we reach this goal by March 29,2013. Our committee will then continue our fundraising effort to ensure that this loan is repaid.

The \$150,000. goal must be reached in order to ensure that the initially proposed work of the illumination project which includes a) the illumination of the memorial plaque and the bridge pier footings with white LEDs, and b) the illumination of the two bridge towers with color-changeable LEDs can be completed.

If we reach our final goal of \$200,000. the project can then add the optional illumination of the bridge center span with color-changeable LEDs as well.

We are very grateful to the City of Portsmouth for their help with this exciting project.

Respectfully,

Peter Somssich, Chair, Illumination Committee/ Memorial Bridge

March 27, 2013

Peter Somssich  
Memorial Bridge Illumination Committee  
34 Swett Avenue  
Portsmouth, NH 03801

**RE: Memorial Bridge Illumination Loan**

Dear Mr. Somssich,

Please accept this letter as the commitment from the City of Portsmouth to loan up to \$36,000.00 from the City's Urban Development Action Grant (UDAG) program to your Committee towards the short-term funding needs of the Memorial Bridge Illumination Committee ("Committee") as follows:

**PRELIMINARY**

1. It has been determined by the New Hampshire Department of Transportation that the sum of \$150,000.00 needs to be deposited into the Memorial Bridge Illumination Trust ("Trust") in order for the Bridge Illumination Project to proceed.
2. The Memorial Bridge Illumination Committee is committed to raising \$150,000 and depositing it in the Memorial Bridge Illumination Trust.
3. However, as of this date the Committee has obligations equal to only \$114,000.00.
4. The New Hampshire Department of Transportation requires a commitment of \$150,000.00 no later than April 1, 2013.

**AGREEMENT**

5. The Memorial Bridge Illumination Committee is committed to raise the required \$150,000.00 and deposit it into the Trust.
6. On an interim basis the City of Portsmouth is willing to advance up to \$36,000.00 into the Trust in the event that such funds would represent the final dollars necessary to make the \$150,000.00 limit.



7. The Memorial Bridge Illumination Committee agrees to repay the City of Portsmouth for any sum of money that it makes as an interim payment under the proceeding paragraph.
8. For the reasons stated above the City of Portsmouth agrees to pay such sum of money as necessary, up to the total amount of \$36,000.00, in order to assure that the Trust contains \$150,000.00 by April 1, 2013.

Please note, that if the Memorial Bridge Illumination Committee fails to deposit up to \$114,000.00 prior to April 1, 2013 the City shall have no obligation to make any payment into the Trust.

Please sign this letter where noted below and return it to this office to signify the agreement of the Committee with its content.

Sincerely,

John P. Bohenko  
City Manager

Pursuant to vote of the Portsmouth  
City Council on \_\_\_\_\_, 2013.

Agreed to this \_\_\_\_ day of \_\_\_\_\_, 2013.

**Memorial Bridge Illumination Committee**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CITY OF PORTSMOUTH**  
**CITY COUNCIL POLICY No. 2012-02**

**POLICY REGARDING USE OF CITY PROPERTY FOR SIDEWALK CAFE'S**  
**PROVIDING ALCOHOL SERVICE**

**WHEREAS**, the City Council allowed the pilot use of City property by two sidewalk cafe's providing alcohol service during the 2011 summer season; and

**WHEREAS**, the City Council recognizes the benefit to residents, businesses, visitors and the City's economic vitality of allowing sidewalk cafe's with alcohol service on City property; and

**WHEREAS**, the City Council desires to balance said benefits of sidewalk cafe's with the safety, desires, and convenience of the public at large; and

**WHEREAS**, the City Council also recognizes that the City has the inherent authority to regulate any obstructions on City sidewalks and any intrusions into City sidewalks; and

**WHEREAS**, the City Council recognizes the authority of the State to regulate alcohol service.

**NOW THEREFORE**, the City Council adopts the following policies, criteria and standards with regard to the use of City property for sidewalk cafe's providing alcohol service:

1. Requests for use of City property for sidewalk cafe's providing alcohol service shall be made in writing to the City Council on an annual basis by May 1<sup>st</sup> with no expectation of continued year-to-year use of the sidewalk area on a continuing basis. The City Council shall allow no more than six (6) sidewalk cafe's with alcohol service in any season.
2. Such requests shall include a dimensioned site plan of the existing conditions, including a depiction of public infrastructure such as curb lines, light poles, bike racks, street trees, tree grates, manhole covers, meters, licensed A-frame signs, adjacent on-street parking and loading zones, adjacent accessible sidewalk curb cuts and the like. Such requests shall also include a dimensioned site plan depicting the proposed table/chair layout plan for the sidewalk café, dimensioned routes of travel within the sidewalk café area and on the adjoining public sidewalk, as well as detail sheets for the proposed enclosure system, tables, chairs, lighting, trash receptacles, and the like.
3. The terms and conditions of any such requests that are approved by the City Council in any given year shall be described in an annual Area Service Agreement, which includes a clear depiction of the area approved for sidewalk café use, with said Area Service Agreement to be signed by the City Manager and the party or parties making the request.
4. The term of the Area Service Agreement should be for no more than six (6) months and shall typically run mid-April thru mid-October.
5. Area Service Agreements shall not be assignable to other parties.

6. Use of the Area subject to the Area Service Agreement (the "Area") may be precluded, modified or made subject to any such terms and conditions as may be determined by the City in order to accommodate special municipal events.
7. A ten dollar (\$10.00) per square foot fee will be charged for the Area subject to the Area Service Agreement and the fee shall be for the entire 6 month season with no proration of the fee. The minimum fee for the season shall be \$2,000 even if the size of the Area subject to the Agreement is less than 200 square feet. The fee shall be due and payable to the City of Portsmouth prior to authorization to use the Area.
8. The Area specified for sidewalk café use in the Area Service Agreement shall be restored upon termination of the Area Service Agreement at season's end. Specifically, at season's end, the enclosure system, tables, chairs and all other materials in their entirety shall be removed from the City-owned area with the area left in an unobstructed, undamaged, clean and sanitary condition at no cost to the City.
9. Sidewalk cafés on City property shall indemnify and hold harmless the City of Portsmouth and shall maintain and provide insurance of the types and amounts specified by the City's Legal Department.
10. Sidewalk cafe's shall not damage sidewalks, curbing, bike racks, street trees, light poles, trash containers, utilities or any other City amenities or infrastructure, or make same inaccessible for public use or maintenance purposes.
11. Sidewalk cafe's may utilize the Area for authorized purposes during their normal business hours, except that all tables within the Area shall be cleared of all food and alcoholic beverages by 10:30 p.m. Monday through Saturday and by 10:00 p.m. on Sunday with no alcohol served within the Area subsequent to one-half hour before the foregoing closure times.
12. Sidewalk café operators shall agree at all times to comply with all laws, rules and regulations of the NH State Liquor Commission and all other local, state and federal laws. Approval of the Area Service Agreement by the State Liquor Commission is required. Alcoholic beverage violations shall be self-reported to the State Liquor Commission.
13. Sidewalk cafe's shall only serve alcoholic beverages to patrons who are seated at a table and who are ordering a substantial meal with service at tables conducted by wait staff only.
14. Sidewalk café operators will agree that they shall be solely responsible for compliance with the Americans with Disabilities Act.
15. The Area Service Agreement may be suspended at the sole discretion of the City on an administrative basis.
16. The Area Service Agreement may be revoked in its entirety, excepting for indemnity provisions, by the City by vote of the City Council.

17. Sidewalk cafe's with alcohol service should meet the following site design standards:

- Be separated from the public pedestrian space on the adjacent municipal sidewalk by an enclosure system consisting of heavy duty black decorative metal materials or equivalent as approved by the City Manager or his designee; special attention shall be paid to the method used to support the enclosure system in order to avoid damage to public property and insure public safety; the minimum height of the enclosure system shall be 30 inches and the maximum height shall be 36 inches.
- Sidewalk cafe's shall have no audio or visual or entertainment of any type located outside, and no visual entertainment shall be situated on the inside of the building in such a manner that it is directed to patrons in the sidewalk café.
- Sidewalk café seating shall be appurtenant and contiguous to a doorway accessing the main restaurant facility with service provided within the Area approved by the City, and the adjacent public pedestrian way shall not be crossed in order to provide alcohol or food service to additional areas.
- The internal dimensions and table/chair layout of the sidewalk café Area must allow for the passage of customers and wait staff and shall, in any event, meet ADA requirements.
- Sidewalk cafe's must provide a 5-foot radius clearance from the center of restaurant doorways (exterior) and doorways shall be kept clear at all times and a 5-foot minimum clear pedestrian path in front of restaurant doorways (exterior) shall be maintained at all times.
- The enclosure system, tables and chairs shall be movable/non-permanent.
- In Market Square the minimum width for the pedestrian way adjacent to the Area shall be 10-feet to 12-feet depending on site conditions. In all other areas where sidewalk cafe's are allowed the width for the pedestrian way adjacent to the Area shall, at a minimum, be 5-feet and, in any event, meet ADA, but will depend on site conditions. The pedestrian way in both instances shall allow for and provide clear unimpeded passage and access along the Area. The pedestrian way shall be located entirely on the public sidewalk and shall meet criteria that ensure pedestrian safety, usability and ADA compliance. In no event shall the Area interfere with accessibility or public safety, including safe lines of site for drivers.
- Canopies over the sidewalk café shall not be allowed unless they are completely supported by hardware on the building structure, that is, there shall be no vertical supports in or around the sidewalk café; table umbrellas without logos are allowed, but must not extend beyond the Area.
- No advertising of any kind shall be allowed in the Area.
- No improvements or personal property located within the Area shall extend on or over any municipal property located outside the Area.

18. Smoking should not be allowed in the sidewalk café Area.

19. Sidewalk café operators shall agree at all times to comply with all local laws, rules regulations and orders including, but not limited to the following:
- Health Department to approve outdoor food service operations and cleaning operations, with the Area to be left in a clean and sanitary condition at all times and garbage contained at all times in covered receptacles. The Area shall be left in clean condition at close of business with all garbage removed in its entirety from the Area, and any ground debris swept up, at close of daily business. No food prep, grilling, service windows, service counters, wait stations, or bus buckets shall be allowed in the Area and no condiments, paper products or the like shall be stored on the tables in the Area. Health Department shall review/approve that kitchen facilities are sufficient to support additional seating.
  - Inspections Department shall review/approve that bathroom facilities are sufficient to support outdoor sidewalk café seating. Permits shall be sought from the Inspections Department for any proposed Area lighting.
  - A Place of Assembly inspection and updated Place of Assembly permit shall be required from the Fire Department and the Fire Department shall review/approve means of egress.
20. No Area Service Agreement should be approved by the City except in conformance with the foregoing.
21. The above are policy guidelines that will serve as the basis for Area Service Agreements, which may include other terms and conditions deemed by the City to be in the public interest.
22. The number and location of sidewalk cafe's on City sidewalks shall be at the sole unfettered discretion of the City Council acting in the public interest and no entitlement is created by this policy for any party to have a sidewalk café at any location.

**This policy shall take effect upon the passage by the City Council.**

Adopted by the Portsmouth City Council on March 19, 2012.

---

Kelli L. Barnaby, CMC/CNHMC  
City Clerk

## AREA SERVICE AGREEMENT

The City of Portsmouth, a municipal corporation having a principal place of business of 1 Junkins Avenue, Portsmouth, County of Rockingham and State of New Hampshire 03801 (hereinafter "City") and Popovers on the Square (hereinafter "Licensee" or "Popovers"), having a principal place of business of 8 Congress Street, Portsmouth, County of Rockingham and State of New Hampshire 03801, hereby enter this Area Service Agreement ("Agreement") for the purposes set forth herein:

**PRELIMINARY:** Pursuant to the successful completion of the summer 2011 pilot sidewalk café program, and in accordance with the principles set forth more fully in the preamble to City Council Policy No. 2012-02 (the "Policy"), the City is desirous of permitting Licensee to utilize City property as part of its restaurant operation. This arrangement shall be strictly articulated according to the terms and provisions of this Agreement. No obligation or expectation shall inhere upon either party beyond the 2013 season.

It is the intent of this agreement to implement City Council Policy No. 2012-02, which is hereby incorporated by reference and in all respects made part of this agreement.

**SCOPE OF AUTHORITY GRANTED:** This Agreement shall convey from the City to Licensee a bare license to expand its restaurant activities onto City property, and no interest in the underlying real estate is conveyed through the terms of this Agreement.

### **TERMS AND CONDITIONS**

1. **Term of Agreement:** This Agreement shall commence on \_\_\_\_\_ **the date of its completed execution**, and, unless suspension or termination should occur sooner, all provisions of the Agreement, except those governing indemnification pursuant to the terms

set forth within this Agreement, shall expire at midnight on Sunday, **October \_\_, 2013.**

2. **Area Use:** The City authorizes Licensee to utilize a certain Area as shown on attached Exhibit A (hereinafter "Area") solely for the purpose of conducting outdoor restaurant operations, which may include the sale of alcoholic beverages in accordance with all applicable provisions of law and other provisions of this Agreement.
3. **Special Municipal Events:** Licensee's use of the Area subject to this Agreement may be precluded, modified or otherwise subject to any terms and conditions deemed necessary by the City to accommodate special municipal events. Such events may include but shall not be limited to: the Portsmouth Criterium, Children's Day, and Market Square Day. Any such adjustments to the use of the Area which may be mandated by the City shall be undertaken without cost to the City, and Licensee shall receive no refund or reimbursement for such adjustments.
4. **Area Service Fee:** Prior to commencing use of the Area, Licensee shall pay the City a single lump sum in the amount of \$7,230.00.
5. **Hours of Operation:** Licensee may utilize the Area for authorized purposes during its normal business hours, except that all tables within the Area shall be cleared of all food and alcoholic beverages by 10:30 p.m. Monday through Saturday and by 10:00 p.m. on Sunday. Further, no alcohol may be served within the Area less than thirty (30) minutes prior to the foregoing closure times.
6. **Conditions Governing Service of Alcoholic Beverages:** In addition to complying with all local, state, and federal laws, as well as rules and regulations of the NH State Liquor Commission, Licensee shall abide by the following conditions in conducting its service of alcoholic beverages in the Area:
  - a. Alcoholic beverages shall only be served to patrons who are seated at a table serviced by waitstaff within the Area, and such beverages must be consumed while seated within the Area;
  - b. Alcoholic beverages shall only be served to patrons ordering a substantial meal;
  - c. The service of alcoholic beverages at tables in the Area shall be conducted by waitstaff only, and no person in the Area shall be permitted to bring his or her own alcoholic beverage to a table;
  - d. Licensee shall bear full responsibility for ensuring that no alcoholic beverages are passed, taken, or otherwise transmitted to individuals on surrounding City property from within the Area.

