

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, DECEMBER 2, 2013 TIME: 7:00PM

AGENDA

- 6:30PM – ANTICIPATED “NON-MEETING” WITH COUNSEL REGARDING NEGOTIATIONS – RSA 91-A:2, I (b-c)

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

II. ROLL CALL

III. INVOCATION

IV. PLEDGE OF ALLEGIANCE

V. ACCEPTANCE OF MINUTES – OCTOBER 7, 2013 AND OCTOBER 21, 2013

VI. PUBLIC COMMENT SESSION

VII. PUBLIC HEARINGS

A. ORDINANCE AMENDMENT CHAPTER 7, ARTICLE IV, SECTION 7.402 – AREAS ESTABLISHED, DESIGNATED AND DESCRIBED, OFF-STREET PARKING AREAS, ADD LEARY FIELD PARKING AREA, NOT TO EXCEED 72 HOURS AT ONE TIME

B. ORDINANCE AMENDMENTS TO THE ZONING ORDINANCE, ARTICLE 6 – OVERLAY DISTRICT, SECTION 10.630 – HISTORIC DISTRICT

VIII. APPROVAL OF GRANTS/DONATIONS

There are no items on under this section of the agenda

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

A. Second reading of Ordinance amending Chapter 7, Article IV, Section 7.402 – Areas Established, Designated and Described, Off-Street Parking Areas, Add Leary Field Parking Area, not to exceed 72 hours at one time

B. Second Reading on Proposed Amendments to the Zoning Ordinance, Article 6 – Overlay District, Section 10.630 – Historic District

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

A. Request for License from Kim Lively, owner of Lively Kids for property located at 133 Market Street for a projecting sign on an existing bracket (***Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Kim Lively, owner of Lively Kids for a projecting sign at property located at 133 Market Street and, further, authorize the City Manager to execute License Agreements for this request***)

Planning Director's Stipulations:

- ***The licenses shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting signs, for any reason, will be done at no cost to the City; and***
- ***Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting signs, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works***

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

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

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

Items Which Require Action Under Other Sections of the Agenda

1. Public Hearing/Second Reading of Proposed Resolution and Ordinance Amendments:
 - 1.1 Public Hearing/Second Reading of Ordinance amending Chapter 7, Article IV, Section 7.402 – Areas Established, Designated and Described, Off-Street Parking Areas, Add Leary Field Parking Area, not to exceed 72 hours at one time ***(Action on this matter should take place under Section IX of the Agenda)***
 - 1.2 Public Hearing/Second Reading on Proposed Amendments to the Zoning Ordinance, Article 6 – Overlay District, Section 10.630 – Historic District ***(Action on this matter should take place under Section IX of the Agenda)***

City Manager's Items Which Require Action

1. Approval of Proposed Employment Agreement for Deputy Fire Chief James B. Heinz
2. Lease of Greenleaf Recreation Center Re: Operation Blessing

Informational Items

1. Events Listing
2. Holiday Parade and Tree Lighting Ceremony

B. MAYOR SPEAR

1. Resignation – Bob Shouse from the Blue Ribbon Committee on Sustainable Practices

C. ASSISTANT MAYOR LISTER

1. Recommendation of City Council Evaluation Committee Re: Proposed Amendment to City Manager's Employment Agreement - ***Move to authorize the Mayor to execute Amendment to City Manager's Employment Agreement as follows:***
 - ***Upon notice from the Employee of his retirement, the City shall purchase an annuity for the benefit of the Employee in an amount equal to one month's salary (based on Employee's salary in effect at the time of Employee's retirement) multiplied by the Employee's total completed years of service with the City prior to the date of his retirement. For purposes of this section, the Employee will be considered to have retired when he provides notice of his voluntary termination of employment with the City for any reason.***
 - ***Further, that all other terms and conditions of the City Manager's Employment Agreement dated October 23, 2012 shall remain in full force and effect.***

D. COUNCILOR SMITH

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

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

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

INFORMATIONAL ITEMS

1. Notification that the Historic District Commission Minutes of the December 5, 2012 meeting are available on the City's website for your review
2. Notification that the Historic District Commission Minutes of the February 6, 2013 meeting are available on the City's website for your review
3. Notification that the Historic District Commission Minutes of the February 13, 2013 meeting are available on the City's website for your review
4. Notification that the Historic District Commission Minutes of the August 7, 2013 meeting are available on the City's website for your review
5. Notification that the Zoning Board of Adjustment Minutes of the July 24, 2012 and August 21, 2012 are available on the City's website for your review

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

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, OCTOBER 7, 2013

PORTSMOUTH, NH
TIME: 7:00 PM [or thereafter]

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

Mayor Spear called the meeting to order at 7:00 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 Smith led the Pledge of Allegiance to the Flag.

PRESENTATION

1. Trustees of the Trust Funds Report

Phyllis Eldridge, Trustees of the Trust Funds Chair reviewed the MS-9 and MS-10 Reports and the various funds under the responsibility of the Trustees with the City Council. Trustee Eldridge spoke regarding the maintenance of Prescott Park as well as capital projects.

Councilor Lown asked about the relationship between the Trustees and the Prescott Park Arts Festival. Trustee Eldridge explained the operating agreement between the Trustees of the Trust Funds and Prescott Park Arts Festival.

Councilor Smith said he would like a public report created showing each individual fund and its value. He also requested information on the scholarship funds outlining qualifications for applying and receiving a scholarship. Trustee Eldridge advised Councilor Smith that Portsmouth High School has the various scholarships and requirements outlined on their website.

Councilor Kennedy asked if the operating agreement between the Trustees of the Trust Fund and Prescott Park Arts Festival is on the city's website. Trustee Eldridge responded it was not and that the document is a fluid document which is always being worked on.

Assistant Mayor Lister thanked Trustee Eldridge for the presentation and stated the City does not realize how much of a benefit we have with the Trustees of the Trust Fund.

V. ACCEPTANCE OF MINUTES – SEPTEMBER 3, 2013 AND SEPTEMBER 16, 2013

Councilor Smith moved to accept and approve the minutes of the September 3, 2013 and September 16, 2013 City Council meetings. Seconded by Assistant Mayor Lister and voted.

VI. PUBLIC COMMENT SESSION

Tom Carroll spoke regarding the scrap metal debris at the Port. He said if the City Council is against the operation and pollution at the Port they should express their opposition.

Jeff Barnum York, Maine, spoke regarding the Municipal Coalition and the PEER Review.

Ruth Griffin spoke regarding the petition from Richards Avenue residents in support of replacing the concrete sidewalks.

Pat Shea said it is time for the City to withdraw from the Municipal Coalition and put the City's funds towards the health of the Great Bay.

Mike Shea expressed support for the withdrawal of the City from the Municipal Coalition and stated the City's money could be better spent.

Peg O'Neil said it is time for the City to withdraw from the Municipal Coalition. She said the Great Bay is vital but the expense to the taxpayers needs to stop.

Duncan MacCallum spoke regarding public involvement in government. He suggested restructuring the City Council agenda to have the public comment session prior to presentations. He feels the current agenda discourages public interaction and involvement.

Councilor Lown moved to suspend the rules in order to allow an additional speaker for the public comment session. Seconded by Councilor Novelline Clayburgh and voted.

Dan Bigda stated he has been in the taxi business for the last six years and addressed the matter of the number of medallions available. He explained his opposition for additional medallions at this time. Mr. Bigda indicated there is a lack of demand for medallions and that companies cannot cover the operating costs.

Assistant Mayor Lister moved to suspend the rules in order to bring up Item XI. E. - Letter from Rus Wilson, Recreation/Athletic Director, regarding recommendation from the Recreation Board to name the Pease softball field in honor of Tony Rahn. Seconded by Councilor Lown and voted.

XI. E. Letter from Rus Wilson, Recreation/Athletic Director, regarding recommendation from the Recreation Board to name the Pease softball field in honor of Tony Rahn

Assistant Mayor Lister moved to approve and accept the recommendation of the Recreation Board. Seconded by Councilor Coviello.

Councilor Novelline Clayburgh spoke as a member of the Recreation Board and stated the Board and Mrs. Rahn are in favor of this recommendation.

Motion passed.

Mayor Spear thanked Councilor Novelline Clayburgh and the Recreation Board for making this recommendation.

VII. PUBLIC HEARINGS

A. ORDINANCE AMENDING CHAPTER 8, ARTICLE III, "STREET TREES," IS HEREBY DELETED IN ITS ENTIRETY AND REPLACED WITH THE FOLLOWING AMENDMENT TO CHAPTER 1 ARTICLE IV BY CREATING A TREES & PUBLIC GREENERY COMMITTEE AND THE ADOPTION OF A NEW ARTICLE III ENTITLED PORTSMOUTH URBAN FORESTRY ORDINANCE OF CHAPTER 8

Mayor Spear read the legal notice, declared the public hearing open and called for speakers.

Peter Loughlin provided an overview of the ordinance for the City Council. He said the Committee has worked on the ordinance for the last several years and spoke to the support of the Public Works Department with the Committee. He reviewed the role of the Trees and Greenery Committee and stated that it meets the current statutory requirements.

With no further speakers, Mayor Spear declared the public hearing closed.

B. ORDINANCE AMENDING CHAPTER 7, ARTICLE II, SECTION 7.222 – MAXIMUM NUMBER OF TAXICABS AMENDED TO INCREASE THE NUMBER OF MEDALLIONS FROM TWENTY-FIVE (25) TO TWENTY-EIGHT (28)

Mayor Spear read the legal notice, declared the public hearing open and called for speakers.

Merle White, Anchor Taxi said he has driven a taxi for the last 3 years and there is no need for additional medallions. He stated as a driver downtown late in the evening he knows what is or is not needed.

Edward Heath Anchor Taxi, said the matter at hand for more medallions is not needed. He stated the issues are between 1:00 a.m. – 2:00 a.m. when large amounts of people get out of the bars and the taxi service is first come first serve. He said many calls are to take people outside of the City, which requires time and Mr. Heath said people should be taking more responsibility for themselves.

Peter Bresciano, Taxi Commission Chair, said the companies make sure there are cabs operating safely on the road. He spoke in support of the ordinance and advised the Council that there are currently requests for medallions and there are no more available at this time. Chair Bresciano stated if the Council puts in mandatory times of operating it would put the taxi companies out of business.

With no further speakers, Mayor Spear declared the public hearing closed.

- C. ORDINANCE AMENDING CHAPTER 7, ARTICLE X, SECTION 7.1000 E – TOWING – TOW ZONES – LIMITED PARKING AREAS: CITY STREETS – BE AMENDED THAT ANY VEHICLE OR OBJECT REMAINING IN THE SAME LOCATION IN ANY UNCONTROLLED ON-STREET PARKING SPACE FOR MORE THAN 24 HOURS IN THE CENTRAL BUSINESS DISTRICTS A AND B AS BOUNDED AND SHOWN ON THE CITY OF PORTSMOUTH ZONING MAP, OR MORE THAN 72 HOURS IN ANY OTHER LOCATION IN THE CITY, MAY BE REMOVED IN THE MANNER PROVIDED IN SECTION 7.1000 D

Mayor Spear read the legal notice, declared the public hearing open and called for speakers.

City Manager Bohenko stated that this was brought forward from the Parking and Traffic Safety Committee.

Councilor Smith said there is some no parking or free parking areas with no regulations and this will clean up those areas.