7. **Smoking Prohibited:** Smoking shall not be permitted within the Area, and Licensee shall bear full responsibility for maintaining conformity with this provision.
8. **Certain Devices Prohibited:** No devices which produce an open flame or otherwise rely upon combustion in any form shall be permitted within the Area. Such prohibited devices shall include, but not be limited to: tabletop candles, outdoor torches, grills, and propane heaters.
9. **New Hampshire State Liquor Commission:**
  - a. Licensee's occupancy of the Area is conditioned upon receipt of prior approval of this Agreement by the State Liquor Commission.
  - b. Licensee further agrees to comply at all times with all laws, rules and regulations enforced by the New Hampshire State Liquor Commission.
  - c. Licensee shall also self-report any violations of such laws in writing within forty-eight (48) hours of the violation, rules and regulations to both the City and to the State Liquor Commission.
10. **Health Department:**
  - a. Licensee's occupancy of the Area is conditioned upon prior approval by the City Health Department of all outdoor food service and cleaning operations.
  - b. Licensee's occupancy of the Area is conditioned upon review and approval by the City Health Department that kitchen facilities are sufficient to support the demands of the additional seating to be placed in the Area.
  - c. The Area shall be maintained in a clean and sanitary condition at all times, and all garbage shall be contained at all times in covered receptacles.
  - d. At the close of business, the Area shall be left in a clean condition, and all ground debris shall be swept up and disposed of. In conducting such cleaning, Licensee acknowledges that washing debris materials into City storm drains or sewer lines is expressly forbidden.
  - e. Within the Area, no food preparation, grilling, service windows, service counters, wait stations, or bus buckets shall be permitted, and condiments, paper products and the like shall be removed from the Area and stored in a secure, indoor location at all times except when actually being used by seated customers.
  - f. By and through this Agreement, Licensee expressly agrees to comply with all additional laws, rules, regulations and orders which may issue from the City Health Department.



11. **Inspections Department:**
  - a. Licensee's occupancy of the Area is conditioned upon review by the City Inspections Department and approval that all bathroom facilities in the main restaurant facility of Licensee are sufficient to support the additional seating in the Area.
  - b. Licensee shall also receive permits from the City Inspections Department prior to installing any Area lighting.
  - c. By and through this Agreement, Licensee expressly agrees to comply with all additional laws, rules, regulations and orders of the Inspections Department.
  
12. **Fire Department:**
  - a. Licensee's occupancy of the Area is conditioned upon receipt from the City Fire Department of all necessary Place of Assembly inspections, permits, and modifications thereto.
  - b. Licensee's occupancy of the Area is further conditioned upon review and approval by the City Fire Department of the means of egress from the Area.
  - c. Licensee expressly agrees to strictly comply with all reasonable laws, rules, regulations and orders of the City Fire Department, including the foregoing.
  
13. **Audio/Visual Interference Prohibited:**
  - a. No live entertainment performances, film, television, music, speakers or other sound or entertainment amplification devices shall be placed within the Area for any purpose.
  - b. No such entertainment shall be situated or conducted inside the building in such a manner that it is transmitted, whether intentionally or incidentally, to patrons in the Area or to adjoining City property.
  
14. **Design of Area Improvements:**
  - a. Within the Area, every detail of the Licensee's improvements shall comply with the representations and depictions set forth in Exhibit A.
  - b. Moreover, every detail of the Licensee's improvements, including but not limited to lighting, access and egress, placement of structures and items of personal property, and every other detail of every kind is expressly subject to the prior approval and continuing review of the City. To this end, the Licensee expressly agrees to make every modification to structural items or items of personal property as may be required by the City.
  - c. Notwithstanding the foregoing, the following specific criteria shall apply to Area improvements:

- i. There shall be no canopy to protect the Area, unless it is completely supported by hardware on the building structure and uses no vertical supports in or around the sidewalk café;
- ii. Umbrellas may be placed over individual tables, though no such umbrellas may bear any advertising or logo;
- iii. No improvements or personal property located within the Area shall extend on or over any municipal property located outside of the Area; and
- iv. There shall be no advertising of any kind within the Area.

**15. Non-interference with City Infrastructure and Amenities:**

- a. Through this Agreement, the Licensee expressly agrees that its use of the Area shall not damage sidewalks, curbing, bike racks, street trees, light poles, trash containers, utilities or any other City amenities or infrastructure, and that its use shall not make the same inaccessible for public use or maintenance purposes.
- b. Licensee shall further bear full responsibility for providing sufficient staffing and supervision within the Area to maintain an orderly dining environment that does not impede or negatively impact passers-by or other users of City infrastructure or amenities.

**16. Compliance with Americans with Disabilities Act (“ADA”):** The Area as used by the Licensee shall comply fully with all provisions of the ADA. The Licensee shall be fully and solely liable for assuring that the Area, and the services and programs which the Licensee offers within the Area, are accessible to the handicapped, as defined by the ADA. Where structural modifications to the Area are necessary to achieve accessibility of services and programs offered by the Licensee, Licensee shall be solely liable for making such structural modifications, but before doing so shall obtain the consent of the City.

**17. Enclosure System and Area Use Specifications:**

- a. The Licensee’s use of the Area and installation of an enclosure system shall be subject to the conditions and layout depicted in Exhibit A and the application materials submitted to the City, and any alterations therefrom shall require the express written approval of the City.
- b. In all instances, Licensee shall be fully and solely liable for assuring that installation of the enclosure is conducted in conformity with the requirements set forth in City Council Policy No. 2012-02.

**18. Indemnification:** The Licensee agrees to indemnify and hold harmless the City and its officials, employees and agents from any demand, claim, cost or liability of any type arising from the existence or use of this Agreement. This indemnification provision shall survive the termination of the Agreement, whether termination is for cause or otherwise.

19. **Insurance:** At all times during the term of this Agreement, the Licensee shall maintain and provide the City general liability and alcohol service liability insurance coverage of not less than \$3,000,000.00 covering all activities conducted under this Agreement. The City shall be named as an additional insured on all policies. All such insurance shall be approved by the City Legal Department in advance of Licensee's occupancy of the Area, and shall meet all terms, conditions and specifications as the Legal Department may elect to set forth.
20. **Additional Costs:** The Licensee shall bear all costs of every kind associated in any way with the existence of the Area and its use by Licensee. There shall be no obligation on the City to expend any sums of money to accommodate the existence of this Agreement or Licensee's use of the Area.
21. **Suspension for Cause:** For cause, the City may suspend use of the Area by Licensee on an administrative basis without reimbursement of any portion of the Area Service fee for up to fourteen (14) consecutive days, at the sole discretion of the City. No public hearing shall be required prior to such administrative suspension.
22. **Revocation for Cause:** This Agreement may be revoked, in its entirety, by the City for cause by vote of the City Council. No public hearing shall be required prior to such revocation, and in the event of revocation, the Area Service fee shall not be returned to Licensee. Cause for revocation shall include, but not be limited to, the breach of any condition set forth within this Agreement, or the breach of any other City Council policy, ordinance, or pertinent local, state or federal statutory provision.
23. **Revocation without Cause:** This agreement may be revoked in its entirety by the City, without cause, by vote of the City Council. No public hearing shall be required prior to such revocation. In the event of revocation without cause, the Area Service Fee shall be returned on a pro rata basis.
24. **Restoration of Area:** Licensee shall immediately remove from the Area each and every structure and item of personal property, leaving the Area in an unobstructed, clean and sanitary condition, upon termination of this Agreement for any reason or the close of the outdoor restaurant season. In no case shall any items remain in the Area later than **October \_\_, 2013**. Licensee shall restore the Area to exactly match the depiction shown in the attached Exhibit A.

25. **Non-assignability:** This Agreement is not assignable, nor may the obligations of Licensee in any way be transferred, alienated, or delegated to any other party.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**City of Portsmouth**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
John P. Bohenko  
City Manager

Duly authorized by vote of City Council  
on \_\_\_\_\_, 2013.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**Popovers on the Square**

\_\_\_\_\_  
Witness

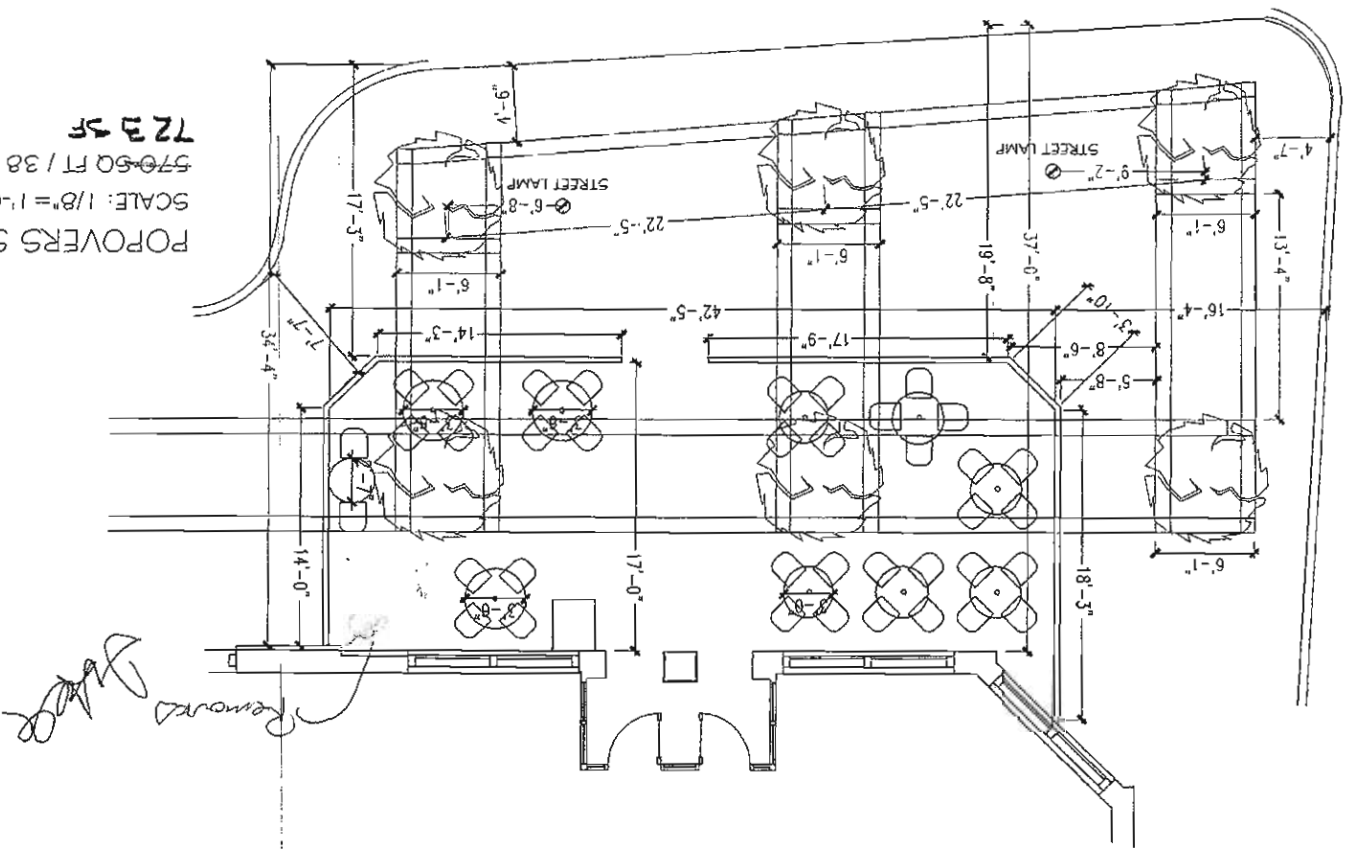
By: \_\_\_\_\_  
John Tinios  
President/Manager

EXTERIOR TABLE LAYOUT

POPOVERS CAFE & BAKERY  
PORTSMOUTH NH

TOBBY DESIGN GROUP  
27 Canal Street, Portsmouth NH  
Phone: 603.431.7621  
www.tobdydesign.com

POPOVERS SITE PLAN  
SCALE: 1/8" = 1'-0"  
57'-0" x 60 FT / 38 SEATS  
723 SF



## AREA SERVICE AGREEMENT

The City of Portsmouth, a municipal corporation having a principal place of business of 1 Junkins Avenue, Portsmouth, County of Rockingham and State of New Hampshire 03801 (hereinafter "City") and Rí Rá Irish Pub & Restaurant (hereinafter "Licensee" or "Rí Rá"), having a principal place of business of 22 Market Square, Portsmouth, County of Rockingham and State of New Hampshire 03801, hereby enter this Area Service Agreement ("Agreement") for the purposes set forth herein:

**PRELIMINARY:** Pursuant to the successful completion of the summer 2011 pilot sidewalk café program, and in accordance with the principles set forth more fully in the preamble to City Council Policy No. 2012-02 (the "Policy"), the City is desirous of permitting Licensee to utilize City property as part of its restaurant operation. This arrangement shall be strictly articulated according to the terms and provisions of this Agreement. No obligation or expectation shall inhere upon either party beyond the 2013 season.

It is the intent of this agreement to implement City Council Policy No. 2012-02, which is hereby incorporated by reference and in all respects made part of this agreement.

**SCOPE OF AUTHORITY GRANTED:** This Agreement shall convey from the City to Licensee a bare license to expand its restaurant activities onto City property, and no interest in the underlying real estate is conveyed through the terms of this Agreement.

### **TERMS AND CONDITIONS**

1. **Term of Agreement:** This Agreement shall commence on \_\_\_\_\_  
**the date of its completed execution**, and, unless suspension or termination should occur sooner, all provisions of the Agreement, except

those governing indemnification pursuant to the terms set forth within this Agreement, shall expire at midnight on **Sunday, October \_\_\_\_\_, 2013.**

2. **Area Use:** The City authorizes Licensee to utilize a certain Area as shown on attached Exhibit A (hereinafter "Area") solely for the purpose of conducting outdoor restaurant operations, which may include the sale of alcoholic beverages in accordance with all applicable provisions of law and other provisions of this Agreement.
3. **Special Municipal Events:** Licensee's use of the Area subject to this Agreement may be precluded, modified or otherwise subject to any terms and conditions deemed necessary by the City to accommodate special municipal events. Such events may include but shall not be limited to: the Portsmouth Criterium, Children's Day, and Market Square Day. Any such adjustments to the use of the Area which may be mandated by the City shall be undertaken without cost to the City, and Licensee shall receive no refund or reimbursement for such adjustments.
4. **Area Service Fee:** Prior to commencing use of the Area, Licensee shall pay the City a single lump sum in the amount of \$4,470.00.
5. **Hours of Operation:** Licensee may utilize the Area for authorized purposes during its normal business hours, except that all tables within the Area shall be cleared of all food and alcoholic beverages by 10:30 p.m. Monday through Saturday and by 10:00 p.m. on Sunday. Further, no alcohol may be served within the Area less than thirty (30) minutes prior to the foregoing closure times.
6. **Conditions Governing Service of Alcoholic Beverages:** In addition to complying with all local, state, and federal laws, as well as rules and regulations of the NH State Liquor Commission, Licensee shall abide by the following conditions in conducting its service of alcoholic beverages in the Area:
  - a. Alcoholic beverages shall only be served to patrons who are seated at a table serviced by waitstaff within the Area, and such beverages must be consumed while seated within the Area;
  - b. Alcoholic beverages shall only be served to patrons ordering a substantial meal;
  - c. The service of alcoholic beverages at tables in the Area shall be conducted by waitstaff only, and no person in the Area shall be permitted to bring his or her own alcoholic beverage to a table;
  - d. Licensee shall bear full responsibility for ensuring that no alcoholic beverages are passed, taken, or otherwise transmitted to individuals on surrounding City property from within the Area.

7. **Smoking Prohibited:** Smoking shall not be permitted within the Area, and Licensee shall bear full responsibility for maintaining conformity with this provision.
8. **Certain Devices Prohibited:** No devices which produce an open flame or otherwise rely upon combustion in any form shall be permitted within the Area. Such prohibited devices shall include, but not be limited to: tabletop candles, outdoor torches, grills, and propane heaters.
9. **New Hampshire State Liquor Commission:**
  - a. Licensee's occupancy of the Area is conditioned upon receipt of prior approval of this Agreement by the State Liquor Commission.
  - b. Licensee further agrees to comply at all times with all laws, rules and regulations enforced by the New Hampshire State Liquor Commission.
  - c. Licensee shall also self-report any violations of such laws in writing within forty-eight (48) hours of the violation, rules and regulations to both the City and to the State Liquor Commission.
10. **Health Department:**
  - a. Licensee's occupancy of the Area is conditioned upon prior approval by the City Health Department of all outdoor food service and cleaning operations.
  - b. Licensee's occupancy of the Area is conditioned upon review and approval by the City Health Department that kitchen facilities are sufficient to support the demands of the additional seating to be placed in the Area.
  - c. The Area shall be maintained in a clean and sanitary condition at all times, and all garbage shall be contained at all times in covered receptacles.
  - d. At the close of business, the Area shall be left in a clean condition, and all ground debris shall be swept up and disposed of. In conducting such cleaning, Licensee acknowledges that washing debris materials into City storm drains or sewer lines is expressly forbidden.
  - e. Within the Area, no food preparation, grilling, service windows, service counters, wait stations, or bus buckets shall be permitted, and condiments, paper products and the like shall be removed from the Area and stored in a secure, indoor location at all times except when actually being used by seated customers.
  - f. By and through this Agreement, Licensee expressly agrees to comply with all additional laws, rules, regulations and orders which may issue from the City Health Department.



11. **Inspections Department:**
  - a. Licensee's occupancy of the Area is conditioned upon review by the City Inspections Department and approval that all bathroom facilities in the main restaurant facility of Licensee are sufficient to support the additional seating in the Area.
  - b. Licensee shall also receive permits from the City Inspections Department prior to installing any Area lighting.
  - c. By and through this Agreement, Licensee expressly agrees to comply with all additional laws, rules, regulations and orders of the Inspections Department.
  
12. **Fire Department:**
  - a. Licensee's occupancy of the Area is conditioned upon receipt from the City Fire Department of all necessary Place of Assembly inspections, permits, and modifications thereto.
  - b. Licensee's occupancy of the Area is further conditioned upon review and approval by the City Fire Department of the means of egress from the Area.
  - c. Licensee expressly agrees to strictly comply with all reasonable laws, rules, regulations and orders of the City Fire Department, including the foregoing.
  
13. **Audio/Visual Interference Prohibited:**
  - a. No live entertainment performances, film, television, music, speakers or other sound or entertainment amplification devices shall be placed within the Area for any purpose.
  - b. No such entertainment shall be situated or conducted inside the building in such a manner that it is transmitted, whether intentionally or incidentally, to patrons in the Area or to adjoining City property.
  
14. **Design of Area Improvements:**
  - a. Within the Area, every detail of the Licensee's improvements shall comply with the representations and depictions set forth in Exhibit A.
  - b. Moreover, every detail of the Licensee's improvements, including but not limited to lighting, access and egress, placement of structures and items of personal property, and every other detail of every kind is expressly subject to the prior approval and continuing review of the City. To this end, the Licensee expressly agrees to make every modification to structural items or items of personal property as may be required by the City.
  - c. Notwithstanding the foregoing, the following specific criteria shall apply to Area improvements:

- i. There shall be no canopy to protect the Area, unless it is completely supported by hardware on the building structure and uses no vertical supports in or around the sidewalk café;
- ii. Umbrellas may be placed over individual tables, though no such umbrellas may bear any advertising or logo;
- iii. No improvements or personal property located within the Area shall extend on or over any municipal property located outside of the Area; and
- iv. There shall be no advertising of any kind within the Area.

**15. Non-interference with City Infrastructure and Amenities:**

- a. Through this Agreement, the Licensee expressly agrees that its use of the Area shall not damage sidewalks, curbing, bike racks, street trees, light poles, trash containers, utilities or any other City amenities or infrastructure, and that its use shall not make the same inaccessible for public use or maintenance purposes.
- b. Licensee shall further bear full responsibility for providing sufficient staffing and supervision within the Area to maintain an orderly dining environment that does not impede or negatively impact passers-by or other users of City infrastructure or amenities.

**16. Compliance with Americans with Disabilities Act (“ADA”):** The Area as used by the Licensee shall comply fully with all provisions of the ADA. The Licensee shall be fully and solely liable for assuring that the Area, and the services and programs which the Licensee offers within the Area, are accessible to the handicapped, as defined by the ADA. Where structural modifications to the Area are necessary to achieve accessibility of services and programs offered by the Licensee, Licensee shall be solely liable for making such structural modifications, but before doing so shall obtain the consent of the City.

**17. Enclosure System and Area Use Specifications:**

- a. The Licensee’s use of the Area and installation of an enclosure system shall be subject to the conditions and layout depicted in Exhibit A and the application materials submitted to the City, and any alterations therefrom shall require the express written approval of the City.
- b. In all instances, Licensee shall be fully and solely liable for assuring that installation of the enclosure is conducted in conformity with the requirements set forth in City Council Policy No. 2012-02.

**18. Indemnification:** The Licensee agrees to indemnify and hold harmless the City and its officials, employees and agents from any demand, claim, cost or liability of any type arising from the existence or use of this Agreement. This indemnification provision shall survive the termination of the Agreement, whether termination is for cause or otherwise.

19. **Insurance:** At all times during the term of this Agreement, the Licensee shall maintain and provide the City general liability and alcohol service liability insurance coverage of not less than \$3,000,000.00 covering all activities conducted under this Agreement. The City shall be named as an additional insured on all policies. All such insurance shall be approved by the City Legal Department in advance of Licensee's occupancy of the Area, and shall meet all terms, conditions and specifications as the Legal Department may elect to set forth.
20. **Additional Costs:** The Licensee shall bear all costs of every kind associated in any way with the existence of the Area and its use by Licensee. There shall be no obligation on the City to expend any sums of money to accommodate the existence of this Agreement or Licensee's use of the Area.
21. **Suspension for Cause:** For cause, the City may suspend use of the Area by Licensee on an administrative basis without reimbursement of any portion of the Area Service fee for up to fourteen (14) consecutive days, at the sole discretion of the City. No public hearing shall be required prior to such administrative suspension.
22. **Revocation for Cause:** This Agreement may be revoked, in its entirety, by the City for cause by vote of the City Council. No public hearing shall be required prior to such revocation, and in the event of revocation, the Area Service fee shall not be returned to Licensee. Cause for revocation shall include, but not be limited to, the breach of any condition set forth within this Agreement, or the breach of any other City Council policy, ordinance, or pertinent local, state or federal statutory provision.
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25. **Non-assignability:** This Agreement is not assignable, nor may the obligations of Licensee in any way be transferred, alienated, or delegated to any other party.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**City of Portsmouth**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
John P. Bohenko, City Manager

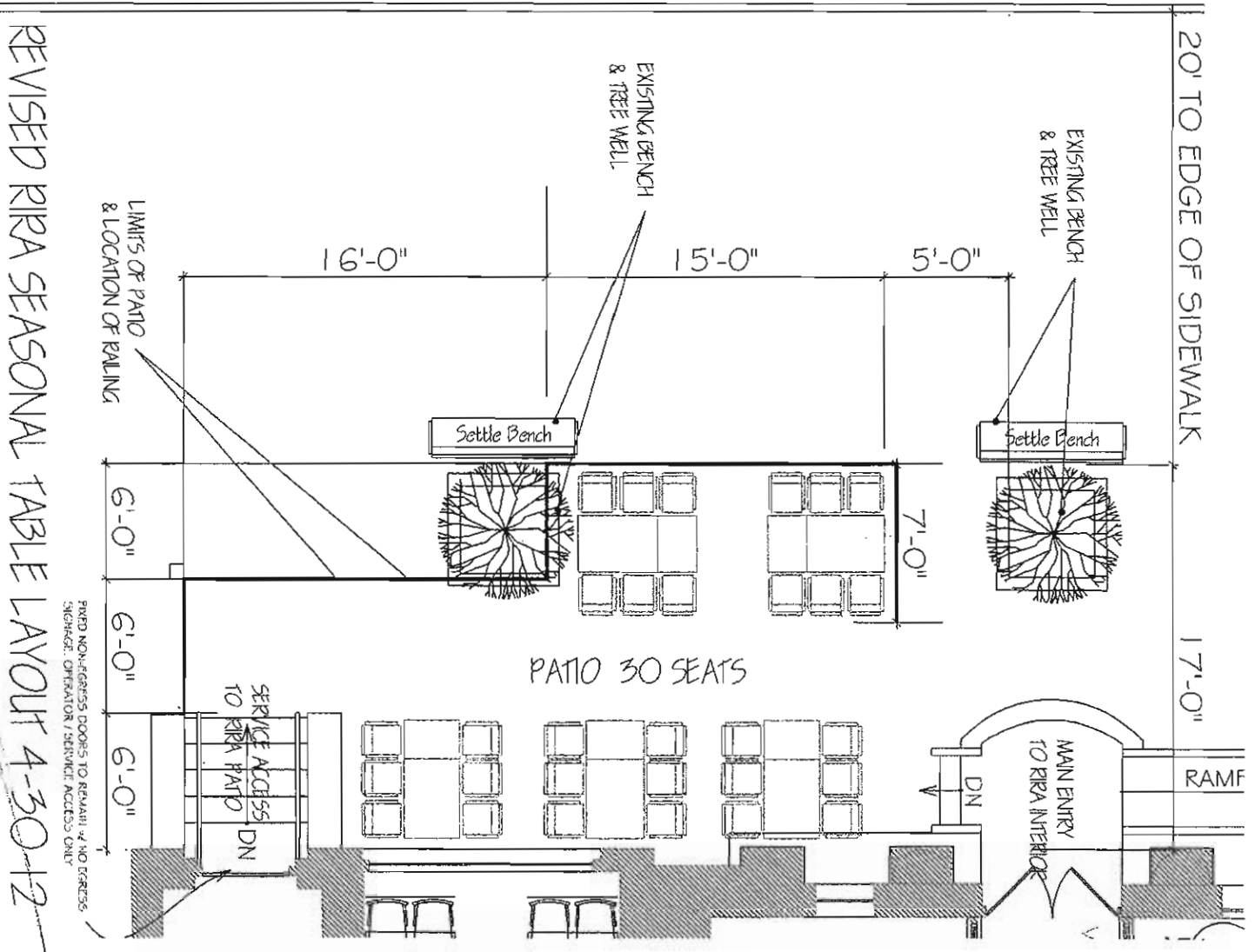
Duly authorized by vote of City Council  
on \_\_\_\_\_, 2013.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**Rí Rá Irish Pub & Restaurant**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
David Nyhan  
General Manager



REVISED RIPA SEASONAL TABLE LAYOUT 4-30-12

FOR 3-26-13

*David M. DeGroot*

## **AREA SERVICE AGREEMENT**

The City of Portsmouth, a municipal corporation having a principal place of business of 1 Junkins Avenue, Portsmouth, County of Rockingham and State of New Hampshire 03801 (hereinafter "City") and Roger's Café, Inc. d/b/a State Street Saloon (hereinafter "Licensee" or "State Street Saloon"), having a principal place of business of 268 State Street, Portsmouth County of Rockingham and State of New Hampshire 03801, hereby enter this Area Service Agreement ("Agreement") for the purposes set forth herein:

**PRELIMINARY:** Pursuant to the successful completion of the summer 2011 pilot sidewalk café program, and in accordance with the principles set forth more fully in the preamble to City Council Policy No. 2012-02 (the "Policy"), the City is desirous of permitting Licensee to utilize City property as part of its restaurant operation. This arrangement shall be strictly articulated according to the terms and provisions of this Agreement. No obligation or expectation shall inhere upon either party beyond the 2013 season.