With no speakers, Mayor Spear declared the public hearing closed.

VIII. APPROVAL OF GRANTS/DONATIONS

A. Acceptance of Grants to the Portsmouth Police Department:

- NH Department of Justice Grant toward Portsmouth's participation in the Attorney General's Drug Task Force - \$30,000.00
- US Department of Justice 2013 Internet Crimes Against Children Task Force Grant for the New Hampshire ICAC Task Force - \$256,253.00

Councilor Smith moved to approve and accept the Grant to the Portsmouth Police Department, as listed. Seconded by Councilor Lown.

Councilor Thorsen asked if there are mandates with this grant for more enforcement of streets.

Police Chief Dubois reported that there are no mandates on the hiring of personnel. He spoke to the type of statistical reporting required as part of the grant.

Motion passed.

- B. Acceptance of Donation to the Coalition Legal Fund
 - Town of Rye - \$5,000.00

Councilor Kennedy moved to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund. Seconded by Councilor Novelline Clayburgh and voted.

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Second reading of Ordinance amending Chapter 8, Article III, "Street Trees," is hereby deleted in its entirety and replaced with the following amendment to Chapter 1 Article IV by creating a Trees & Public Greenery Committee and the adoption of a new Article III entitled Portsmouth Urban Forestry Ordinance of Chapter 8

Councilor Coviello moved to pass second reading and schedule a third and final reading on the proposed Ordinance, as presented, at the October 21, 2013 City Council meeting. Seconded by Assistant Mayor Lister.

Councilor Kennedy asked if the City has to come forward to the Committee for the removal of a tree. City Manager Bohenko answered yes. She stated that people are concerned that the Committee is not active.

Councilor Dwyer asked about advising the Planning Board of any items that come before the Committee.

Chair Loughlin stated all removals come before the Committee and on several occasions the Committee has been asked to provide input to the Planning Board. He said he does not feel the Planning Board needs to be part of the ordinance. Councilor Dwyer stated something should be added to the ordinance for the involvement of the Planning Board.

Councilor Thorsen asked about the Tree Warden and why we need such a designation where it is part of the Public Works Department. City Attorney Sullivan said the designation of Tree Warden comes from the enabling legislation.

Councilor Dwyer moved to amend Section 8.307 – Authority of the Tree Warden by the addition of a Letter E to read as follows:

- E. The Tree Warden or designee shall provide advice to the Site Review Technical Advisory Committee on tree removal, tree selection, and placement on projects that come before the Planning Board.***

Seconded by Councilor Smith and voted.

Main motion passed as amended.

- B. Second reading of Ordinance amending Chapter 7, Article II, Section 7.222 – Maximum Number of Taxicabs amended to increase the number of medallions from twenty-five (25) to twenty-eight (28)

Councilor Lown moved to pass second reading and schedule a third and final reading on the proposed Ordinance, as presented, at the October 21, 2013 City Council meeting. Seconded by Councilor Coviello.

Councilor Lown said the Taxi Commission is opening this up to free market and the free market will speak.

Councilor Coviello said he supports the motion but does not feel we should limit the number of medallions and the Council should consider franchising taxi services.

Councilor Thorsen said he agrees with Councilor Coviello and we should not restrict the number of medallions. He indicated he would like to see 40 medallions made available.

Councilor Dwyer said she supports the suggestions and request of the Taxi Commission. She asked if the Commission has considered increasing the price of medallions and higher rates. Councilor Lown indicated the Commission has not discussed the matter but they could look into it. He suggested charging higher rates for certain hours.

Councilor Novelline Clayburgh expressed concern with the inspections for the additional taxes and that there should be more taxes available for late evenings.

Motion passed.

- C. Second reading of Ordinance amending Chapter 7, Article X, Section 7.1000 E – Towing – Tow Zones – Limited Parking Areas: City Streets – be amended that any vehicle or object remaining in the same location in any uncontrolled on-street parking space for more than 24 hours in the Central Business Districts A and B as bounded and shown on the City of Portsmouth Zoning Map, or more than 72 hours in any other location in the City, may be removed in the manner provided in Section 7.1000 D

Councilor Coviello moved to pass second reading and schedule a third and final reading on the proposed Ordinance, as presented, at the October 21, 2013 City Council meeting. Seconded by Councilor Kennedy and voted.

X. CONSENT AGENDA

Councilor Kennedy requested to remove Item D – Request for License from Carol Johnson, owner of Allstate for property located at 401 The Hill for a projecting sign on an existing bracket from the Consent Agenda in order to act on the item separately.

- A. Letter from Trevor Bartlett, Portsmouth Halloween Parade, requesting permission to hold the annual Halloween Parade on Thursday, October 31, 2013 ***(Anticipated action – move to refer to the City Manager with power)***
- B. Request for License from Daniel Dumont, owner of Lo Mo for property located at 86 Pleasant Street for a projecting sign on an existing bracket ***(Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Daniel Dumont, owner of Lo Mo for a projecting sign at property located at 86 Pleasant Street and, further, authorize the City Manager to execute License Agreements for this request)***

Planning Director's Stipulations:

- ***The licenses shall be approved by the Legal Department as to content and form;***
 - ***Any removal or relocation of the projecting signs, for any reason, will be done at no cost to the City; and***
 - ***Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting signs, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works***
- C. Request for License from Jim Weisweit, owner of Portsmouth Spa for property located at 55 Congress Street for a projecting sign on a new bracket ***(Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Jim Weisweit, owner of Portsmouth Spa for a projecting sign at property located at 55 Congress Street and, further, authorize the City Manager to execute License Agreements for this request)***

Planning Director's Stipulations:

- ***The licenses shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting signs, for any reason, will be done at no cost to the City; and***
- ***Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting signs, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works***

Councilor Coviello moved to adopt the Consent Agenda. Seconded by Councilor Smith and voted.

Councilor Smith announced that the Scarecrows of the Port will be put up this Thursday at 9:00 a.m. if anyone would like to assist in the process.

- D. Request for License from Carol Johnson, owner of Allstate for property located at 401 The Hill for a projecting sign on an existing bracket

Councilor Coviello moved to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Carol Johnson, owner of Allstate for a projecting sign at property located at 401 The Hill and, further, authorize the City Manager to execute License Agreements for this request. Seconded by Councilor Novelline Clayburgh and voted. Councilor Kennedy abstained from voting on this matter.

Planning Director's Stipulations:

- ***No sign permit shall be issued until the Legal Department has determined that the outstanding violations of the City's land use regulations have been satisfactorily addressed;***
- ***The licenses shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting signs, for any reason, will be done at no cost to the City; and***
- ***Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting signs, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works***

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Daniel Dumont, LoMo Portsmouth LLC, requesting approval to place a dumpster at 86 Pleasant Street

Councilor Lown moved to refer to the City Manager with power. Seconded by Councilor Novelline Clayburgh and voted.

- B. Petition from Richards Avenue residents requesting concrete continuous sidewalks from Lincoln Avenue to South Street

Councilor Lown moved to approve continuous concrete sidewalks on Richards Avenue from Lincoln Avenue to South Street, as presented. Seconded by Assistant Mayor Lister.

City Manager Bohenko reported the Public Works Department has reviewed this matter and given the historic nature of this street, staff recommends this additional work be added to the contract so there are continuous sidewalks consistent with the historic conditions. He stated he feels comfortable that we are not setting a precedent and the cost will be absorbed into the budget.

Motion passed.

- C. Letter from Renee McCune, Portsmouth Lodge of Elks #97, regarding the safety of student runners exiting the trail from the woods onto the roadway

Councilor Kennedy moved to refer to the Parking and Traffic Safety Committee for report back. Seconded by Assistant Mayor Lister.

Councilor Dwyer said she heard the School Department took this matter up and changed the trail. City Manager Bohenko indicated the School Department has installed cones and we will be seeking volunteers at the end of the roadway to caution drivers of the runners.

Motion passed.

- D. Letter from Christopher Mulligan, Bosen & Associates, PLLC, regarding Amended Site Plan Approval for Property Located at 233 Vaughan Street and proposed Sidewalk License Agreement

Councilor Kennedy moved to refer to the City Manager with power. Seconded by Councilor Smith and voted.

- F. Letter from Frank Kennedy, Pine Tree Model "A" Club, requesting permission to hold an antique autos parade over the Memorial Bridge and around Market Square on Saturday, October 26, 2013

Assistant Mayor Lister moved to refer to the City Manager with power. Seconded by Councilor Kennedy and voted.

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Adoption of Transportation Policies
 - Complete Streets
 - Bicycle Friendly Community
 - Walk Friendly Community

City Manager Bohenko said he is submitting the three proposed policies for adoption by the Council.

Planning Director Taintor reviewed the Complete Streets Policy which are designed and operated to enable safe access for all users, including bicyclists, public transportation vehicles and riders, and pedestrians of all ages and abilities. He stated the Planning Department drafted the policy based on national models and examples, tailored to Portsmouth's specific conditions. The Complete Streets Policy will establish an overall framework for planning designing, constructing and maintaining a balanced transportation infrastructure in the City.

Transportation Planner Juliet Walker addressed the Bicycle Friendly Community and Walk Friendly Community Policies. She indicated that the City is working toward designation by the League of American Bicyclists as a Bicycle Friendly Community. She stated approximately 259 communities in the US have achieved this designation to date. In order to be awarded the designation there is an application process, and communities must meet a defined set of criteria. Transportation Planner Walker reported for the City to be able to apply for BFC and WFC designation in 2014, it will be necessary to demonstrate broad community support and marked progress in improving bicycle and pedestrian facilities.

Councilor Smith moved to adopt the Complete Streets Policy. Seconded by Councilor Novelline Clayburgh.

Councilor Kennedy expressed concerns that the word educate is not used more, how are we going to educate and who will be providing the education. City Manager Bohenko said there is an education aspect linked to the policies. He said we will provide the education much in the way we did when the City introduced the recycling program. He anticipates holding public meetings but we need to adopt the policies in order to move forward. Councilor Kennedy said we should put something on the website regarding the policies.

Councilor Lown thanked Planning Director Taintor and Transportation Planner Walker for their work on these policies and stated this is a step in the process.

City Manager Bohenko advised the Council these would be policies discussions and are part of the budget process. It may cause a need for more equipment to get the work done.

Assistant Mayor Lister said he supports the policies and we should move forward. He said this helps the City with transportation and could be part of the wayfinding when you enter the City.

Motion passed.

Councilor Lown moved to adopt the Bicycle Friendly Communities Policy. Seconded by Councilor Kennedy and voted.

Councilor Smith moved to adopt the Walk Friendly Communities Policy. Seconded by Councilor Novelline Clayburgh and voted.

2. Report Back Re: Request of Mark Ayotte, 9 Garden Street, for City to return all rights and privileges to him as an abutter from their current property line to the centerline of both Garden Street and Colonial Avenue

City Manager Bohenko reported the Planning Board reviewed this matter and voted unanimously to recommend the City not release its interest in Garden Street or Colonial Avenue.

Councilor Kennedy moved to accept the Planning Board's recommendation that the City not release its interest in Garden Street or Colonial Avenue. Seconded by Councilor Smith and voted.

3. Report Back Re: Request of Rob Sevigny of The Paper Patch, 36 Market Street, for an easement to restore a step on Ladd Street

City Manager Bohenko reported that the Planning Board is recommending a license rather than an easement for the replacement of the steps.