It is the intent of this agreement to implement City Council Policy No. 2012-02, which is hereby incorporated by reference and in all respects made part of this agreement.

**SCOPE OF AUTHORITY GRANTED:** This Agreement shall convey from the City to Licensee a bare license to expand its restaurant activities onto City property, and no interest in the underlying real estate is conveyed through the terms of this Agreement.

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1. **Term of Agreement:** This Agreement shall commence on \_\_\_\_\_  
**the date of its completed execution**, and, unless suspension or

termination should occur sooner, all provisions of the Agreement, except those governing indemnification pursuant to the terms set forth within this Agreement, shall expire at midnight on **Sunday, October \_\_\_\_\_, 2013.**

2. **Area Use:** The City authorizes Licensee to utilize a certain Area as shown on attached Exhibit A (hereinafter "Area") solely for the purpose of conducting outdoor restaurant operations, which may include the sale of alcoholic beverages in accordance with all applicable provisions of law and other provisions of this Agreement.
3. **Special Municipal Events:** Licensee's use of the Area subject to this Agreement may be precluded, modified or otherwise subject to any terms and conditions deemed necessary by the City to accommodate special municipal events. Such events may include but shall not be limited to: the Portsmouth Criterium, Children's Day, and Market Square Day. Any such adjustments to the use of the Area which may be mandated by the City shall be undertaken without cost to the City, and Licensee shall receive no refund or reimbursement for such adjustments.
4. **Area Service Fee:** Prior to commencing use of the Area, Licensee shall pay the City a single lump sum in the amount of \$3,400.00.
5. **Hours of Operation:** Licensee may utilize the Area for authorized purposes during its normal business hours, except that all tables within the Area shall be cleared of all food and alcoholic beverages by 10:30 p.m. Monday through Saturday and by 10:00 p.m. on Sunday. Further, no alcohol may be served within the Area less than thirty (30) minutes prior to the foregoing closure times.
6. **Conditions Governing Service of Alcoholic Beverages:** In addition to complying with all local, state, and federal laws, as well as rules and regulations of the NH State Liquor Commission, Licensee shall abide by the following conditions in conducting its service of alcoholic beverages in the Area:
  - a. Alcoholic beverages shall only be served to patrons who are seated at a table serviced by waitstaff within the Area, and such beverages must be consumed while seated within the Area;
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  - c. The service of alcoholic beverages at tables in the Area shall be conducted by waitstaff only, and no person in the Area shall be permitted to bring his or her own alcoholic beverage to a table;
  - d. Licensee shall bear full responsibility for ensuring that no alcoholic beverages are passed, taken, or otherwise transmitted to individuals on surrounding City property from within the Area.

7. **Smoking Prohibited:** Smoking shall not be permitted within the Area, and Licensee shall bear full responsibility for maintaining conformity with this provision.
8. **Certain Devices Prohibited:** No devices which produce an open flame or otherwise rely upon combustion in any form shall be permitted within the Area. Such prohibited devices shall include, but not be limited to: tabletop candles, outdoor torches, grills, and propane heaters.
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  - c. Licensee shall also self-report any violations of such laws in writing within forty-eight (48) hours of the violation, rules and regulations to both the City and to the State Liquor Commission.
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  - a. Licensee's occupancy of the Area is conditioned upon prior approval by the City Health Department of all outdoor food service and cleaning operations.
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  - c. The Area shall be maintained in a clean and sanitary condition at all times, and all garbage shall be contained at all times in covered receptacles.
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  - f. By and through this Agreement, Licensee expressly agrees to comply with all additional laws, rules, regulations and orders which may issue from the City Health Department.



11. **Inspections Department:**
  - a. Licensee's occupancy of the Area is conditioned upon review by the City Inspections Department and approval that all bathroom facilities in the main restaurant facility of Licensee are sufficient to support the additional seating in the Area.
  - b. Licensee shall also receive permits from the City Inspections Department prior to installing any Area lighting.
  - c. By and through this Agreement, Licensee expressly agrees to comply with all additional laws, rules, regulations and orders of the Inspections Department.
  
12. **Fire Department:**
  - a. Licensee's occupancy of the Area is conditioned upon receipt from the City Fire Department of all necessary Place of Assembly inspections, permits, and modifications thereto.
  - b. Licensee's occupancy of the Area is further conditioned upon review and approval by the City Fire Department of the means of egress from the Area.
  - c. Licensee expressly agrees to strictly comply with all reasonable laws, rules, regulations and orders of the City Fire Department, including the foregoing.
  
13. **Audio/Visual Interference Prohibited:**
  - a. No live entertainment performances, film, television, music, speakers or other sound or entertainment amplification devices shall be placed within the Area for any purpose.
  - b. No such entertainment shall be situated or conducted inside the building in such a manner that it is transmitted, whether intentionally or incidentally, to patrons in the Area or to adjoining City property.
  
14. **Design of Area Improvements:**
  - a. Within the Area, every detail of the Licensee's improvements shall comply with the representations and depictions set forth in Exhibit A.
  - b. Moreover, every detail of the Licensee's improvements, including but not limited to lighting, access and egress, placement of structures and items of personal property, and every other detail of every kind is expressly subject to the prior approval and continuing review of the City. To this end, the Licensee expressly agrees to make every modification to structural items or items of personal property as may be required by the City.
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- i. There shall be no canopy to protect the Area, unless it is completely supported by hardware on the building structure and uses no vertical supports in or around the sidewalk café;
- ii. Umbrellas may be placed over individual tables, though no such umbrellas may bear any advertising or logo;
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- iv. There shall be no advertising of any kind within the Area.

**15. Non-interference with City Infrastructure and Amenities:**

- a. Through this Agreement, the Licensee expressly agrees that its use of the Area shall not damage sidewalks, curbing, bike racks, street trees, light poles, trash containers, utilities or any other City amenities or infrastructure, and that its use shall not make the same inaccessible for public use or maintenance purposes.
- b. Licensee shall further bear full responsibility for providing sufficient staffing and supervision within the Area to maintain an orderly dining environment that does not impede or negatively impact passers-by or other users of City infrastructure or amenities.

**16. Compliance with Americans with Disabilities Act (“ADA”):** The Area as used by the Licensee shall comply fully with all provisions of the ADA. The Licensee shall be fully and solely liable for assuring that the Area, and the services and programs which the Licensee offers within the Area, are accessible to the handicapped, as defined by the ADA. Where structural modifications to the Area are necessary to achieve accessibility of services and programs offered by the Licensee, Licensee shall be solely liable for making such structural modifications, but before doing so shall obtain the consent of the City.

**17. Enclosure System and Area Use Specifications:**

- a. The Licensee’s use of the Area and installation of an enclosure system shall be subject to the conditions and layout depicted in Exhibit A and the application materials submitted to the City, and any alterations therefrom shall require the express written approval of the City.
- b. In all instances, Licensee shall be fully and solely liable for assuring that installation of the enclosure is conducted in conformity with the requirements set forth in City Council Policy No. 2012-02.

**18. Indemnification:** The Licensee agrees to indemnify and hold harmless the City and its officials, employees and agents from any demand, claim, cost or liability of any type arising from the existence or use of this Agreement. This indemnification provision shall survive the termination of the Agreement, whether termination is for cause or otherwise.

19. **Insurance:** At all times during the term of this Agreement, the Licensee shall maintain and provide the City general liability and alcohol service liability insurance coverage of not less than \$3,000,000.00 covering all activities conducted under this Agreement. The City shall be named as an additional insured on all policies. All such insurance shall be approved by the City Legal Department in advance of Licensee's occupancy of the Area, and shall meet all terms, conditions and specifications as the Legal Department may elect to set forth.
20. **Additional Costs:** The Licensee shall bear all costs of every kind associated in any way with the existence of the Area and its use by Licensee. There shall be no obligation on the City to expend any sums of money to accommodate the existence of this Agreement or Licensee's use of the Area.
21. **Suspension for Cause:** For cause, the City may suspend use of the Area by Licensee on an administrative basis without reimbursement of any portion of the Area Service fee for up to fourteen (14) consecutive days, at the sole discretion of the City. No public hearing shall be required prior to such administrative suspension.
22. **Revocation for Cause:** This Agreement may be revoked, in its entirety, by the City for cause by vote of the City Council. No public hearing shall be required prior to such revocation, and in the event of revocation, the Area Service fee shall not be returned to Licensee. Cause for revocation shall include, but not be limited to, the breach of any condition set forth within this Agreement, or the breach of any other City Council policy, ordinance, or pertinent local, state or federal statutory provision.
23. **Revocation without Cause:** This agreement may be revoked in its entirety by the City, without cause, by vote of the City Council. No public hearing shall be required prior to such revocation. In the event of revocation without cause, the Area Service Fee shall be returned on a pro rata basis.
24. **Restoration of Area:** Licensee shall immediately remove from the Area each and every structure and item of personal property, leaving the Area in an unobstructed, clean and sanitary condition, upon termination of this Agreement for any reason or the close of the outdoor restaurant season. In no case shall any items remain in the Area later than **October \_\_, 2013**. Licensee shall restore the Area to exactly match the depiction shown in the attached Exhibit A.

25. **Non-assignability:** This Agreement is not assignable, nor may the obligations of Licensee in any way be transferred, alienated, or delegated to any other party.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**City of Portsmouth**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
John P. Bohenko  
City Manager

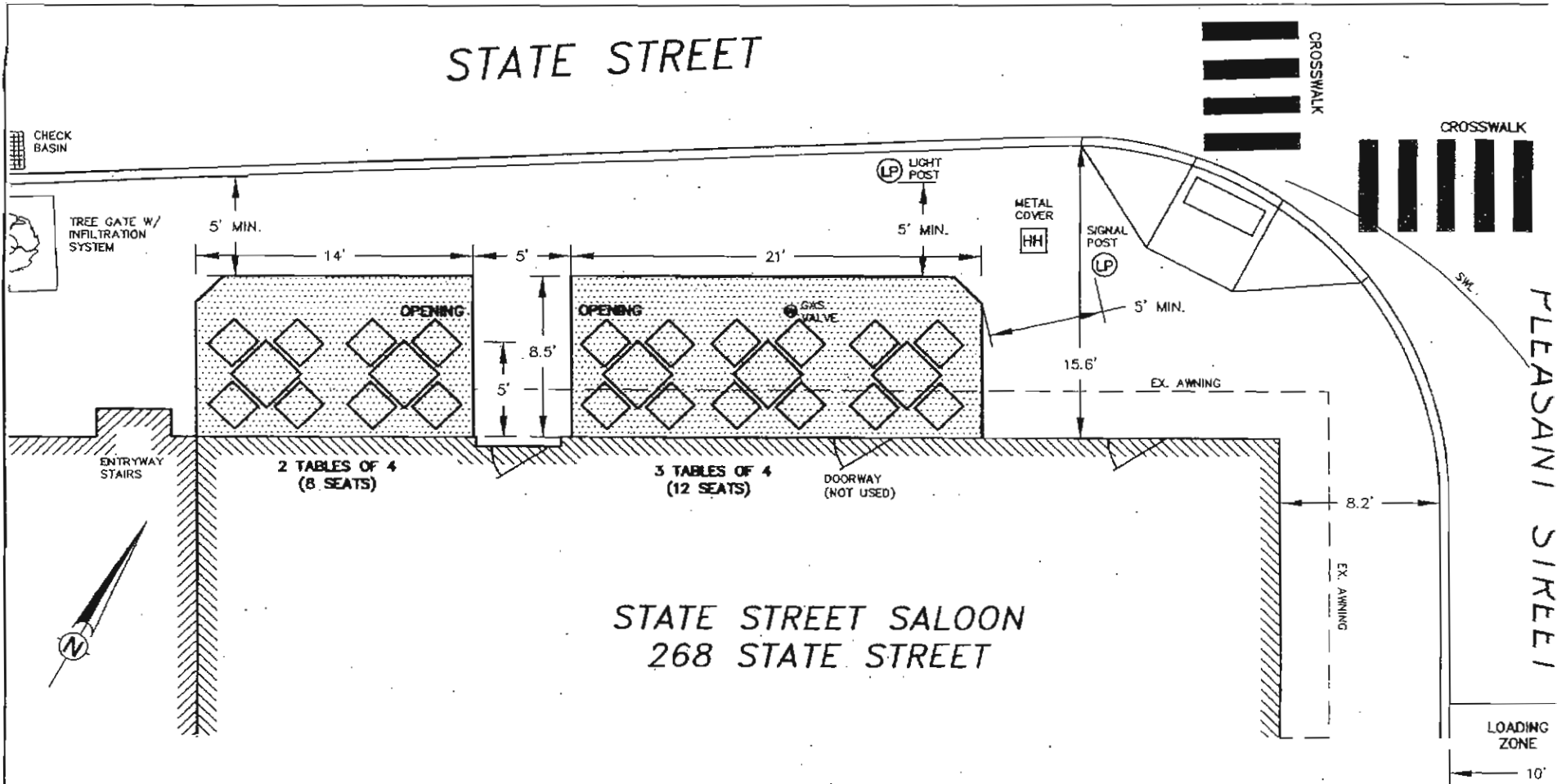
Duly authorized by vote of City Council  
on \_\_\_\_\_, 2013.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**Roger's Café, Inc.  
d/b/a State Street Saloon**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Eli Sokorelis  
President



STATE STREET SALOON  
268 STATE STREET

REV. 1 - 4/30/12 - CHANGE DIMENSIONS PER CITY COMMENTS

 133 CORY STREET PORTSMOUTH, NH 03801 PHONE: (603) 433-2330	DATE: 4/30/12	REV:	DRAWING REFERENCE: 4428SITE.DWG
	SCALE: 1" = 5'	TITLE: OUTDOOR SEATING PLAN	
	DRAWING NUMBER: C - 2	JOB NAME: STATE STREET SALOON	
	P4428		

## AREA SERVICE AGREEMENT

The City of Portsmouth, a municipal corporation having a principal place of business of 1 Junkins Avenue, Portsmouth, County of Rockingham and State of New Hampshire 03801 (hereinafter "City") and Surf Portsmouth Inc. (hereinafter "Licensee" or "Surf"), having a principal place of business of 99 Bow Street, Portsmouth, County of Rockingham and State of New Hampshire 03801, hereby enter this Area Service Agreement ("Agreement") for the purposes set forth herein:

**PRELIMINARY:** Pursuant to the successful completion of the summer 2011 pilot sidewalk café program, and in accordance with the principles set forth more fully in the preamble to City Council Policy No. 2012-02 (the "Policy"), the City is desirous of permitting Licensee to utilize City property as part of its restaurant operation. This arrangement shall be strictly articulated according to the terms and provisions of this Agreement. No obligation or expectation shall inhere upon either party beyond the 2013 season.