Councilor Smith moved to accept the Planning Board's and Planning Director's recommendation to grant a license (rather than an easement) to place a step at this location, subject to the following conditions. Seconded by Councilor Novelline Clayburgh and voted. Councilor Coviello abstained from voting on this matter.

Conditions:

- a) *The step be constructed to code and shall be subject to approval by the Department of Public Works*
- b) *The sidewalk area disturbed to install the step shall be reconstructed to specifications approved by the Department of Public Works*
- c) *The License shall be approved by the Legal Department as to content and form*

B. MAYOR SPEAR

1. Appointments to be Considered:
 - John Bosen – Reappointment to the Economic Development Commission
 - Joshua Cyr – Reappointment to the Economic Development Commission
 - Michael Barker – Planning Board
 - Justin Finn – Planning Board

The City Council considered the above referenced appointments which will be voted on at the October 21, 2013 City Council meeting.

2. Appointment to be Voted:
 - Ronald Zolla – Reappointment to the Economic Development Commission

Councilor Lown moved to reappoint Ronald Zolla to the Economic Development Commission until October 1, 2017. Seconded by Assistant Mayor and voted.

3. Resignations
 - Robin Rousseau from the Zoning Board of Adjustment
 - Aaron Lawson from the Taxi Commission

Councilor Smith moved to accept with regret the resignation of Robin Rousseau from the Zoning Board of Adjustment and the resignation of Aaron Lawson from the Taxi Commission. Seconded by Assistant Mayor Lister and voted.

Councilor Smith requested that letters of thanks and appreciation be sent to Ms. Rousseau and Mr. Lawson for their service to the City.

C. COUNCILOR KENNEDY

1. Coalition Communities – Wastewater Treatment Plants

Assistant City Attorney Woodland and Public Works Director Rice provided a presentation to the Council on this matter. Public Works Director Rice thoroughly reviewed the memorandum dated October 2, 2013. He reviewed the investments made by the City to our infrastructure. Director Rice spoke to the City Council regarding the history of working with other communities to level our dollars and get more bang for our buck. He also addressed the success of the Coalition in evaluating more technology for the building of a new wastewater treatment plant. Public Works Director Rice addressed the PEER Review process stating we need to make sure the science used is correct and there is a measured response to the efforts and that the science supports the City's position.

Assistant City Attorney Woodland stated that the City was not heard originally and reviewed the process which was followed for the regulatory permit and the progress we have made. She indicated that a 3 mg/L would have huge consequences and the science is important because it would have an impact on Pease as well. Assistant City Attorney Woodland spoke to the importance of understand what is happening in the Great Bay and Piscataqua River and everyone recognizes that and the question is how we get there. She indicated through a collaborative effort we are getting an independent PEER Review. She addressed the two pieces of litigation pending.

City Manager Bohenko said the staff has a fiduciary responsibility to do what is in the best interest of the City. He said the easy way would have been to accept what was said to the City but we did not. He also stated we're preserving Peirce Island, where the original proposal would have destroyed it and we were in no way trying to delay anything. He indicated that the costs are coming from the general fund and that it is not wrong to ask the questions the staff is asking. Public employees often get criticized for asking the questions but it was the right thing to do and the objective of the Council was to get a PEER Review and that has been granted.

Councilor Kennedy moved that the City of Portsmouth withdraw from being one of the remaining three coalition communities linked to wastewater treatment plants. Seconded by Councilor Thorsen.

Councilor Kennedy stated she respects all the information brought forward to this point but sometimes you need to know when to move forward. She said the amount of money is all over the place and 4 communities have pulled out of the Coalition.

Public Works Director Rice spoke to the cost for the PEER Review and discussed the frame work for the storm water. He said the Council made a decision to move forward with 8 mg/L and the EPA has not made a decision or given a permit or put anything in writing. He said the Town of Exeter's permit has storm water requirements as part of their permit and they have been given 3mg/L permit. Director Rice advised the City Council if you do not meet the requirements of a water quality permit, the EPA can go in and dictate to property owners what they must do in order to meet such requirements.

Councilor Dwyer indicated it is important to not lose the public on this as the Council voted to do the wastewater treatment plant and we are moving forward. The regulatory frame work is an important reason to stay in the process. She stated we could be held to standards and fined every day for not meeting those standards. Councilor Dwyer said people are missing the point why we are trying to have the PEER Review.

Assistant Mayor Lister thanked Director Rice and Assistant City Attorney Woodland for their work on this matter. He asked what the time line is for the PEER Review. Assistant City Attorney Woodland said the review would be completed by the end of January, 2014.

Councilor Coviello said we can't pull out because we do not have a permit yet.

Councilor Lown said the EPA needs to be more careful about internal e-mail. Portsmouth cares about the environment, and education gives a voice to the small and powerless.

Councilor Novelline Clayburgh said she would vote against the motion and that we need to continue with the Coalition.

Assistant City Attorney Woodland said the City Council is empowered to make decisions based on what is in the best interest of the City.

Mayor Spear passed the gavel to Assistant Mayor Lister.

Mayor Spear said working together is important and having a positive approach.

Assistant Mayor Lister returned the gavel to Mayor Spear.

Councilor Smith said we need to remember storm water is coming next.

On a roll call vote 1-8, motion to have the City of Portsmouth withdraw from being one of the remaining three coalition communities linked to wastewater treatment plants failed to pass. Councilor Kennedy voted in favor. Assistant Mayor Lister, Councilors Coviello, Novelline Clayburgh, Lown, Dwyer, Smith, Thorsen and Mayor Spear voted opposed.

2. 400th Year Celebration

Councilor Kennedy moved that the City Manager work with Dennis Robinson on his proposal to collect and interpret 400 years of history in preparation of our 400th year celebration and to bring back a proposal at the October 21, 2013 City Council meeting. Seconded by Councilor Novelline Clayburgh.

Councilor Kennedy said we need to move forward with planning for our 400th Anniversary Celebration.

Assistant Mayor Lister said he appreciates Councilor Kennedy bringing this matter forward and he would feel honored to have Dennis Robinson as part of the celebration but we should create a committee and look at all aspects of the celebration.

Assistant Mayor Lister moved to amend the motion and form a committee to look at all aspects of a 400th Celebration Committee. No second to the motion was received.

Councilor Thorsen asked if this needs to be done now or after the new City Council is elected.

Councilor Kennedy said Dennis Robinson needs time to do this and would like City Manager Bohenko to review the request of Mr. Robinson to put this in place.

Councilor Coviello said we should have City Manager Bohenko look into this and report back in January.

Councilor Kennedy withdrew the original motion.

Councilor Kennedy moved to request the City Manager provide a report back at the first Council meeting in January, 2014 regarding working with Dennis Robinson on his proposal to collect and interpret 400 years of history in preparation of our 400th year celebration. Seconded by Councilor Thorsen and voted.

3. Adopt a Spots

Councilor Kennedy requested that the City Manager provided a report back in the future regarding the recognition of individuals who create and maintain Adopt a Spots throughout the City.

D. COUNCILOR LOWN

1. Parking Impact Fee Re: Restaurants

Councilor Lown requested a report back outlining the history of this item.

2. Letter Re: Christmas Event

Councilor Lown will communicate back with Mr. Fischer regarding his request.

Councilor Dwyer said we already have Vintage Christmas and the City is earlier than the Dickens era.

E. COUNCILOR SMITH

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the September 12, 2013 meeting

Councilor Smith moved to approve and accept the action sheet and minutes of the Parking and Traffic Safety Committee meeting of September 12, 2013. Seconded by Assistant Mayor Lister and voted. Councilor Kennedy voted opposed.

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

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

At 10:50 p.m., Councilor Lown moved to adjourn. Seconded by Councilor Smith and voted.



Kelli L. Barnaby, CMC/CNHMC
City Clerk

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, OCTOBER 21, 2013

PORTSMOUTH, NH
TIME: 7:00 PM [or thereafter]

At 6:30 p.m., an anticipated "Non-Meeting" was held with Counsel regarding Negotiations – RSA 91-A:2, I (b-c).

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

Mayor Spear called the meeting to order at 7:10 p.m.

II. ROLL CALL

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

Absent: Councilor Coviello

III. INVOCATION

Mayor Spear asked everyone to join in a moment of silent prayer.

IV. PLEDGE OF ALLEGIANCE

Councilor Novelline Clayburgh led the Pledge of Allegiance to the Flag.

PRESENTATIONS

1. Recognition of Art Students

Mayor Spear presented awards and gifts to seven Portsmouth School students in attendance for their donation of art work in the Mayor's office over the last 2 years. There were 10 students in total recognized as follows: Julia Luff, Lydia Wright, Charlotte Hackett, Sophie Casa, Mary Melanson, Jesalina Phan, Ella Lukacz, Roshni Rajkumar, Julianne Edwards and Spencer Young.

2. Update on Wayfinding Project – Juliet Walker and Glenn Swantak, Principal, MERJE

City Transportation Planner Juliet Walker introduced Glenn Swantak of MERJE who then gave a brief presentation on the ongoing Wayfinding Program. Mr. Swantak explained that the entire City of Portsmouth is included in the program, but the concentration is in the downtown area. He stated that signage will be the focus of this presentation and continued with a slide show presentation illustrating various sign options. He concluded by stating that the portions of the project completed to date include; Wayfinding analysis, schematic design options, final design, draft programming and preliminary phasing plan. Still in progress are the final programming, phasing plan and budget, and final documentation in January 2014. City Transportation Planner Walker stated they are looking forward to the implementation of this program early next year.

Councilor Novelline Clayburgh stated there is a list of available surface lots for parking at the end of this agenda and wonders if all of these lots will be identified through this program and how people will be made aware of the availability of spaces. City Manager Bohenko stated that not all of those listed are long-term but if there are contracts in place, then people will be directed to them.

Councilor Kennedy stated she likes compass idea that is embedded in the sidewalk because it doesn't clutter the space but would like to see signs installed next to the parking meters to keep them together. She asked if the report will be available on-line. Mr. Swantak stated they are finishing up the final report and then it will be on-line.

Assistant Mayor Lister asked if the parking lots will be listed on ParkPortsmouth.com. City Manager Bohenko stated that all of these components will work together. Assistant Mayor Lister continued that he feels that the Council has been creative in finding additional parking, but people coming off of the highway need to be directed where to find it.

Councilor Dwyer stated she likes the ideas presented but feels the last signs depicting "Welcome to Portsmouth" do not reflect the character of the City. Mr. Swantak stated that it is not the final design and is meant only to depict the location of the signs at various boundary areas. Councilor Dwyer asked have there been any conversations with the State DOT as there are major reconstruction projects taking place and would be a good time to discuss the signage. She also wonders if there will be temporary signage placed during the reconstruction which includes 8 bridges. Mr. Swantak stated that the signs being installed as part of the Wayfinding project will be permanent but feels that the LED signs will probably be utilized for changes in traffic pattern as well as "alternate route" signs.

Councilor Smith asked if this presentation will go before the Parking and Traffic Safety Committee because they deal with signage issues as well. He stated he is glad to hear that the NH DOT will be a part of the discussion because he has been requesting signage directing people to continue north on the highway to get to the mall instead of getting off at Woodbury Avenue exit. City Manager Bohenko stated it will be presented to the Parking and Traffic Safety Committee and Mr. Swantak stated he will add that request to his list. Councilor Smith then asked about GPS technology and if this will be incorporated as there are several issues with incorrect directions. Mr. Swantak stated that the wayfinding system will help confirm GPS destinations.

Councilor Thorsen referred to the signs on the poles along sidewalks stating that they take away sky line and also run in the line of the street. He stated he is also concerned with hitting his head on the sign. Mr. Swantak explained that they followed the MUTCD guidelines for the range of sizes of the signs and the messages are being limited to 2 per sign. He stated the minimum height of the bottom of a sign is 7 feet. He also clarified that the signs would not be placed in front of businesses or historic sites where people take photographs etc.

Councilor Smith asked if these will interfere with snow removal. Mr. Swantak stated they have taken that into consideration and everything is durable and meant to last. Councilor Smith asked about the compass in the sidewalk. Mr. Swantak stated that it will be visible if the snow is cleared from it which should be most of the time.

Councilor Novelline Clayburgh referred to the art murals depicted in the report as part of the parking garage signage and asked if school students would be able to participate in such a program. Mr. Swantak stated they are open to anything that makes them unique to the City of Portsmouth but would want to maintain some guidelines. Councilor Kennedy stated that murals were drawn by students in the garage at one time.

V. ACCEPTANCE OF MINUTES *(There are no minutes on for acceptance this meeting)*

VI. PUBLIC COMMENT SESSION

Tom Carroll, Business owner at 500 Market Street – *(Mayor Spear asked Mr. Carroll to confirm if he resides in Portsmouth or not. Mr. Carroll stated he is a taxpayer in the City of Portsmouth and did not state his residence address)* - Mr. Carroll spoke regarding the ongoing issue of scrap metal pollution asking why nothing is still being done. He stated that Councilor Kennedy raised her hand at the last Council meeting in support of the scrap metal pile and wonders if she is representing them. He continued that he is creating a web-site to address the issue as a pro-active measure and stated that the scrap metal contract expires in 2014 and it would make a good parking area.

Joe Almeida, Chair, Historic District Commission – spoke in favor of the proposed resolution funding the Design Review Toolkit Items for the HDC as well as the proposed ordinance changes to Chapter 10 which will help simplify the Historic District Commission approval process.

VII. APPROVAL OF GRANTS/DONATIONS

(There are no grants/donations on for approval this meeting)

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Third and final reading of Ordinance amending Chapter 8, Article III, "Street Trees," is hereby deleted in its entirety and replaced with the following amendment to Chapter 1 Article IV by creating a Trees & Public Greenery Committee and the adoption of a new Article III entitled Portsmouth Urban Forestry Ordinance of Chapter 8

City Manager Bohenko explained that there had been an error in the ordinance brought forward to the Council with an older version calling for a 7 member commission instead of 9 members.

Councilor Smith moved to suspend the rules to allow an amendment to Section 1.412 of the proposed ordinance. Seconded by Councilor Kennedy and voted.

Councilor Smith moved to amend Section 1.412 to read as follows "The Committee shall consist of ~~seven (7)~~ nine (9) voting members including the following: City Manager or designee; Tree Warden or designee; the Public Works Foreman in charge of tree maintenance; and ~~four (4)~~ six (6) individuals with an interest in trees and public greenery". Seconded by Councilor Novelline Clayburgh and voted.

Councilor Novelline Clayburgh moved to pass third and final reading on the proposed Ordinance, as amended, seconded by Assistant Mayor Lister.

Councilor Thorsen stated he feels the enforcement language is somewhat harsh as well as the fines. He stated that although the City Attorney has stated that the committee would have to initiate the action, he is still concerned that they can impose a harsh fine.

Motion voted.

- B. Third and final reading of Ordinance amending Chapter 7, Article II, Section 7.222 – Maximum Number of Taxicabs amended to increase the number of medallions from twenty-five (25) to twenty-eight (28)

Councilor Novelline Clayburgh moved to pass third and final reading on the proposed Ordinance, as presented. Seconded by Assistant Mayor Lister and voted.

- C. Third and final reading of Ordinance amending Chapter 7, Article X, Section 7.1000 E – Towing – Tow Zones – Limited Parking Areas: City Streets – be amended that any vehicle or object remaining in the same location in any uncontrolled on-street parking space for more than 24 hours in the Central Business Districts A and B as bounded and shown on the City of Portsmouth Zoning Map, or more than 72 hours in any other location in the City, may be removed in the manner provided in Section 7.1000 D

Councilor Novelline Clayburgh moved to pass third and final reading on the proposed Ordinance, as presented. Seconded by Assistant Mayor Lister and voted.

IX. CONSENT AGENDA

- A. Letter from Donald Allison, Eastern States 20 Mile Race, requesting permission to hold the annual Eastern States Race on Sunday, March 31, 2014 (***Anticipated action – move to refer to the City Manager with power***)
- B. Letter from Lt. Erin Rischawy, The Salvation Army, requesting permission to place “Christmas Kettles” in Market Square beginning November 11, 2013 through December 24, 2013 (***Anticipated action – move to refer to the City Manager with power***)
- C. Acceptance of Donation to the Coalition Legal Fund
- Town of New Castle - \$500.00
- (***Anticipated action – move to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund***)
- D. Letter from Tiffany McKenna, A Safe Place, requesting permission to hold a candle light vigil on Thursday, October 24, 2013 from 6:00 p.m. – 7:00 p.m. at the Vaughan Mall (***Anticipated action – move to refer to the City Manager with power***)

Councilor Smith moved to adopt the Consent Agenda as presented. Seconded by Councilor Kennedy and voted.

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Jessica Brazean, Families First Health and Support Center and Cross Road House, requesting permission to hold a Memorial on December 19, 2013 at 5:30 p.m. in Market Square to bring awareness of homelessness to our community

Councilor Novelline Clayburgh moved to refer to the City Manager with power, seconded by Councilor Dwyer.

Councilor Kennedy asked if this falls under the unwritten rule to hold these events at the Vaughan Mall. City Manager Bohenko stated that they didn't get a large response last year and were trying a different location.

Motion voted.

- B. Letter from Josh Andrews, Runner's Alley, requesting permission to hold the NH Veterans Day 1 Miler on Saturday, November 15, 2014 at 10:00 a.m.

Assistant Mayor Lister moved to refer to the City Manager with power. Seconded by Councilor Novelline Clayburgh and voted.

- C. Letter from Patti Maccabe, Arthritis Foundation, New England Region, requesting permission to hold the 20th Annual Portsmouth Jingle Bell 10K Run and Walk to be held November 23, 2013. ***(Not on the agenda)***

City Manager Bohenko stated the person in charge of this had been ill and had missed the deadline to add this to the agenda.

Councilor Kennedy moved to refer to the City Manager with power, seconded by Councilor Smith.

Councilor Smith asked if this is one of the events that had been held at the Middle School until the construction began and would they be using that route again when it is complete. City Manager Bohenko stated yes when it is completed. Councilor Smith stated he wants to be sure that this will occur to alleviate the activity in the Little Harbour School neighborhood.

Councilor Novelline Clayburgh asked if the closing of the "singing" bridge on Sagamore Avenue will impact any events. City Manager Bohenko stated yes there will be a lot of rerouting.

Motion voted.

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Request for First Reading on Proposed Amendments to the Zoning Ordinance, Article 6 – Overlay District, Section 10.630 – Historic District

City Manager Bohenko asked City Planner Nick Cracknell to give a brief explanation of the proposal.

City Planner Cracknell explained that this proposal would help streamline the Historic District Commission meetings and improve the decision making process. He stated that currently there are 2-3 meetings a month lasting 4-5 hours each which is a lot to ask of a volunteer committee. He stated that they are looking to be able to streamline some of the applications to a Consent Agenda similar to the City Council that would allow one vote for several requests. He stated this would also allow for administrative approval for minor changes to applications already approved by the Historic District Commission. He continued that they will also require electronic submission as well as scale drawings for more accuracy. Also, there will be a requirement for either an electronic or physical model for projects over 10,000 square feet.

Councilor Kennedy moved to authorize the City Manager to bring back for first reading the proposed amendments to the Zoning Ordinance, as presented, at the November 18, 2013 City Council meeting, and further, to refer the proposed amendments to the Planning Board for recommendation, seconded by Councilor Smith.

Councilor Thorsen stated he thinks this would be a great change to the process but he would also like to see the decisions made by the city presented to the Historic District Commission to close the loop. Secondly, he is concerned with requiring electronic copies if people don't have that capability. City Manager Bohenko stated they will be accommodating to the public in their limitations.

Discussion ensued regarding other requirements of the ordinance change with City Planner Cracknell stating he would make the necessary adjustments before first reading.

Assistant Mayor Lister stated he would like to see more public comment opportunities throughout the application process.

Councilor Kennedy stated she would like to see the requirement for a model requirement for projects of 5,000 square feet and over instead of 10,000.

Councilor Smith stated he feels there needs to be more clarification as to where people need to start the process. City Planner Cracknell stated that it is different depending on the project. Councilor Smith stated there needs to be an assurance of sharing of information through the various city boards.

Motion voted.

2. Request for First Reading of Proposed Amendments to Chapter 10 – Zoning Ordinance, Inserting a New Article 5A – Character Districts (aka Form-Based Zoning), and Miscellaneous Conforming Amendments

Councilor Smith moved to authorize the City Manager to bring back for first reading the attached Ordinance dealing with form-based zoning, which is entitled Character Districts, at the November 18, 2013 City Council meeting, and further, to refer the proposed amendments to the Planning Board for recommendation, seconded by Councilor Novelline Clayburgh.

Councilor Kennedy moved to amend by also referring to the Historic District Commission for review. Seconded by Councilor Thorsen and voted.

City Manager Bohenko stated for clarification that this is only statutorily required to be referred to the Planning Board.

Discussion ensued regarding the scope of the amendments.

Councilor Thorsen stated he feels that land use needs to be added to the discussion.

Planning Director Taintor stated that many communities do have restrictive land use but our Central Business Districts are very flexible with a wide range of uses so we don't need variances to change uses.

Councilor Kennedy stated she likes the plan but would like to use our own community in the examples.

Discussion ensued regarding the height requirement.

Councilor Dwyer stated that even though there have already been a lot of opportunities for the public to comment on this proposal, she wants to ensure that the process continues to be transparent as it moves forward. She stated a previous major zoning change had 33 public hearings and people still thought it had been "rushed".

City Manager Bohenko stated there has been a lot of work gone into this and he agrees that this should not appear as it has been rushed through the process. He stated that we can look at the pros and cons of other communities experience but this was brought forward because they were asked to do so. He stated there is still plenty of time for input between now and the end of the year and the recommendations of the Planning Board will also be presented with the first reading.

Motion voted as amended.

Assistant Mayor Lister moved to authorize the City Manager to bring back for first reading the Ordinance dealing with conforming amendments at the November 18, 2013 City Council meeting, and further, to refer the proposed amendments to the Planning Board for recommendation. Seconded by Councilor Lown and voted.

3. Report Back Re: Historic District Commission Request for Funding to Develop Design Review Tools
 - a) 3-D Model for Building in Downtown Portsmouth
 - b) Building Design Guidelines
 - c) Update the Historic Survey of the Historic District

City Planner Cracknell stated that as a result of the joint work session of the City Council and Historic District Commission on August 19, 2013, the Historic District Commission discussed several proposed tools that it believed would be of assistance to carry out their responsibilities. The HDC refined the concepts and researched costs, and are requesting funding to develop three new tools to assist in its design responsibilities as stated above. He briefly explained each of the 3 proposals. He concluded that each of these projects would involve developing a Request for Proposal and selecting a consultant with the total funding estimated at \$150,000.00.