It is the intent of this agreement to implement City Council Policy No. 2012-02, which is hereby incorporated by reference and in all respects made part of this agreement.

**SCOPE OF AUTHORITY GRANTED:** This Agreement shall convey from the City to Licensee a bare license to expand its restaurant activities onto City property, and no interest in the underlying real estate is conveyed through the terms of this Agreement.

### **TERMS AND CONDITIONS**

1. **Term of Agreement:** This Agreement shall commence on \_\_\_\_\_  
**the date of its completed execution**, and, unless suspension or termination should occur sooner, all provisions of the Agreement, except

those governing indemnification pursuant to the terms set forth within this Agreement, shall expire at midnight on Sunday, **October** \_\_\_\_, **2013**.

2. **Area Use:** The City authorizes Licensee to utilize a certain Area as shown on attached Exhibit A (hereinafter "Area") solely for the purpose of conducting outdoor restaurant operations, which may include the sale of alcoholic beverages in accordance with all applicable provisions of law and other provisions of this Agreement.
3. **Special Municipal Events:** Licensee's use of the Area subject to this Agreement may be precluded, modified or otherwise subject to any terms and conditions deemed necessary by the City to accommodate special municipal events. Such events may include but shall not be limited to: the Portsmouth Criterium, Children's Day, and Market Square Day. Any such adjustments to the use of the Area which may be mandated by the City shall be undertaken without cost to the City, and Licensee shall receive no refund or reimbursement for such adjustments.
4. **Area Service Fee:** Prior to commencing use of the Area, Licensee shall pay the City a single lump sum in the amount of \$3,240.00.
5. **Hours of Operation:** Licensee may utilize the Area for authorized purposes during its normal business hours, except that all tables within the Area shall be cleared of all food and alcoholic beverages by 10:30 p.m. Monday through Saturday and by 10:00 p.m. on Sunday. Further, no alcohol may be served within the Area less than thirty (30) minutes prior to the foregoing closure times.
6. **Conditions Governing Service of Alcoholic Beverages:** In addition to complying with all local, state, and federal laws, as well as rules and regulations of the NH State Liquor Commission, Licensee shall abide by the following conditions in conducting its service of alcoholic beverages in the Area:
  - a. Alcoholic beverages shall only be served to patrons who are seated at a table serviced by waitstaff within the Area, and such beverages must be consumed while seated within the Area;
  - b. Alcoholic beverages shall only be served to patrons ordering a substantial meal;
  - c. The service of alcoholic beverages at tables in the Area shall be conducted by waitstaff only, and no person in the Area shall be permitted to bring his or her own alcoholic beverage to a table;
  - d. Licensee shall bear full responsibility for ensuring that no alcoholic beverages are passed, taken, or otherwise transmitted to individuals on surrounding City property from within the Area.

7. **Smoking Prohibited:** Smoking shall not be permitted within the Area, and Licensee shall bear full responsibility for maintaining conformity with this provision.
8. **Certain Devices Prohibited:** No devices which produce an open flame or otherwise rely upon combustion in any form shall be permitted within the Area. Such prohibited devices shall include, but not be limited to: tabletop candles, outdoor torches, grills, and propane heaters.
9. **New Hampshire State Liquor Commission:**
  - a. Licensee's occupancy of the Area is conditioned upon receipt of prior approval of this Agreement by the State Liquor Commission.
  - b. Licensee further agrees to comply at all times with all laws, rules and regulations enforced by the New Hampshire State Liquor Commission.
  - c. Licensee shall also self-report any violations of such laws in writing within forty-eight (48) hours of the violation, rules and regulations to both the City and to the State Liquor Commission.
10. **Health Department:**
  - a. Licensee's occupancy of the Area is conditioned upon prior approval by the City Health Department of all outdoor food service and cleaning operations.
  - b. Licensee's occupancy of the Area is conditioned upon review and approval by the City Health Department that kitchen facilities are sufficient to support the demands of the additional seating to be placed in the Area.
  - c. The Area shall be maintained in a clean and sanitary condition at all times, and all garbage shall be contained at all times in covered receptacles.
  - d. At the close of business, the Area shall be left in a clean condition, and all ground debris shall be swept up and disposed of. In conducting such cleaning, Licensee acknowledges that washing debris materials into City storm drains or sewer lines is expressly forbidden.
  - e. Within the Area, no food preparation, grilling, service windows, service counters, wait stations, or bus buckets shall be permitted, and condiments, paper products and the like shall be removed from the Area and stored in a secure, indoor location at all times except when actually being used by seated customers.
  - f. By and through this Agreement, Licensee expressly agrees to comply with all additional laws, rules, regulations and orders which may issue from the City Health Department.



11. **Inspections Department:**
- a. Licensee's occupancy of the Area is conditioned upon review by the City Inspections Department and approval that all bathroom facilities in the main restaurant facility of Licensee are sufficient to support the additional seating in the Area.
  - b. Licensee shall also receive permits from the City Inspections Department prior to installing any Area lighting.
  - c. By and through this Agreement, Licensee expressly agrees to comply with all additional laws, rules, regulations and orders of the Inspections Department.
12. **Fire Department:**
- a. Licensee's occupancy of the Area is conditioned upon receipt from the City Fire Department of all necessary Place of Assembly inspections, permits, and modifications thereto.
  - b. Licensee's occupancy of the Area is further conditioned upon review and approval by the City Fire Department of the means of egress from the Area.
  - c. Licensee expressly agrees to strictly comply with all reasonable laws, rules, regulations and orders of the City Fire Department, including the foregoing.
13. **Audio/Visual Interference Prohibited:**
- a. No live entertainment performances, film, television, music, speakers or other sound or entertainment amplification devices shall be placed within the Area for any purpose.
  - b. No such entertainment shall be situated or conducted inside the building in such a manner that it is transmitted, whether intentionally or incidentally, to patrons in the Area or to adjoining City property.
14. **Design of Area Improvements:**
- a. Within the Area, every detail of the Licensee's improvements shall comply with the representations and depictions set forth in Exhibit A.
  - b. Moreover, every detail of the Licensee's improvements, including but not limited to lighting, access and egress, placement of structures and items of personal property, and every other detail of every kind is expressly subject to the prior approval and continuing review of the City. To this end, the Licensee expressly agrees to make every modification to structural items or items of personal property as may be required by the City.
  - c. Notwithstanding the foregoing, the following specific criteria shall apply to Area improvements:

- i. There shall be no canopy to protect the Area, unless it is completely supported by hardware on the building structure and uses no vertical supports in or around the sidewalk café;
- ii. Umbrellas may be placed over individual tables, though no such umbrellas may bear any advertising or logo;
- iii. No improvements or personal property located within the Area shall extend on or over any municipal property located outside of the Area; and
- iv. There shall be no advertising of any kind within the Area.

**15. Non-interference with City Infrastructure and Amenities:**

- a. Through this Agreement, the Licensee expressly agrees that its use of the Area shall not damage sidewalks, curbing, bike racks, street trees, light poles, trash containers, utilities or any other City amenities or infrastructure, and that its use shall not make the same inaccessible for public use or maintenance purposes.
- b. Licensee shall further bear full responsibility for providing sufficient staffing and supervision within the Area to maintain an orderly dining environment that does not impede or negatively impact passers-by or other users of City infrastructure or amenities.

**16. Compliance with Americans with Disabilities Act (“ADA”):** The Area as used by the Licensee shall comply fully with all provisions of the ADA. The Licensee shall be fully and solely liable for assuring that the Area, and the services and programs which the Licensee offers within the Area, are accessible to the handicapped, as defined by the ADA. Where structural modifications to the Area are necessary to achieve accessibility of services and programs offered by the Licensee, Licensee shall be solely liable for making such structural modifications, but before doing so shall obtain the consent of the City.

**17. Enclosure System and Area Use Specifications:**

- a. The Licensee's use of the Area and installation of an enclosure system shall be subject to the conditions and layout depicted in Exhibit A and the application materials submitted to the City, and any alterations therefrom shall require the express written approval of the City.
- b. In all instances, Licensee shall be fully and solely liable for assuring that installation of the enclosure is conducted in conformity with the requirements set forth in City Council Policy No. 2012-02.

**18. Indemnification:** The Licensee agrees to indemnify and hold harmless the City and its officials, employees and agents from any demand, claim, cost or liability of any type arising from the existence or use of this Agreement. This indemnification provision shall survive the termination of the Agreement, whether termination is for cause or otherwise.

19. **Insurance:** At all times during the term of this Agreement, the Licensee shall maintain and provide the City general liability and alcohol service liability insurance coverage of not less than \$3,000,000.00 covering all activities conducted under this Agreement. The City shall be named as an additional insured on all policies. All such insurance shall be approved by the City Legal Department in advance of Licensee's occupancy of the Area, and shall meet all terms, conditions and specifications as the Legal Department may elect to set forth.
20. **Additional Costs:** The Licensee shall bear all costs of every kind associated in any way with the existence of the Area and its use by Licensee. There shall be no obligation on the City to expend any sums of money to accommodate the existence of this Agreement or Licensee's use of the Area.
21. **Suspension for Cause:** For cause, the City may suspend use of the Area by Licensee on an administrative basis without reimbursement of any portion of the Area Service fee for up to fourteen (14) consecutive days, at the sole discretion of the City. No public hearing shall be required prior to such administrative suspension.
22. **Revocation for Cause:** This Agreement may be revoked, in its entirety, by the City for cause by vote of the City Council. No public hearing shall be required prior to such revocation, and in the event of revocation, the Area Service fee shall not be returned to Licensee. Cause for revocation shall include, but not be limited to, the breach of any condition set forth within this Agreement, or the breach of any other City Council policy, ordinance, or pertinent local, state or federal statutory provision.
23. **Revocation without Cause:** This agreement may be revoked in its entirety by the City, without cause, by vote of the City Council. No public hearing shall be required prior to such revocation. In the event of revocation without cause, the Area Service Fee shall be returned on a pro rata basis.
24. **Restoration of Area:** Licensee shall immediately remove from the Area each and every structure and item of personal property, leaving the Area in an unobstructed, clean and sanitary condition, upon termination of this Agreement for any reason or the close of the outdoor restaurant season. In no case shall any items remain in the Area later than **October \_\_\_\_, 2013**. Licensee shall restore the Area to exactly match the depiction shown in the attached Exhibit A.

25. **Non-assignability:** This Agreement is not assignable, nor may the obligations of Licensee in any way be transferred, alienated, or delegated to any other party.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**City of Portsmouth**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
John P. Bohenko  
City Manager

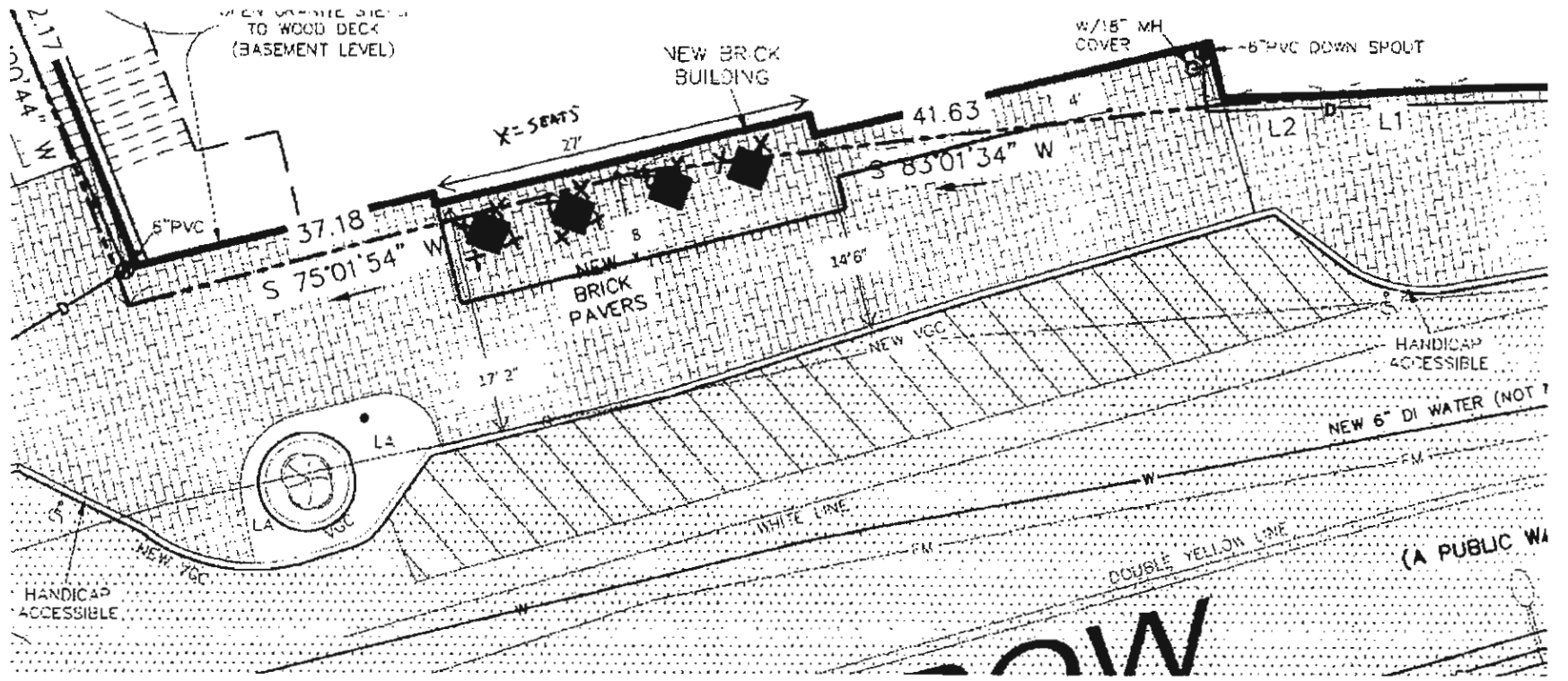
Duly authorized by vote of City Council  
on \_\_\_\_\_, 2013