Councilor Kennedy moved to establish a public hearing and adoption at the November 18, 2013 City Council meeting to appropriate \$150,000 for the following purposes as stated above from the unassigned fund balance:

1. **Computer Model of Downtown Buildings**
2. **Historic District Design Guidelines**
3. **Historic Survey Update)**

Seconded by Councilor Novelline Clayburgh.

Councilor Dwyer asked for further clarification of #2, Historic District Design Guidelines. City Planner Cracknell stated that the emphasis will be on residential structures as new buildings are mixed with old buildings all of the time. Councilor Dwyer stated she feels the “new” should be a separate discussion. Mayor Spear stated he agrees, but the intent of the resolution is for funding.

Councilor Smith stated that he likes the sustainability aspect of the document being on-line and updated accordingly. He said if people don't have access to the internet, then copies will be provided to them.

Assistant Mayor Lister stated some of this is technical and this Council wanted to provide the Planning Board and Historic District Commission with the tools they need, but once they start using the tools, he wants the answer to the question “What is different with the use of these tools?”.

Motion voted.

4. Request to Authorize African Burying Ground Expenditures from the Trust

Community Development Director David Moore stated the African Burying Ground project is making exciting progress on the campaign to raise the needed funds to construct the African Burying Ground Memorial Park – We Stand in Honor of Those Forgotten. He stated that moving forward, the Committee has recommended contracting with Jerome Meadows to

continue fabrication of the sculptural components to ensure when the site work begins, that the sculptural elements are ready to be installed. He stated the cost of the sculptural element is \$82,000.00 and the African Burying Ground Trusts specifies the manner in which these funds can be expended.

Assistant Mayor Lister moved to authorize the City Manager to request funds from the African Burying Ground Trust in the amount of \$82,000 in order to ensure the project artwork is available at the time of project construction. Seconded by Councilor Kennedy and voted.

5. Parking Lot Usage/Maintenance Agreement with Isles of Shoals Steamship Company, Inc.

Parking Division Director Mark Nelson reviewed the terms of the Agreement with the Isles of Shoals Steamship Company and consent of the Pease Development Authority, Division of Ports and Harbors, to allow downtown employees the opportunity to purchase parking permits issues by the City to use 51 parking spaces at the parking lot located at 315 Market Street from November 1, 2013 through March 31, 2014 with no overnight parking allowed. He continued that the City will maintain the lot during the term of the trial agreement and the City will pay the Isles of Shoals Steamship Company at the end of the term with the net parking permit revenues. He concluded that the downtown employees will be required to provide proof of employment to obtain the parking permit.

Councilor Smith moved to authorize the City Manager to negotiate and enter into a trial Parking Lot Usage/Maintenance Agreement with the Isles of Shoals Steamship Company, Inc., as described in the Agreement, seconded by Assistant Mayor Lister.

Councilor Novelline Clayburgh stated this will be a bargain for the employees who pay to park in the parking garage.

Councilor Dwyer asked who is responsible for the liability if a vehicle is damaged. City Attorney Sullivan stated that liability is based on fault under general liability. Councilor Dwyer stated it is not the property of the City, so would it be covered under our general liability policy. City Attorney Sullivan stated if it isn't the fault of the city then no, but if it is damaged by a plow, etc. then yes.

Motion voted.

Mayor Spear reminded the Council that there needs to be a quorum for the Canvass of the Vote meeting on November 7, 2013.

B. MAYOR SPEAR

Councilor Thorsen moved to postpone the appointments and reappointments to the next City Council, seconded by Councilor Kennedy.

Councilor Thorsen stated he feels that these appointments will affect decisions made that the next Council will be dealing with and therefore, should be made by the new City Council.

Councilor Dwyer stated that we have just charged the Planning Board to handle zoning issues and wonders how being 2 members down will affect the process.

Discussion ensued regarding the role of alternates on the Planning Board with Planning Director Taintor explaining they only vote if there are members absent.

Councilor Lown stated that Michael Barker has put his name forward as a candidate as well as his resignation from the Taxi Commission in order to serve on the Planning Board. He stated that he is a qualified candidate and top notch individual.

Councilor Dwyer asked for clarification as to the Motioners' intent, is it postponing all appointments? Councilor Thorsen stated it is meant for the Planning Board and Historic District Commission only.

Deputy Clerk French read the motion with the clarification:

Councilor Thorsen moved to postpone all appointments to the Planning Board and Historic District Commission to the next City Council, seconded by Councilor Kennedy.

Councilor Kennedy asked why the current alternate on the Planning Board was not brought forward to fill the regular vacancy. Mayor Spear stated that the current alternate had only one month experience on the board and felt this candidate would be better qualified.

Motion FAILED on a 4-4 roll call vote. Assistant Mayor Lister, Councilors Kennedy, Smith and Thorsen voted in favor. Councilors Novelline Clayburgh, Lown, Dwyer and Mayor Spear voted opposed.

1. Appointments to be Voted:

- John Bosen – Reappointment to the Economic Development Commission

Councilor Smith moved to reappoint John Bosen to the Economic Development Commission with term to expire October 1, 2017. Seconded by Assistant Mayor Lister and voted.

- Joshua Cyr – Reappointment to the Economic Development Commission

Councilor Smith moved to reappoint Joshua Cyr to the Economic Development Commission with term to expire October 1, 2017. Seconded by Councilor Dwyer and voted.

- Michael Barker – Planning Board

Councilor Dwyer moved to appointment Michael Barker as a regular member of the Planning Board (filling unexpired term of Karina Quintans, term to expire 12/31/2015). Seconded by Councilor Lown and voted.

- Justin Finn – Planning Board

Mayor Spear postponed action on this appointment.

2. Resignation:
 - Michael Barker from the Taxi Commission

Councilor Smith voted to accept with regret the resignation of Michael Barker from the Taxi Commission and requested that a letter of thanks be sent to Mr. Barker for his services to the City. Seconded by Councilor Lown and voted.

C. ASSISTANT MAYOR LISTER

1. Status of New and Existing Surface Lots

New Lots

- 299 Vaughan Street – 90 Spaces
- Heinemann Lot on Rock Street – 110 Spaces
- Federal Building on weekends – 33 Spaces
- City Hall Lot on weekends – 166 Spaces
- Isles of Shoals Lot (Winter only) – 51 Spaces

Total New Spaces: 450 Spaces

Existing Lots

- The Masonic Lot on Miller Avenue – 61 Spaces
- CCC Church on Market Street Extension – 93 Spaces
- South Playground – 90 Spaces
- Parrott Avenue – 186 Spaces
- Sheraton Lot – 40 Spaces
- Middle Street Baptist (staff only) – 17 Spaces
- Bridge Street – 63 Spaces
- Worth Lot – 87 Spaces
- Wright Avenue – 38 Spaces

Total Existing Spaces: 675 Spaces

These spaces are listed on the website at www.ParkPortsmouth.com. There are a total of 1,125 spaces available for use.

Assistant Mayor Lister stated he brought this forward so that the public is aware that they are working with staff to create new parking. He stated he is also encouraged by the Wayfinding presentation and Parkportsmouth.com initiative which will inform the public where parking is available. He concluded that people may not always be able to park right in front of the establishment they are visiting, but this is all a part of the bigger picture encompassing walking, bicycling, trolleys, etc.

Councilor Smith stated that people need to be aware also that there are free parking lots included in the list.

Councilor Dwyer stated that there are some restrictions on some of these areas which are not listed as a part of this agenda document. City Manager Bohenko stated that is a good point and directed people to the website for the complete information. He continued that people also have to be realistic with this list as some are only temporary solutions at this time and others have quirks, i.e. the recent government shutdown and its affect on the McIntyre Lot. He stated the City continues to look for other partnership opportunities.

D. COUNCILOR KENNEDY

1. Street Sweeping

Councilor Kennedy stated that she is looking for a report back on the street sweeping policy of the city and how it is decided where and when streets are swept.

City Manager Bohenko stated it is a matter of resources and asked Public Works Director Rice to address the issue now instead of a report back later.

Public Works Director Rice explained that the Central Business District is swept on a regular basis and the rest of the city is split up and swept at least once a year. He stated they also do spot sweeping as needed i.e. construction areas. He stated that parking can impact the street sweeper being able to access an area and there are 270 lane miles outside of the Central Business District to cover and 171 tons of debris has been collected this year so far.

Councilor Kennedy asked how neighbors are alerted that they need to move their cars, i.e. Islington Street. Public Works Director Rice stated they have not given advanced notice in the past and does feel that there is a better way to approach this but again, there are limited resources available.

City Manager Bohenko stated that this needs to be a part of the budget process if they want to expand the program and feels that social media may be one way to alert neighborhoods. He stated the city doesn't want to become punitive with towing vehicles, but it is a challenge to get people to move their vehicles.

E. COUNCILOR NOVELLINE CLAYBURGH & COUNCILOR SMITH

1. Fee Committee Report Back Re: Fee for Registration Permit

Councilor Smith reported that a discussion was held regarding the fee for registration permit and it was decided the issue be tabled to the new City Council and new Fee Committee as there are expenses involved to implement the program.

F. COUNCILOR LOWN

1. Sustainability Committee Update

Councilor Lown updated the Council on current efforts of the Sustainability Committee as outlined in the report.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Smith stated on October 7th, the Council had approved the September Parking and Traffic Committee minutes and the Leary Field Parking Area was approved as a potential omnibus item for the future. He continued that since that time, City Attorney Sullivan has ruled that this particular item needs to be addressed with its own ordinance change.

Councilor Smith moved to bring back for first reading an ordinance to establish Leary Field as an Off-Street Parking area at the November 18, 2013 City Council meeting. Seconded by Councilor Kennedy and voted.

Councilor Kennedy stated she and several other Councilors attended a meeting with the Dept. of Transportation where residents were asked to submit requests i.e. a wish list, of things they would like as a part of the ongoing reconstruction projects. She stated the Panaway Manor and Sherburne neighborhoods have again requested sound barriers. She stated that we have previously sent a letter to the Dept. of Transportation supporting these requests and would like to do so again.

Councilor Kennedy moved to send a letter to the NH Dept. of Transportation supporting residents of the Panaway Manor and Sherburne Road neighborhoods for installation of sound barriers. Seconded by Councilor Smith and voted.

Councilor Smith wished everyone good luck in the upcoming Municipal Election.

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

Councilor Smith moved to adjourn at 10:00 p.m. Seconded and voted unanimously.

Respectfully submitted:



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, December 2, 2013 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH, on a Proposed Ordinance amending Chapter 7, Article IV, Section 7.402 – Areas Established, Designated and Described, Off-Street Parking Areas, Add Leary Field Parking Area, not to exceed 72 hours at one time. The complete Ordinance is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

KELLI L. BARNABY, CMC/CNHMC
CITY CLERK

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, December 2, 2013 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH, on a Proposed Ordinance amending Chapter 7, Article IV, Section 7.402 – Areas Established, Designated and Described, Off-Street Parking Areas, Add Leary Field Parking Area, not to exceed 72 hours at one time. 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

#12517

11P11/21

ORDINANCE #
THE CITY OF PORTSMOUTH ORDAINS

That Chapter 7, Article IV, - 7.402 AREAS ESTABLISHED, DESIGNATED AND DESCRIBED be amended of the Ordinances of the City of Portsmouth which shall read as follows (deletions from existing language ~~stricken in red~~; additions to existing language **bolded in red**; remaining language unchanged from existing :

L. LEARY FIELD PARKING AREA Off-Street Parking Areas

The approximately 90' x 90' fenced dirt lot that is at the address of 161 Rockland Street (Map 0129, Lot 0045) is hereby established as the Leary Field Off-Street Parking Area for off-street parking of motor vehicles not to exceed 72 hours at any one time.:

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, December 2, 2013 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH, on Proposed Amendments to the Zoning Ordinance, Article 6 – Overlay District, Section 10.630 – Historic District. The complete Ordinance is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

KELLI L. BARNABY, CMC/CNHMC
CITY CLERK

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, December 2, 2013 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH, on Proposed Amendments to the Zoning Ordinance, Article 6 – Overlay District, Section 10.630 – Historic District. 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

#1247

11P11/21

ORDINANCE #
THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, Article 6 – Historic District, are hereby amended as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

1. Amend Section 10.633 – Scope of Review, by inserting the following new Section 10.633.30:

10.633.30 Administrative Approval

The Code Official may grant administrative approval for minor modifications on work for which a Certificate of Approval has previously been issued, provided that the Code Official determines that the modifications do not alter the overall quality or character of the work which had been certified as appropriate by the Commission, and indicates this determination as a written addendum to an existing Certificate of Approval.

2. Amend Section 10.634 – Application Procedure, Section 10.634.10 – Application Submission, as follows:

10.634.10 Application Submission

The property owner or authorized representative shall submit to the Commission, through the Code Official, a written application for a Certificate of Approval (Certificate) as elaborated in Section 10.634.20, along with all required fees. The application shall be accompanied by a completed Building / Change of Use Permit Application, where required. **The applicant shall also be required to submit digital files in Portable Document Format (PDF) of all application materials including the application form, plans, photos, renderings, and other supporting documents used at both a Work Session(s) and Public Hearing. The applicant may request a waiver from this requirement if they are unable to comply due to undue financial burden or other hardship.**

3. Amend Section 10.634 – Application Procedure, Section 10.634.20 – Application Contents, by amending Section 10.634.20 as follows and inserting the following new Section 10.634.23:

10.634.20 Application Contents

An application for a Certificate of Approval shall state the location and nature of the matter or item for which the Certificate is sought and shall include **all scaled** site plans, building plans, elevations, samples, photographs, sketches or other

information reasonably required by the Code Official to determine the aptness of the application under this Section.

[...]

10.634.23 An electronic and/or physical scale massing model shall be required for new construction of any proposed building or addition over 10,000 s.f. gross floor area. Said model shall include the building and site, adjacent structures, and the two block faces surrounding the building. Said models shall accurately reflect the scale and relationships of the project and its surrounding buildings. Electronic or physical models of buildings may be required for smaller projects at the discretion of a majority of the Commission. The type, scale and details shall be stated, if said model is required.

4. Amend Section 10.635 – Review by the Commission, by inserting the following new Section 10.635.35:

- 10.635.35** Public hearings may include a Consent Agenda for consideration of applications for which Commission approval is anticipated to be routine or expeditious, subject to the following:
- (1) An application may be included on the Consent Agenda if (a) the Code Official and the Chairman of the Commission jointly recommend in favor of approval; and (b) the applicant concurs in writing with any stipulations or limitations included in the Code Official's recommendation.
 - (2) Applications included on the Consent Agenda shall be considered, voted on and approved as a group rather than individually.
 - (3) Any person wishing to address the Commission on a matter contained on the Consent Agenda shall be permitted to do so in accordance with the Commission's Rules and Procedures.
 - (4) Applicants are encouraged to attend the Commission meeting in the event that the Commission or a member of the public has questions or concerns.

- (5) An application may be removed from the consent agenda and considered separately as a regular agenda item by majority vote of the Commissioners present.**

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 Second Reading – December 2, 2013

*(Incorporating Changes Recommended by the Planning Board
Based on its Public Hearing on November 21, 2013)*

ORDINANCE #
THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, Article 6 – Historic District, are hereby amended as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

1. Amend Section 10.633 – Scope of Review, by inserting the following new Section 10.633.30:

10.633.30 Administrative Approval

The Code Official may grant administrative approval for minor modifications on work for which a Certificate of Approval has previously been issued, provided that the Code Official determines that the modifications do not alter the overall quality or character of the work which had been certified as appropriate by the Commission, and indicates this determination as a written addendum to an existing Certificate of Approval.

2. Amend Section 10.634 – Application Procedure, Section 10.634.10 – Application Submission, as follows:

10.634.10 Application Submission

The property owner or authorized representative shall submit to the Commission, through the Code Official, a written application for a Certificate of Approval (Certificate) as elaborated in Section 10.634.20, along with all required fees. The application shall be accompanied by a completed Building / Change of Use Permit Application, where required. **The applicant shall also be required to submit digital files in Portable Document Format (PDF) of all application materials including the application form, plans, photos, renderings, and other supporting documents used at both a Work Session(s) and Public Hearing. The applicant may request a waiver from this requirement if they are unable to comply due to undue financial burden or other hardship.**

3. Amend Section 10.634 – Application Procedure, Section 10.634.20 – Application Contents, by amending Section 10.634.20 as follows and inserting the following new Section 10.634.23:

10.634.20 Application Contents

An application for a Certificate of Approval shall state the location and nature of the matter or item for which the Certificate is sought and shall include all **scaled** site plans, building plans, elevations, samples, photographs, sketches or other information reasonably required by the Code Official to determine the aptness of the application under this Section. **Such plans shall clearly state the overall height, width and depth of the proposed building.**¹

10.634.23 An electronic and/or physical scale massing model shall be required for new construction of any proposed building or addition over 10,000 s.f. gross floor area. **Said model shall include the proposed building and all existing and approved buildings within 250 feet of the proposed building on every street which the proposed building abuts.**² Said model shall accurately reflect the scale and relationships of the project and its surrounding buildings. Electronic or physical models of buildings may be required for smaller projects at the discretion of a majority of the Commission. The type, scale and details shall be stated, if said model is required.

4. Amend Section 10.635 – Review by the Commission, by inserting the following new Section 10.635.35:

10.635.35 Public hearings may include a Consent Agenda for consideration of applications for which Commission approval is anticipated to be routine or expeditious, subject to the following:

- (1) An application may be included on the Consent Agenda if (a) the Code Official and the Chairman of the Commission jointly recommend in favor of approval; and (b) the applicant concurs in writing with any stipulations or limitations included in the Code Official's recommendation.

¹ New wording to emphasize the intent of "scaled" plans and elevations.

² Wording in draft presented at 1st Reading: "Said model shall include the building and site, adjacent structures, and the two block faces surrounding the building."

- (2) Applications included on the Consent Agenda shall be considered, voted on and approved as a group rather than individually.
- (3) Any person wishing to address the Commission on a matter contained on the Consent Agenda shall be permitted to do so during the public hearing on the Consent Agenda or, if the application is removed from the consent agenda as provided in paragraph (5) below, during the hearing on that matter.³
- (4) Applicants are encouraged to attend the Commission meeting in the event that the Commission or a member of the public has questions or concerns.
- (5) An application may be removed from the consent agenda and considered separately as a regular agenda item by majority vote of the Commissioners present.

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

³ Wording in draft presented at 1st Reading: "in accordance with the Commission's Rules and Procedures."

MEMORANDUM

TO: John P. Bohenko, City Manager
FROM: Rick Taintor, Planning Director 
DATE: November 21, 2013
RE: City Council Referral – Projecting Sign
Address: 133 Market Street
Business Name: Lively Kids
Business Owner: Kim Lively

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

Sign dimensions: 40" round
Sign area: 8.7 sq. ft.
Height from sidewalk to bottom of sign: 12'4"
Maximum protrusion from building: 46 in.

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

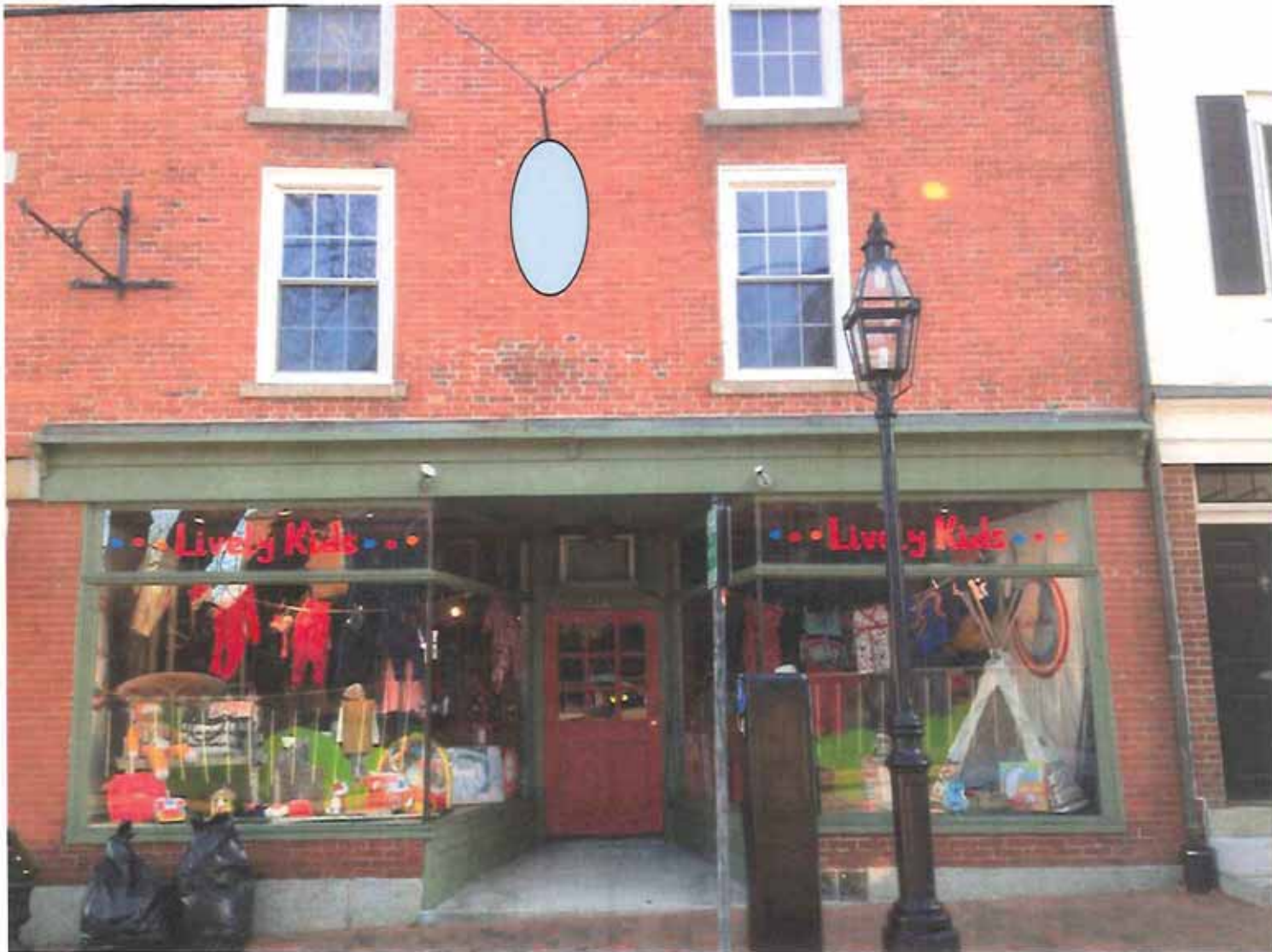
1. The license shall be approved by the Legal Department as to content and form;
2. Any removal or relocation of the projecting sign, for any reason, shall be done at no cost to the City; and
3. Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the projecting sign, for any reason, shall be restored at no cost to the City and shall be subject to review and acceptance by the Department of Public Works.