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

**Surf Portsmouth Inc**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
John Dunn  
General Manager



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# MEMORANDUM

MAR 25 2013

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**TO:** John P. Bohenko, City Manager  
**FROM:** Rick Taintor, Planning Director *RT.*  
**DATE:** March 25, 2013  
**RE:** City Council Referral – Request by Christopher McInnis to Rezone Parcels at 678 and 680 Maplewood Avenue from Single Residence B (SRB) to Business (B)

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Christopher McInnis, Trustee of Portsmouth City Realty Investment Trust and Airgead Realty Trust, has requested that two parcels at 678 and 680 Maplewood Avenue be rezoned from Single Residence B (SRB) to Business (B). On February 4, 2013, the City Council voted to refer this request to the Planning Board for a report back.

The two parcels total approximately 72,350 sq. ft. (1.66 acres) in area, and have approximately 134 feet of frontage on Maplewood Avenue. The larger parcel (adjacent to I-95) is vacant, while the smaller parcel contains a dwelling. The land rises 15 to 20 feet in elevation from Maplewood Avenue to the utility easement, and then drops back down toward Central Avenue on the abutting parcel.

A similar request was considered by the Planning Board at its meeting on November 15, 2012. That request was to rezone the two parcels that are the subject of the current request as well as a portion of the abutting parcel at 261 Central Avenue. The issues that were raised at that time included impacts on the Myrtle Avenue residential neighborhood and traffic impacts on Maplewood Avenue. Following a public hearing, the Board voted to recommend that the City Council not rezone the land.

### Existing and Proposed Zoning

The existing Single Residence B zoning requires 15,000 sq. ft. of lot area and 100 feet of continuous street frontage for each single-family dwelling lot. If the two lots were merged and subdivided, the existing zoning might allow the development of 3 or 4 single-family lots (assuming the removal of the existing dwelling).

The Business (B) zoning requested by the applicant is the zoning for the adjacent parcel on Maplewood Avenue, the east side of Central Avenue, the westerly side of the Route 1 Bypass between Myrtle Avenue and Maplewood Avenue, and the easterly side of the Bypass between Stark Street and Maplewood Avenue. The Business district allows taller buildings, more building coverage, and less open space than the SRB district. The Business district allows a wide range of nonresidential uses, and also allows multifamily dwellings when part of a mixed-use development in which at least one-third of the floor area is nonresidential. The allowed residential density in the B district is one dwelling unit per 2,500 sq. ft. of lot area, or 17.4 units per acre. Furthermore, development in the

Business district is not limited to one dwelling unit per lot as in the SRB district, allowing more flexibility of site design.

Based on the dimensional and intensity standards cited above, the theoretical maximum density for the two subject parcels (not considering any site limitations due to lot configuration or topography) would allow up to 28 dwelling units. Assuming an average floor area of 800 sq. ft. per dwelling unit, the maximum mixed-use buildout on these three parcels would be about 33,400 sq. ft. of floor area in 3- or 4-story buildings, including about 11,100 sq. ft. of commercial space.

#### Concept Plans and Estimated Rezoning Impacts

The applicant submitted a letter in support of this request, with two conceptual plans and a report estimating traffic impacts and water and sewer demand. Both concept plans indicate a buildout of 28 dwelling units and 12,800 sq. ft. of office space, which is very close to the Planning Department's estimates. The applicant's letter and report provide the following impact estimates:

- Annual property taxes: \$65,100, an increase of about \$59,200 per year.
- Traffic generation: 34 new trips in the morning peak hour and 36 trips in the evening peak hour.
- Total water and sewer demand: 4,125 gallons per day (GPD).

The applicant's traffic impact analysis did not address how the site-generated traffic at the proposed driveway location would relate to existing traffic volumes and roadway conditions in the vicinity of the site. However, the letter does note that a variance would be required for construction of off-street parking areas and access ways within 50 feet of a Residential district (both the back property line abutting the Moretti parcel and the property line adjoining the Interstate 95 right-of-way).

#### Surrounding Zoning and Land Uses

The parcel is sandwiched between I-95 and a Business district that extends up Maplewood Avenue from the Route 1 Bypass. In the rear, the larger parcel is separated from the adjoining Moretti property by a PSNH transmission line easement. Given the abutting commercial, highway and utility uses and the constriction in the middle of the lot, the larger parcel might be difficult to develop for single-family dwellings.

The land on Maplewood Avenue immediately opposite the subject parcels is in the Single Residence B zoning district, but is not used for residential purposes. Because the I-95 Exit 7 ramp begins at the Maplewood Avenue bridge and bears to the right, much of the land on the north side of the road is in the highway right-of-way and could not be developed for residential (or any other) use. The parcel adjacent to the highway contains the Odd Fellows Lodge, which is set back from Maplewood Avenue with a large parking lot in front. The site driveway shown on the concept plans submitted in support of the rezoning request seems to line up with the Odd Fellows driveway on the opposite side of the street.

To the east of the site, the properties on the north side of Maplewood Avenue are zoned SRB to Central Avenue, and General Residence from Central Ave. to the Route 1 Bypass. To the west of the I-95 overpass, Maplewood Avenue is zoned SRB on both sides of the road (except for a narrow extension of the Office Research district that fronts on Market Street).

In summary, the parcels proposed for rezoning are at the existing boundary between the Business and Single Residence B zoning districts. Although residences are nearby on the north side of Maplewood Avenue and on the west side of Interstate 95, No parcel currently in residential use would be directly impacted by development on the subject site. Any new building on the site would be around 180 feet from the closest residence on Maplewood Avenue, about 360 feet from the closest house to the west (across I-95 on Edmond Road), and about 360 feet from the nearest existing dwelling on Myrtle Avenue. This development might be visible from up to three houses on the north side of Maplewood Avenue, and other commercial and residential properties along Maplewood Avenue would experience a marginal increase in traffic generated by the site.

#### Planning Board Recommendation

The Planning Board held a public hearing on this request at its meeting on March 21, 2013. Thirteen residents (6 owners of property in the surrounding neighborhood and 7 residents in other areas of the City) expressed opposition to the rezoning proposal. In addition, two neighbors and three other City residents submitted correspondence opposing the rezoning.

Following the public hearing, the Planning Board voted unanimously to recommend that the City Council not vote to rezone the land as requested.



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P.O. BOX 395  
PORTSMOUTH, NEW HAMPSHIRE 03802-0395

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Fax 603-433-7491

bernie@wholey-pelech.com

BERNARD W. PELECH\*

JOHN J. WHOLEY  
(1922-2001)

ADMITTED NH & ME BARS



January 30, 2013

Mayor Eric Spear  
Members of the City Council  
1 Junkins Avenue  
Portsmouth, NH 03801

Re: Rezoning request  
678-680 Maplewood Avenue

Dear Mayor Spear and Members of the City Council:

This office represents Portsmouth City Realty Investment Trust and Airgead Realty Trust, owners respectively of the property located at 680 Maplewood Avenue and 678 Maplewood Avenue.

On behalf of my clients, I would respectfully request that the council rezone these two (2) parcels of land (Map 220, Lot 89 and Map 220, Lot 90) from their current zoning designation of Single Residence B to the Business District.

Unlike the previous request, the current request does not include the request to rezone the property located at 261 Myrtle Avenue. Based upon abutter objections to the rezoning of 261 Myrtle Avenue, my clients have altered their rezoning request.

Given the location of these properties, which presently abut the Business zone and a business use and are further bounded by Interstate 95, my clients feel that a Business zone designation would be more appropriate going forward.

As I understand the procedure, the Council will refer this matter to the Planning Board which will conduct a public hearing on the request and make a recommendation back to the Council.

Thank you for your anticipated cooperation in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Bernie Pelech", written over a large, faint circular stamp.

Bernard W. Pelech

BWP/ajs

March 11 2013

To the Portsmouth City Council

This letter is concerning an awning project at 103 Congress Street being done for The District Restaurant. We recently were granted permission from the HDC to move forward with the project. The property line of the District is curved (see map provided), however the only way we could get permission for the awning was to square it up. By doing this one corner is overhanging city property by 3 square feet. None of the supports will be mounted in city property (see drawing provided) only the corner will overhang. This awning will be seasonal and the framework will only be in place from April into October and completely dismantled for the winter months. This awning will cover the current front patio area. It will make this space much more usable particularly when those surprise storms pop up in the summer.

If you would be kind enough to grant us permission/license to cover this tiny portion of city property, we would be grateful. In the process it would create a wonderful space in the downtown for many to enjoy.

Thank you for your consideration in this matter.