Request for Projecting Sign License 133 Market Street

Map produced by Planning Department 11-21-2013

Lively Kids
133 Market Street
1 Projecting Sign





Qty: SS/DS: Materials: Background Color: Vinyl Color: HP Int Other:

**PORTSMOUTH
SIGN
COMPANY**



Phone: 603-436-0047

email: service@portsmouthsign.com

All designs and custom artwork remain the property of Portsmouth Sign Company until the order is complete and paid in full.

NOTE: Designs are NOT actual size

REVISION:

All orders under \$250 include 1 revision only. All orders over \$250 include 3 revisions only. Additional revisions will be charged at \$25 per revision.

11/15/13


I understand this Order Form is the final production order and replaces all previous drawings, notes and verbal instructions to this job. I have carefully reviewed this form and verify that it contains all necessary specifications and represents my order exactly. I authorize fabrication according to this approval.

SIGNATURE: _____ Date: _____

RETURN SIGNED TO: service@portsmouthsign.com

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: November 27, 2013
To: Honorable Mayor Eric Spear and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on December 2, 2013 City Council Agenda

6:30 p.m. – Non-meeting with counsel.

For details on this matter, please refer to the confidential envelope inserted in the inside pocket of your binder.

.....

Items Which Require Action Under Other Sections of the Agenda:

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

1.1 **Public Hearing/Second Reading of Ordinance amending Chapter 7, Article IV, Section 7.402 – Areas Established, Designated and Described, Off-Street Parking Areas, Add Leary Field Parking Area, not to exceed 72 hours at one time.** As a result of the November 18th City Council meeting, under Section VII of the Agenda, I am bringing back for public hearing and second reading the attached proposed Ordinance amending Chapter 7, Article IV, - 7.402 Areas Established, Designated and Described, Off-Street Parking Areas, add Leary Field Parking Area, not to exceed 72 hours at one time.

In reviewing the minutes of the Parking and Traffic Safety Committee meeting of September 12, 2013 which were accepted by the City Council on October 7, 2013, City Attorney Robert Sullivan noted that the Committee wishes to proceed with establishing the parking area at Leary Field as a designated off-street parking area. The City Attorney discussed this matter with Committee Chairman Ken Smith and it was agreed that the best way to accomplish the Committee's goals would be to bring the required ordinance forward for first reading at the next available meeting of the City Council.

I would recommend the City Council move to pass second reading and schedule a third and final reading of the proposed Ordinance, as presented, at the December 16, 2013 City Council meeting. Action on this item should take place under Section IX of the Agenda.

1.2 **Public Hearing/Second Reading of Proposed Amendments to the Zoning Ordinance, Article 6 – Overlay Districts, Section 10.630 - Historic District.**

As a result of the November 18th City Council meeting, under Section VII of the Agenda, I am bringing for public hearing and second reading the attached proposed amendments to the Zoning Ordinance regarding administrative procedures for the Historic District, which have been requested by the Historic District Commission (HDC). The proposed amendments passed first reading and made the following changes:

1. Include a provision to allow for limited administrative approvals by City staff for very small projects such as field changes or minor changes to a previously approved Certificate of Approval. The purpose of this amendment is to reduce the HDC's caseload and thereby to free up meeting time and resources for reviewing larger, more complex projects.
2. Require applicants to submit electronic copies of plans, rendering and other application material for all projects requesting approval from the HDC. The purpose of this amendment is to enable the Planning Department to post such plans and associated materials on the City's web site for public viewing in advance of the meeting, and to facilitate presentations at work sessions and public hearings.
3. Require plans to be scaled to assist the HDC and members of the public in interpreting and evaluating proposed new buildings and modifications to existing buildings. In addition, require large projects (over 10,000 sq. ft. of new floor area) to submit an electronic or physical model of the proposed building. The purpose of this amendment is to assist the HDC and the public to evaluate the height and scale of the proposed building within the context of the surrounding neighborhood.
4. Include a provision to allow the HDC to approve small projects through a Consent Agenda process. The purpose of this amendment is to help expedite the review of small projects and to free up meeting time and resources for the review of larger, more complex applications.

The Planning Board held a public hearing on these proposed amendments at its meeting on November 21st. Following the public hearing, the Planning Board voted unanimously to recommend that the City Council enact the proposed amendments, with wording changes for clarification purposes and additions responding to comments at the hearing. The revised wording recommended by the Planning Board is presented in the attached green document titled "City Council Second Reading – December 2, 2013 – (Incorporating Changes

Recommended by the Planning Board at its Public Hearing on November 21, 2013).” Please note the revised wording is underlined in the green document.

Nick Cracknell, Principal Planner, will be available to answer any questions regarding this matter.

I would recommend the City Council move the following motions:

- 1) *Move to pass second reading and schedule a third and final reading at the December 16th City Council meeting.*
- 2) *Move to amend the Ordinance to include the Planning Board recommended changes as outlined in the attached green document.*

Action on this item should take place under Section IX of the Agenda.

Consent Agenda:

1. **Request for License to Install Projecting Sign.** Attached under Section X of the Agenda is the following request for a projecting sign license (see attached memorandum from Rick Taintor, Planning Director):

- Kim Lively, Owner of Lively Kids for property located at 133 Market Street.

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

City Manager’s Items Which Require Action:

1. **Approval of Proposed Employment Agreement for Deputy Fire Chief James B. Heinz.** The Fire Commission has approved a five year Tentative Employment Agreement to expire June 30, 2018 with James Heinz for Deputy Fire Chief (see attached Agreement).

Also, attached is a copy of a letter from Thomas Closson, City Negotiator, outlining the following major items in this agreement:

- **Term:** 5 Year agreement, expiring on June 30, 2018.
- **Initial Salary:** Grade 22, Step B of the City of Portsmouth Non-Union Salary Schedule (\$81,368.00 per annum).
- **COLA Adjustments:** On July 1st of each contract year, calculation based on the 10-year rolling CPI-U average.

- **Automobile:** Provision of an automobile suitable for the duties of Deputy Fire Chief, which because the Deputy Fire Chief is on-call at all times, may also be used for personal business.
- **Tuition Reimbursement:** Subject to budgetary constraints and prior approval by the Fire Chief and Fire Commission payment for the cost of tuition and textbooks for courses and/or classes that will provide for improved job performance.
- **Sick Leave:** The employee will be credited with previously accrued sick leave. The Employee shall accumulate sick leave without limitation and the City agrees to pay the Employee a sum equal to ninety percent (90%) of all unused sick leave upon his separation or retirement from the City.
- **Vacation Leave:** The Employee will be credited with previously accrued vacation days.

I would recommend that the City Council approve the Employment Agreement between James Heinz and the Portsmouth Fire Commission for a 5-year term expiring on June 30, 2018.

2. **Lease of Greenleaf Recreation Center Re: Operation Blessing.** As you may be aware, the City-owned Greenleaf Recreation Center on Greenleaf Avenue is currently leased to the Portsmouth Housing Authority (PHA). The lease expires in January 2014, and the PHA has indicated it is not going to request a renewal.

Per the National Park Service Federal Lands-to-Parks program, the property must be utilized as a recreation center open to the public. Attached is a proposal from Operation Blessing, Inc. a 501(c) 3 non-profit entity that assists families with primary needs such as food, clothing, furniture and household goods as well as operates a very active youth volunteer organization. In the letter, Operation Blessing has proposed becoming the new lessee for the Greenleaf Recreation Center and operating it as a recreation center and base its successful Adopt-A-Block program and other recreation related programs there. Operation Blessing is committed to working with other social service non-profits to ensure the recreation center is not duplicative of existing services and plans to retain the services currently offered by the PHA to its residents at the adjacent Wamesit Place family housing development.

This request is consistent with the recommendation put forth in the Recreation Needs Study and the proposed "Program of Utilization" (attached to the letter) will provide a benefit to the City in that it will retain a recreation center open to the public and assist in meeting the needs of local youth. In addition, Operation Blessing has committed to making the facility available to the existing users. The City would need to obtain final approval of the new agreement from the National Park Service. Please note that, due to a National Park Service procedural change, the instrument for this type of arrangement is now known as a "concession agreement" as opposed to a lease agreement.

It is my intent is to work closely with the Recreation Board and the Recreation Director on this matter if we move forward as requested.

At this time, I would recommend that the City Council authorize the City Manager to further explore a potential concession agreement (lease agreement) for the Greenleaf Recreation Facility with Operation Blessing, Inc. in close coordination with the Recreation Board and report back at a future meeting.

Informational Items:

1. **Events Listing.** For your information, attached is a copy of the Events Listing updated after the last City Council meeting on November 18, 2013. In addition, this now can be found on the City's website.
2. **Holiday Parade and Tree Lighting Ceremony.** As a reminder, I have attached a copy of the press release regarding the Holiday Parade and Tree Lighting Ceremony on Saturday, December 7, 2013.



Attorneys at Law

Jackson Lewis LLP
100 International Drive
Suite 363
Portsmouth, New Hampshire 03801
Tel 603 559-2700
Fax 603 559-2701
www.jacksonlewis.com

Representing Management Exclusively in Workplace Law and Related Litigation

Table listing office locations: ALBANY, NY; ALBUQUERQUE, NM; ATLANTA, GA; AUSTIN, TX; BALTIMORE, MD; BIRMINGHAM, AL; BOSTON, MA; CHICAGO, IL; CINCINNATI, OH; CLEVELAND, OH; DALLAS, TX; DENVER, CO; DETROIT, MI; GRAND RAPIDS, MI; GREENVILLE, SC; HARTFORD, CT; HOUSTON, TX; INDIANAPOLIS, IN; JACKSONVILLE, FL; LAS VEGAS, NV; LONG ISLAND, NY; LOS ANGELES, CA; MEMPHIS, TN; MIAMI, FL; MILWAUKEE, WI; MINNEAPOLIS, MN; MORRISTOWN, NJ; NEW ORLEANS, LA; NEW YORK, NY; NORFOLK, VA; OMAHA, NE; ORANGE COUNTY, CA; ORLANDO, FL; PHILADELPHIA, PA; PHOENIX, AZ; PITTSBURGH, PA; PORTLAND, OR; PORTSMOUTH, NH; PROVIDENCE, RI; RALEIGH-DURHAM, NC; RICHMOND, VA; SACRAMENTO, CA; SAINT LOUIS, MO; SAN DIEGO, CA; SAN FRANCISCO, CA; SAN JUAN, PR; SEATTLE, WA; STAMFORD, CT; TAMPA, FL; WASHINGTON, DC REGION; WHITE PLAINS, NY

MY DIRECT DIAL IS: 603-559-2729
MY EMAIL ADDRESS IS: THOMAS.CLOSSON@JACKSONLEWIS.COM

October 15, 2013

Honorable Mayor Eric Spear and City Council
City of Portsmouth
1 Junkins Ave
Portsmouth, NH 03801

RE Proposed Employment Agreement with Deputy Fire Chief James Heinz

Dear Mayor Spear and Members of the City Council:

I recommend for your consideration the enclosed employment agreement with Deputy Fire Chief James Heinz. The major items in this agreement are as follows:

- Term: 5 Year agreement, expiring on June 30, 2018, with an initial 6 month probationary period.
Initial Salary: Grade 22, Step B of the City of Portsmouth Non-Union Salary Schedule (\$81,368.00 per annum).
COLA Adjustments: On July 1st of each contract year, calculation based on the 10-year rolling CPI-U average.
Automobile: Provision of an automobile suitable for the duties of Deputy Fire Chief, which because the Deputy Fire Chief is on-call at all times, may also be used for personal business.
Tuition Reimbursement: Subject to budgetary constraints and prior approval by the Fire Chief and Fire Commission payment for the cost of tuition and textbooks for courses and/or classes that will provide for improved job performance.
Sick Leave: The employee will be credited with previously accrued sick leave. The Employee shall accumulate sick leave without limitation and the City agrees to pay the Employee a sum equal to ninety percent (90%) of all unused sick leave upon his separation or retirement from the City.