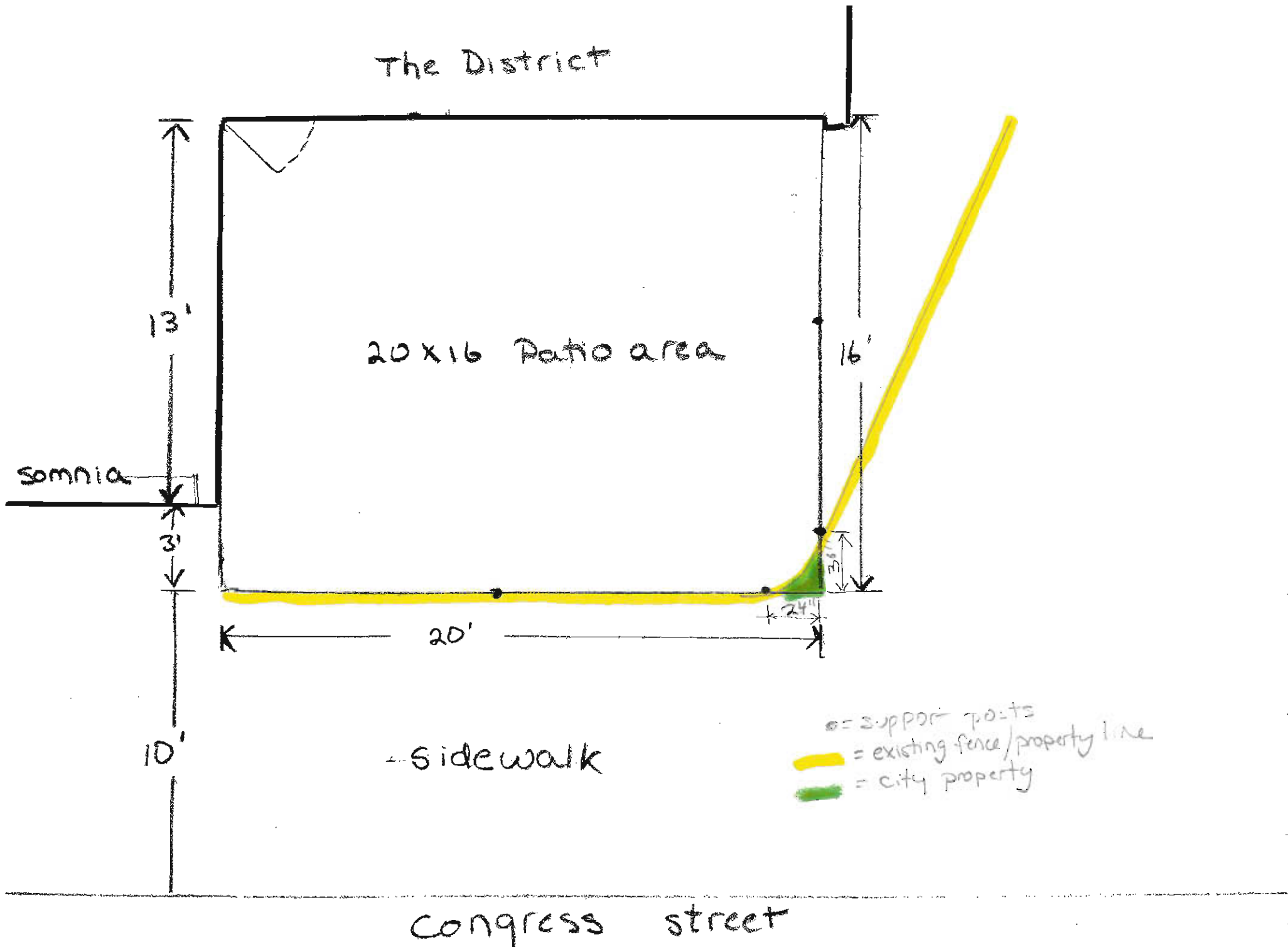
Respectfully submitted,

Jessie Aikman

Back Channel Canvas Shop

For David Takis, District owner

# The District



## Event Listing by Date

Starting Date: 3/18/2013

Ending Date: 1/31/2014

Start End	Type Description	Location	Requestor	Vote Date
3/30/2013 3/30/2013	ROAD RACE Donald Allison is the contact for this event. His number is 617-835-2378. This event begins at Portsmouth High School at 11:00 a.m.	Portsmouth High School	Eastern States 20 Mile	12/17/2012
4/13/2013 4/13/2013	ROAD RACE Contact: Robert Sutherland at (603) 436-1095. The course will take the race from the Miller Street Baptist Church across from the Masonic Temple, Start on Miller, Right onto Middle, Right on Court Street, to the end and then a right onto Marcy, right onto School, left onto South, right onto Middle and back to Masonic Temple.	Start on Miller (see route below)	St. John's Lodge	3/18/2013
4/13/2013 4/13/2013	WALK Contact: Kim Blanchard, Development Coordinator (603) 836-4758 Walk 10:00 a.m. to 2:00 p.m. - Start and Finish at Little Harbour School	Start and Finish at Little Harbour School	National Multiple Sclerosis So	1/7/2013
4/28/2013 4/28/2013	ROAD RACE Dawn Sawyer is the contact for this event. Tel. 502-4611. This event begins at the Portsmouth Police Department, Junkins Avenue at 10:00 a.m. and finishes at Greenland Police Department, Portsmouth Avenue. There will be shuttle to starting line and then from finish line to parking at Portsmouth High School.	Portsmouth Police Department to Greenland Police D	Chief Michael Maloney Memorial	12/3/2012
5/5/2013 5/5/2013	BIKE TOUR Gale Auclair, Senior Development Manager is the contact for this event. This event begins at Little Harbour School, at 7:00 a.m.	Little Harbour School - begins and ends	American Lung Association	2/4/2013
5/5/2013 5/5/2013	FESTIVAL Barbara Massar is the contact for this event. This event takes place in various locations downtown.	Downtown - Various locations	Children's Day	9/4/2012
5/5/2013 5/5/2013	WALK Calvin Sanborn is the contact for this event. This event begins and ends at City Hall lower parking lot, from 10:00 a.m. to 5:00 p.m.	City Hall	AIDS Response Seacoast	1/22/2013
5/11/2013 5/11/2013	ROAD RACE Kimberly McGlinchey and Deirdre Barrett are the contacts for this event. They can be reached at Portsmouth High School 436-7100. This event begins at 1:00 p.m. and ends at 3:00 p.m.	Pease Tradeport	ECO Club - Portsmouth High Sch	1/22/2013
5/11/2013 5/11/2013	ROAD RACE Jacqui Bryan (498-2988) and Marci Francis ((802)683-9187) are the contacts for this event. This event begins and ends at Strawberry Banke.	Strawbery Banke	Susan G. Komen for the Cure	10/22/2012
5/18/2013 5/19/2013	BIKE TOUR Kelly Sicard is the contact for this event.	Pease Tradeport	Breathe New Hampshire	2/4/2013
5/18/2013 5/18/2013	MARCH Contact: Jill Teeters, Community Director at (603) 573-9552. Event will be held at Little Harbour School.	Little Harbour School	March of Dimes	3/18/2013
5/26/2013 5/26/2013	ROAD RACE Jeanine Sylvester is the contact for this event - 430-1212. The event begins and ends at the Redhook Ale Brewery, at 11:00 a.m.	Redhook Ale Brewery - Pease Tradeport	Runner's Alley	1/22/2013

## Event Listing by Date

Starting Date: 3/18/2013

Ending Date: 1/31/2014

Start End	Type Description	Location	Requestor	Vote Date
6/ 2/2013 6/ 2/2013	ROAD RACE Kristen Lyons is the conact for this event. It begins at 11:00 a.m. at Pease Tradeport. This event was originally scheduled for May 19th.	Pease Tradeport	Sexual Assault Support Service	2/ 4/2013
6/ 8/2013 6/ 8/2013	ROAD RACE Barbara Massar is the contact for this event. This event begins and ends at Market Square.	Downtown	Market Square Road Race and Fe	9/ 4/2012
6/ 9/2013 6/ 9/2013	ROAD RACE John Martin is the contact for this event. This event begins and ends at Little Harbour School, with a starting time of 8:30 a.m. Registration is 7:30 to 8:00 a.m. From the school following route 1B to 1A and turning back on the same route at North Beach, N. Hampton. Event should finish by 12:30 p.m.	Little Harbour School - start and finish	Seacoast Bike Ride	12/ 3/2012
6/22/2013 6/22/2013	MUSIC Barbara Massar is the contact for this event. This is part of the Summer in the Streets series which begins at 5:00 p.m. and ends at 9:30 p.m.	Pleasant Street	Pro Portsmouth - Summer in the	9/ 4/2012
6/22/2013 6/23/2013	ROAD RACE Contact: Garfield Jones of Fattman Productions at (617) 916-2002 or Garfield@fattmanproductions.com. This is the Cambridge, MA based Community Running Association in conjunction with the New England Chapter of the American Liver Foundation 24 hour relay.	Along Seacoast Route 1A, South Street, Municipal P	Fatiman Productions	1/ 7/2013
6/29/2013 6/29/2013	MUSIC Barbara Massar is the contact for this event. This is part of the Summer in the Streets series that starts at 5:00 p.m. to 9:30 p.m.	Pleasant Street	Pro Portsmouth - Summer in the	9/ 4/2012
7/ 4/2013 7/ 4/2013	ROAD RACE Contact: Dave Abbett. This 5K event is at the Pease Tradeport.	Pease Tradeport	Sub 5 Race Management	1/ 7/2013
7/ 6/2013 7/ 6/2013	MUSIC Barbara Massar is the contact for this event. This is part of the Summer in the Streets series begins at 5:00 p.m. and ends at 9:30 p.m.	Pleasant Street	Pro Portsmouth - Summer in the	9/ 4/2012
7/13/2013 7/13/2013	MUSIC Barbara Massar is the contact for this event. This is part of the Summer in the Streets series which begins at 5:00 p.m. and ends at 9:30 p.m.	Pleasant Street	Pro Portsmouth - Summer in the	9/ 4/2012
7/20/2013 7/20/2013	MUSIC Barbara Massar is the contact for this event. This is part of the Summer in the Streets series which begins at 5:00 p.m. and ends at 9:30 p.m.	Pleasant Street	Pro Portsmouth - Summer in the	9/ 4/2012
7/27/2013 7/27/2013	MUSIC Barbara Massar is the contact for this event. This event is part of the Summer in the Streets series which begins at 5:00 p.m. and ends at 9:30 p.m.	Pleasant Street	Pro Portsmouth - Summer in the	9/ 4/2012
8/ 1/2013 8/ 1/2013	ROAD RACE Justin Finn is the contact for this race. This race begins at Peirce Island at 6:00 p.m. This is part of the Greater Portsmouth Chamber of Commerce Community Road Races.	Pierce Island - Prescott Park Course	Portsmouth Rotary Club Thunder	12/17/2012

## Event Listing by Date

Starting Date: 3/18/2013

Ending Date: 1/31/2014

Start End	Type Description	Location	Requestor	Vote Date
8/ 3/2013 8/ 3/2013	MUSIC Barbara Massar is the contact for this event. This event is part of the Summer in the Streets series which begins at 5:00 p.m. and ends at 9:30 p.m.	Pleasant Street	Pro Portsmouth - Summer in the	9/ 4/2012
9/ 8/2013 9/ 8/2013	ROAD RACE Thomas Martin is the contact for this event. This event begins and ends in downtown.	Downtown	Portsmouth Criterium	2/ 4/2013
9/21/2013 9/21/2013	ROAD RACE Community Road Race Series Doug Bates is the contact.	Little Harbour School	BreastCancerStories.org	12/17/2012
9/21/2013 9/22/2013	TOUR Caroline Amport Piper (603-686-4338) and Dave Anderson are the contacts for this event. This is a two-day event from 11:00 a.m. to 3:00 p.m. both days.	South End	Friends of the South End	10/22/2012
9/28/2013 9/29/2013	FESTIVAL David Hallowell is the contact for this event. This event is from Noon to 6:00 p.m. in front of the RiRa Pub and Breaking New Grounds.	Pleasant Street	Portsmouth Maritime Folk Festi	2/ 4/2013
9/28/2013 9/28/2013	ROAD RACE Karen Butz Webb, Executive Director is the contact for this event. This event begins and ends at Portsmouth High School. E-mail address for information is: projectsafetyassociation@gmail.com	Portsmouth High School	Project Safety Association	10/22/2012
9/29/2013 9/29/2013	WALK Contact: Caitlyn Mosher Ellis (617) 393-2092. Strawberry Banke - Walk site opens at 8:30 a.m. for registration, the Walk kicks off at 10:00 a.m. and clean up by 1:00 p.m. The 1.3 and 2.7 mile routes will both go through the downtown area (using Congress Street).	Walk begins and ends at Strawberry Banke	Alzheimer's Association	1/ 7/2013
10/12/2013 10/12/2013	ROAD RACE This is a collaborative race with the Community Child Care. Contacts for this event are Ben Anderson of Prescott Park (436-2848) and Catherine Edison of Community Child Care Center (422-8223). This is part of the GPCC road race series.	Little Harbour School - Start and Finish	Prescott Park Arts Festival	3/ 4/2013
10/12/2013 10/12/2013	ROAD RACE Community Road Race Series. Ben Anderson of Prescott Park Arts Festival (436-2848) and Catherine Edison of Community Child Care Center (422-8223). This is a collaborative race under the GPCC road race series.	Little Harbour School - start and finish	Community Child Care Center	12/17/2012
11/28/2013 11/28/2013	ROAD RACE Community Road Race Series Doug Bates is the contact.	Peirce Island	Seacoast Rotary Club Turkey Tr	12/17/2012
1/ 1/2014 1/ 1/2014	ROAD RACE Community Road Race Series Doug Bates is the contact.	Little Harbour School	Great Bay Services	12/17/2012



# CITY OF PORTSMOUTH

Municipal Complex  
1 Junkins Avenue  
Portsmouth, New Hampshire 03801  
(603) 431-2000

## CITY COUNCIL WORK SESSION – BUDGET PRESENTATIONS

**DATE:** SATURDAY, APRIL 6, 2013  
**LOCATION:** CITY HALL – EILEEN DONDERO FOLEY COUNCIL CHAMBERS  
**TIME:** 9:00AM – 3:00PM

### **A G E N D A**

9:00 a.m.	Budget Summary	John P. Bohenko, City Manager
9:30 a.m.	Police	Stephen DuBois, Police Chief
10:15 a.m.	Break	
10:30 a.m.	Fire	Christopher LeClaire, Fire Chief
11:15 a.m.	Public Works	Steve Parkinson, Public Works Director
	Parking and Transportation	Mark Nelson, Parking and Transportation Director
12:00 p.m.	Lunch	
12:30 p.m.	Library	Mary Ann List, Library Director
	Recreation	Rus Wilson, Recreation Director
	Planning, Inspection, Health	David Allen, Deputy City Manager
	Finance, Accounting, Assessing, Tax Collector, Information Technology	Judie Belanger, Finance Director
	Welfare	Ellen Tully, Welfare Administrator
	Human Resources	Dianna Fogarty, Director
	Legal	Robert Sullivan, City Attorney
	City Clerk	Kelli Barnaby, City Clerk
1:30 p.m.	School	Edward McDonough, Superintendent of Schools
3:00 p.m.	Adjournment	

KELLI L. BARNABY, CMC/CNHMC  
CITY CLERK

**NOTICE TO MEMBERS OF THE PUBLIC WHO ARE HEARING IMPAIRED:** If you require assistance, contact Dianna Fogarty, Human Resources Director, at 603-610-7270, one week before the meeting to make arrangements.



# 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: Taxi Initial applicant

Name: Michael Barker Telephone: 603-436-7828

Could you be contacted at work?  YES  NO If so, telephone# 603-766-3158

Street address: 5 Hancock Street

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): mbarker@momenta.com

How long have you been a resident of Portsmouth? since November 2001

Occupational background:  
Owner of Momenta, a distributor of crafting products to retailers such as Michaels,  
Joanns, Hobby Lobby and Wal-mart. Day to day responsibilities include staff mgmt,  
sales, operations and marketing. Prior to joining Momenta I was employed at  
EasyAsk (software company in MA) in a Marketing role.

Please list experience you have in respect to this Board/Commission:  
I understand the challenges associated with providing transportation to residents and  
visitors of Portsmouth. The Taxis licensed in the city provide a valuable service that  
helps ensure resident safety and supports economic growth.

OVER



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

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

Reasons for wishing to serve: I feel it is time to start giving back to a community that has become home to me and my family.

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

Craft & Hobby Assoc. (www.hobby.org)

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

1) Valerie Fagin, 75 Gates Street, Portsmouth, NH (603)436-6655  
Name, address, telephone number

2) Richard Greenslade, 20 T J Gamester Ave, Portsmouth, NH (603) 431-5758  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

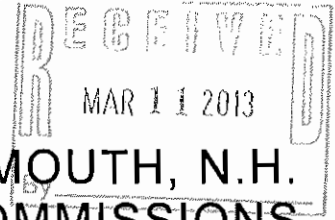
1. This application is for consideration and does not mean you will necessarily be appointed to this Board/Commission; and
2. The Mayor will review your application, may contact you, check your references, and determine any potential conflict of interests; and
3. This application may be forwarded to 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: 3/27/2013

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



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: Portsmouth Housing Authority **Renewing applicant**

Name: Ruth L. Griffin Telephone: 603-436-5272

Could you be contacted at work? ~~YES~~<sup>NO</sup> - If so, telephone # 603-436-5272

Street address: 479 Richards Avenue

Mailing address (if different): \_\_\_\_\_

Email address (for clerk's office communication): \_\_\_\_\_

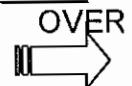
How long have you been a resident of Portsmouth? 75 Years

Occupational background:

Registered Nurse; served locally on the Portsmouth School Board; New Hampshire  
State Representative; New Hampshire State Senate; Governor's Council;  
Portsmouth Police Commission.

Would you be able to commit to attending all meetings? ~~YES~~<sup>NO</sup>

Reasons for wishing to continue serving: To continue to provide affordable housing  
for citizens of Portsmouth. Maintain the level of excellence in the management  
of administration of owned and managed housing by the Portsmouth Housing  
Authority. Continue to be part of providing social programs, i.e., children's  
Summer Recreation/homework and tutoring programs.



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

NH Health Services Planning and Review Board (CON)

Rockingham County Incentive Fund Committee  
Portsmouth Antheneum

Coastal Conservation Association

Working Dog Foundation

Revolving Loan Fund (Commercial Fishermen)  
Daughters of the American Revolution (D.A.R.)

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

1) Timothy J. "Ted" Connors, 381 Newington Road, Newington NH 03801; 436-6891 (UL)  
Name, address, telephone number

2) Robert Allard, 35 Gamester Road, Portsmouth NH 03801; 436-9320  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

1. This reappointment application is for consideration and does not mean you will necessarily be reappointed 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: Ruth L. Griffin Date: March 6, 2013

CITY CLERK INFORMATION ONLY:

New Term Expiration Date: 04/01/18

Annual Number of Meetings: 14 Number of Meetings Absent: 4  
2012

Date of Original Appointment: 6/15/1998

Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801



portsmouth, NH. The board is an intelligent and diverse group of people and I through enjoy servin

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

- none

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

- 1) Brenna Caravanaugh - Pine St Portsmouth NH 501-9920  
Name, address, telephone number
- 2) Laura Cattabria - PPD officer - Portsmouth NH # - 686-3734  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

- 1. This reappointment application is for consideration and does not mean you will necessarily be reappointed 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: 3-7-13

CITY CLERK INFORMATION ONLY:

New Term Expiration Date: 4/1/16

Annual Number of Meetings: 5 Number of Meetings Absent: 2

Date of Original Appointment: 7/16/12

Please submit application to: City Clerk's Office, 1 Junkins Avenue, Portsmouth, NH 03801

# ACTION SHEET

## PARKING and TRAFFIC SAFETY COMMITTEE

Councilor Ken Smith, Chairman

To: City Council Meeting of April 1, 2013

Re: Parking and Traffic Safety Committee Meeting held **March 14, 2013**

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### **ACTIONS:**

- [1] Accepted and placed on file the minutes of the Parking and Traffic Safety Committee Meeting held February 14, 2013 and February 28, 2013.
- [2] Accepted and placed on file the Financial Report.
- [3] Presentation regarding State of New Hampshire Dept. of Transportation Bridge replacement projects give by Alex Vogt, Project Manager, NH DOT Highway Design.
- [4] **COAST Bus Staging Issue – request to remove to parking spaces and relocate Taxi Stand – MOTION** made by Public Works Director Parkinson to approve the request to remove two parking spaces on Hanover Street and relocate Taxi Stand to the space in Front of Legends Billiards on Fleet Street, seconded by Deputy City Manager Allen. **Motion passed.**
- [5] **Cabot/McDonough Street Parking Issue – Stripe Area for parallel parking only – no head-in parking– MOTION** made by Public Works Director Parkinson to approve the request to stripe lower end of Cabot Street for parallel parking spaces and disallow head-in parking at the storage facility, seconded by Assistant Fire Chief Achilles. **Motion passed.**
- [6] **Informational Items:** Updates on the follow issues were given with **no action taken** by the Committee at this time:
  - A. Pay & Display Light on Order, March 14 ship date, installation to follow
  - B. Starting process of scheduling HHPG elevator and stair tower work
  - C. Closure of Wright Avenue Parking Lot for three weeks to facilitate gas/water work in area
  - D. Start Duncan Meter Trial – will run for 60 days

- E. ISSC Downtown Employee Parking contract going in front of PDA board with recommendation from PDA Counsel Lyn Hinchee and Port Director Geno Marconi to approve. Will most likely start program this coming November as there will only be one month availability this Spring.
- F. Working with the Library to relocate two handicapped spaces from the side entrance around to where the main entrance is facing the larger parking lot. The side entrance is currently locked for security reasons forcing those parking in those handicapped spaces to walk around the building to the main entrance. This came from a public inquiry asking if we had the requisite number of handicapped spaces for the Library.
- G. Coordinating with Dave Desfosses on parking operations related to the Daniel Street rehab which starts in April. As part of that process, we're looking at a mix of single space meters, and Pay and Display meters (with the possible addition of terminals with dollar bill capability) spread around central downtown on Daniel, Pleasant and Congress Streets.

**MINUTES**  
**PARKING AND TRAFFIC SAFETY COMMITTEE MEETING**

8:00 A.M. – Thursday, March 14, 2013  
City Hall – Eileen Dondero Foley Council Chambers

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**I. CALL TO ORDER:**

Chairman Ken Smith called the meeting to order at 8:00 a.m.

**II. ROLL CALL:**

**Members Present:**

Councilor Ken Smith, Chair  
Dave Allen, Deputy City Manager  
Steve Parkinson, Public Works Director  
Corey MacDonald, Deputy Police Chief  
Steve Achilles, Assistant Fire Chief  
Ron Cypher, Member  
Ted Gray, Member  
Harold Whitehouse, Member

**Members Absent:**

Sheri Donnermeyer, Member

**Staff Advisors Present:**

Mark Nelson, Parking Division Director  
Tom Cocchiaro, Parking Operations Supervisor

**III. ACCEPTANCE OF THE MINUTES:**

**Mr. Whitehouse moved to accept the minutes of the February 14, 2013 and February 28, 2013 meetings, as presented. Seconded by Mr. Cypher and passed. Deputy City Manager Allen abstained.**

**IV. FINANCIAL REPORT:**

**Mr. Cypher moved to accept the Financial Report and place on file. Seconded by Mr. Whitehouse and passed.**

*Chairman Smith stated that the Presentation will be held once Mr. Vogt arrives.*

**VI. NEW BUSINESS:**

- A. Coast Bus Staging Issue – request to remove two parking spaces and relocate taxi stand

Parking Operations Supervisor Tom Cocchiaro reviewed the proposal to remove two parking spaces and a taxi stand from area adjacent to the parking garage to make more room for bus pick-up and drop-off. He continued that over the past several months, because of an



increase in COAST service and the need to stage buses in the area for long periods of time, there have been conflicts between COAST buses and the four-times-daily Greyhound bus service. Because of the limited space, Greyhounds have regularly been forced to double park next to the inactive COAST bus cutting off an entire lane of Hanover Street. Several times already both companies have reported breaking one another's mirrors off as a result of the tight parking. He concluded that removing two parking spaces and the taxi stand will make it possible for the buses to get completely into the space provided for the bus stop. The impact on parking, according to a parking meter analysis of the area from January 1, 2012 to January 1, 2013, showed that, on average, only three spaces in that area were being used at any one time leaving a surplus of three spaces. Moving the taxi stand back across Fleet Street to the space in front of Legends Billiards will put it closer to where much of the nighttime activity is and avoid conflict with bus traffic.

**Public Works Director Parkinson moved to approve the request to remove two parking spaces and relocate the taxi stand as recommended, seconded by Deputy City Manager Allen. Motion passed.**

- B. Cabot/McDonough St. Parking Issue – Stripe area for parallel parking only – no head-in parking

Parking Division Director Nelson referred to a letter received from Myles Bratter regarding a parking issue which worsened after the upgrades to the roads and sewer system and installation of city sidewalks on both sides of the street. He explained that parking was supposed to be parallel parking, unless otherwise designated, but there were never any signs or stripes installed and it has caused a problem with people backing vehicles onto Bratters' property. Parking Division Director Nelson added that due to a recently installed cross-walk, only two spaces for parking by the storage facility are allowed. He concluded that a survey showed that under the current ordinance, space is available for three parking spaces On this portion of Cabot Street.

Mr. Cypher stated he reviewed the area himself and it was even worse than the photo depicted.

**Mr. Whitehouse moved to suspend the rules to allow Mr. Bratter to address the committee. Seconded by Deputy Police Chief MacDonald and passed.**

Mr. Bratter reiterated what was stated by Mr. Nelson regarding his parking issue at 159 McDonough Street and 342 Cabot Street at the very end of Cabot Street by the tracks. He stated he has tried various solutions including putting a large boulder in the space, but people just moved the boulder. He concluded by stating that if there were an emergency in the area, fire apparatus would not be able to get through.

Timothy Flynn of 135 McDonough Street – stated that there has always been angle parking in the area but there were no markings. He stated there is a lot of open space in the back of the building that can be used for parking.

**Public Works Director Parkinson moved to approve the request as submitted by the Parking Division to stripe the Cabot St spaces, seconded by Assistant Fire Chief Achilles. Motion passed.**

Mr. Flynn then discussed an issue with trash and illegally parked trailers on Mr. Bratter's property and stated he has contacted the City several times about the issue as he has lost tenants due to this problem. Chairman Smith stated this is not the proper committee to address this issue with but he would ensure that someone would follow up. Deputy City Manager Allen stated the Legal Department is aware of this issue and has been working on it and he will follow up as well.

Mr. Bratter clarified that the City gave his tenant permission to put the items on the property and stated he isn't happy with the situation either.

**VII. PUBLIC COMMENT:** There were no speakers.

**V. PRESENTATION:**

A. State of New Hampshire Dept. of Transportation Bridge Presentation – Alex Vogt, Project Manager, NH DOT Highway Design

Alex Vogt, Project Manager, NH DOT Highway Design began by introducing Wendy Johnson of the Highway Design Group who will be the contact for the City once Mr. Vogt retires in April. He then reviewed the upcoming projects and the proposed traffic detours that will occur as each project goes along. He distributed a preliminary plan mapping out the 6 upcoming bridge replacement projects between now and September 2015. He stated as each bridge closed, they will coordinate with the city departments to work out traffic details.

Public Works Director Parkinson stated that this will be important as there are certain areas where even if the closure is at night, it would disrupt truck deliveries as well as fire and police routes.

Assistant Fire Chief Achilles agreed stating that the Middle Road/NH 33 Bridge is a critical route for ambulances from the south to access Portsmouth Regional Hospital.

Mr. Whitehouse asked about the reconfiguration of Woodbury Avenue/Maplewood Avenue intersections stating that this is a dangerous intersection and would like to see this addressed. Mr. Vogt explained that the final design has not yet been completed but feels it will be similar to the current design. Ms. Johnson stated they are discussing with the consultant various island shapes to prohibit the left hand turn at that intersection, but again, the design is not yet final.

Chairman Smith stated that this has been an ongoing issue and several different strategies have been tried with no success so he hopes that a better solution can be presented, especially at the intersection with Cutts Avenue as there have been many accidents and near misses. Deputy Police Chief MacDonald confirmed that this intersection has been a problem.

Mr. Vogt concluded by stating that he will continue to coordinate with the City as the projects progress.

### **VIII. INFORMATIONAL:**

**Parking Division Director Nelson and Parking Operations Supervisor Cocchiaro gave a brief update of the following issues with no action required or taken by the Committee at this time:**

- A. Pay & Display Lighting on Order, March 14, ship date, installation to follow
- B. Starting process of scheduling HHPG elevator and stair tower work – bids are going out at present time.
- C. Closure of Wright Avenue Parking Lot for three weeks to facilitate gas/water work in area

Chairman Smith asked if the spaces are still available for overnight parking. Parking Division Director Nelson stated yes, but the cars need to be gone by 6:00 a.m.

- D. Start Duncan Meter Trial – will run for 60 days on various side streets.
- E. ISSC Downtown Employee Parking contract going in front of PDA Board with recommendation from DPA Counsel Lyn Hinchee and Port Director Marconi to approve. Will most likely start program this coming November as there will be one month availability this Spring.

Parking Operations Supervisor Cocchiaro stated that the PDA Board is acting on this today and that there were some slight changes in the language from the original proposal.

- F. Working with the Library to relocate two handicapped spaces from the side entrance around to where the main entrance is facing the larger parking lot. The side entrance is currently locked for security reasons forcing those parking in those handicapped spaces to walk around the building to the main entrance. This came from a public inquiry asking if we had the requisite number of handicapped spaces for the Library.

Parking Division Director Nelson explained that there are enough spaces as required, but they aren't well-placed. He stated he is working with the Library Director to relocate the spaces but are waiting until the snow melts to clearly evaluate the area.

- G. Coordinating with Dave Desfosses on parking operations related to the Daniel Street rehab which starts in April. As part of that process, we're looking at a mix of single space meters, and Pay and Display meters (with the possible addition of terminals with bill capability) spread around central downtown on Daniel, Pleasant and Congress Streets.

Discussion ensued regarding the cost of dollar bill capability machines and the effect the weather can sometimes have on these machines. Public Works Director Parkinson stated that this is a trial period and the technology has been improved, but if they do not work they can remove that portion of the machine.


**IX. ADJOURNMENT**

**Mr. Whitehouse moved to adjourn at 8:40 a.m., seconded and passed unanimously.**

## MEMORANDUM

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**TO:** John P. Bohenko, City Manager  
**FROM:** Liz Good, Planning Department   
**SUBJECT:** Conservation Commission Minutes  
**DATE:** March 15, 2013

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Please be advised that the approved minutes from the February 13, 2013 Conservation Commission meeting are now available on the City's website for your review.

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## MEMORANDUM

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**TO:** John P. Bohenko, City Manager  
**FROM:** Jane Shouse, Planning Department *JMS*  
**SUBJECT:** Site Review Technical Advisory Committee Minutes  
**DATE:** March 12, 2013

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Please be advised that the approved minutes from the March 5, 2013 Site Review Technical Advisory Committee meeting are now available on the City's website for your review.

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## MEMORANDUM

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**TO:** John P. Bohenko, City Manager  
**FROM:** Jane Shouse, Planning Department *JMS*  
**SUBJECT:** Planning Board Minutes  
**DATE:** March 26, 2013

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Please be advised that the approved minutes from the November 15, 2012 Planning Board meeting are now available on the City's website for your review.