- Vacation Leave: The Employee will be credited with previously accrued vacation days.

If you have any questions or comments, please do not hesitate to let me know.

Sincerely,
JACKSON LEWIS LLP

A handwritten signature in blue ink, appearing to read "Thomas M. Closson".

Thomas M. Closson

TMC/kd

c: John P. Bohenko, City Manager
Richard Gamester, Fire Commissioner
Dianna Fogarty, Human Resources Director

EMPLOYMENT AGREEMENT

1. Preamble

This Agreement is entered into between the Fire Commission, City of Portsmouth, New Hampshire (hereinafter called "Commission/Board") and James B. Heinz (hereinafter called "Employee"). This Agreement is null and void unless approved by the Portsmouth City Council.

2. Employment and Term

The Commission/Board agrees to employ the Employee and the Employee agrees to accept employment in the position of Deputy Fire Chief for a 5 year term commencing on July 15, 2013 and ending on June 30, 2018. The Commission/Board and the Employee acknowledge that this is a full-time, year-round position including extensive obligations in the evenings and on week-ends. The Employee agrees to devote all of his professional efforts to the successful fulfillment of the responsibilities to the Commission/Board and the City described in Paragraph 4 below. This appointment will be made for the working test period of six (6) months duration after appointment, during which time the employee is on probation and his performance will be subject to close review as to his competency to carry out his assignments. The Fire Chief may extend this working test period to a maximum of an additional three (3) months if, in his opinion, it is necessary.

3. Salary

Effective July 15, 2013, the Employee shall be placed on Grade 22, step B of the City of Portsmouth Non-Union Salary Schedule, which is Eighty-One Thousand Three Hundred and Sixty-Eight Dollars (\$81,368.00) per annum, payable in no fewer than twenty-six installments and subject to such deductions as may be authorized or as may be required by law. Except as expressly described herein, the Employee shall not be entitled to any other salary enhancements. Effective July 15, 2014 and each July 15 thereafter until the Employee reaches the top step of the Wage/Salary Schedule, the Employee is eligible to move up one (1) step on the Schedule. Effective July 1 of 2014, 2015, 2016 and 2017 a COLA adjustment percentage increase shall be computed which shall not be less than 2% nor more than 5%. The COLA Adjustment percentage shall be determined by taking the 10 year average of the CPI-U for the Boston-Brockton-Nashua—MA-NH-ME-CT all items index as computed by the Bureau of Labor Statistics of the US Department of Labor for the most recent 10 calendar years preceding the July 1 adjustment. BLS's calendar year for this index is November through November, it is not published on a December to December basis. The reference base is 1982-1983 equals 100 until BLS updates the reference base at which time the parties agree to adopt the official reference base as used by BLS.

4. Certification

This Section is not applicable to the Deputy Fire Chief position.

5. Termination for Cause

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

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

6. Termination with Severance Payment

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

7. Termination by Mutual Consent/Voluntary Resignation

This Agreement may be terminated at any time by mutual consent of the Commission/Board and the Employee or by voluntary resignation of the Employee. In the event the Employee voluntarily resigns before the expiration of the term of this Agreement or any renewal thereof, the Employee shall give the Commission/Board thirty (30) days written notice in advance of such resignation. In the event of voluntary resignation, the Employee shall not be eligible for severance benefits.

8. Severance Constitutes Release

The acceptance by the Employee of the severance benefits provided under this

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

9. Benefits

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

10. Exception to Benefits in Section 9.

In lieu of or in addition to the compensation enumerated in Section 9, the Employee shall also be entitled to the following:

- a. The Deputy Fire Chief shall be provided with a suitable automobile for use in the performance of his duties under this Agreement. Recognizing that the Deputy Fire Chief is on-call at all times, it is understood that the automobile may also be used for personal business.
- b. Subject to budgetary constraints, the City agrees to cover the cost of tuition and textbooks for courses and/or other classes that would provide for improved job performance as part of a career development program. Prior approval by the Fire Chief and Fire Commission of any and all courses is required. If the Employee fails to successfully complete the course and/or class with a final passing grade, he will be required to reimburse the City for the entire cost of tuition and textbooks.
- c. Upon execution of this Agreement, the Employee will be credited with previously accrued sick leave. The Employee will accrue sick days in accordance with the PMA contract. The Employee shall accumulate sick leave without limitation and the City agrees to pay the Employee a sum equal to ninety percent (90%) of all unused sick leave upon his separation or retirement from the City. At the option of the Employee, the sick leave may be divided and taken over a period of up to three years prior to retirement.
- d. Upon execution of this Agreement, the Employee will be credited with previously accrued work days vacation.

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

For the Commission/Board:

Employee:

Date: _____

Date: _____

Approved by the Portsmouth City Council:

_____ Date

Certified by the City Clerk

_____ City Clerk



www.theobnh.org

Operation Blessing, Inc.

City Manager John P. Bohenko
Portsmouth City Hall
1 Junkins Avenue
Portsmouth, NH 03801

Dear Mr. Bohenko,

I would like to express an interest in utilizing the Greenleaf Recreation Center located behind our Operation Blessing Center.

My staff and I have been discussing the possibilities of creating a recreation program to get the kids off the streets and focused on more productive activities. We feel, with the cooperation of the City of Portsmouth, that a vibrant program of recreation and activities can be developed to accomplish this task.

I have attached a document entitled "2014 Program of Utilization" that explains in more detail what we desire to accomplish there.

Please review and let me know what the next steps might be.

Sincerely,

Byron P. Grant
Executive Director
Operation Blessing, Inc.

600A Lafayette Road, P.O. Box 4069, Portsmouth, NH 03801

Operation Blessing Program of Utilization

Greenleaf Recreation Center
195 Greenleaf Avenue
Portsmouth, New Hampshire

- Operation Blessing, an independent non-profit organization, will assume the management and operation of the Greenleaf Recreation Center, which will be open to the general public. The Center will specifically aim to fill a gap in the services not presently offered to at-risk teens and their families. We are doing so in coordination with Families First, which does not have a program for 13 to 18 year olds. The Greenleaf Recreation Center will be extremely useful by providing recreation programs to get teens off the streets, assistance in meeting personal challenges and a community volunteer program to teach them self-worth and pride in their accomplishments.
- Operation Blessing will relocate our Outreach Department to the Greenleaf Center and will coordinate the usage of the facility with the other organizations currently using it. The organizations currently using the facility provide the following programming:
 - Recreation and socialization program for young adults with disabilities (Friends in Action program)
 - Youth exercise classes
 - Portsmouth Housing Authority Out of school time programs
 - Art classes
 - Support groups (various)
 - Play groups
 - Portsmouth Recreation Department (Ski program and others)
- The OB Outreach Department will establish a recreation program and schedule for the community and personally reach out to the youth and families to come and participate. Examples of these new program offerings will include:
 - Activities (basketball programs, game nights, and related recreational activities)
 - Activity trips and outings (outdoors trips, camping and cultural venues)
 - Seacoast Adopt A Block, a program of Operation Blessing, will be based out of the Center, which will encourage volunteerism in our community and allow people to get involved and take ownership of their community.
 - Family Life Center, a program of Operation Blessing, will be based out of the Center and provide supports to families seeking help this will include Teen intervention programs in cooperation with the Bridge the Gap, a state intervention program created in the midst of decreased funding for diversion services.
 - Transportation to bring youth to recreation activities and, in the near future, for activity trips and outings.
- With the assistance of user fees and Operation Blessing's funding we will maintain the facility, make city approved improvements and cover utility costs to operate the center. Each organization using the facility will be required to provide an insurance binder covering the liability during their usage time, this includes Operation Blessing, Inc. Operation Blessing understands this program of utilization and any improvements must be consistent with the Federal Lands-to-Parks Program.

Event Listing by Date

Starting Date: 11/18/2013

Ending Date: 12/31/2014

Start End	Type Description	Location	Requestor	Vote Date
11/23/2013 11/23/2013	ROAD RACE Patti Maccabe is the contact for this event. Her cell number is 603-867-9799.	Little Harbour School	Arthritis Foundation	10/21/2013
11/28/2013 11/28/2013	ROAD RACE Pat Lyons (430-2156) is the contact for this event. This event begins at 8:30 a.m.	Peirce Island	Seacoast Rotary Club Turkey Tr	12/17/2012
11/30/2013 11/30/2013	FUND This event is from 12:00 p.m. to 4:00 p.m. Zachary Taylor and Alex Marshall are the contacts for this event. Thye can be reched at santaskine@gmail.com.	Piscataqua River	Santa Ski New England 2013	11/18/2013
12/ 7/2013 12/ 7/2013	PARADE Begins at 800 Islington Street - ends at Pleasant		Holiday Parade	/ /
12/ 7/2013 12/ 7/2013	PARADE The tree lighting is at 5:30 p.m. in Market Square Brinn Chute is the contact for this event.	Market Square	Tree Lighting	/ /
12/19/2013 12/19/2013	VIGIL Jessica Brazeau is the contact for this event. She can be reached at 603-436-2218 ext. 105 This event starts at 5:30 p.m. for approximately an hours and half.	Market Square - in front of North Church	Cross Roads House	10/21/2013
12/31/2013 12/31/2013	FIRST NIGH Barbara Massar is the contact for this event. This evening begins at 4:00 p.m. to Midnight. It is held throughout various venues of downtown Portsmouth.	Market Square	Pro Portsmouth	9/ 3/2013
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
3/15/2014 3/15/2014	ROAD RACE Jill McFarland is the contact for this event. Telephone contact number: 501-9029.	125 Austin Street	St. Patrick School	8/ 5/2013
3/31/2014 3/31/2014	ROAD RACE Donald Allison is the contact for this event. This event begins at the Portsmouth High School. Hls number: 617-835-2378	Starts at Portsmouth High School	Eastern States 20 Mile	10/21/2013
4/12/2014 4/12/2014	WALK Kim Blanchard is the contact for this event. She can be reached at 836-4758. This event begins at 10:00 a.m.	Little Harbour School	National Multiple Sclerosis So	11/18/2013

Event Listing by Date

Starting Date: 11/18/2013

Ending Date: 12/31/2014

Start End	Type Description	Location	Requestor	Vote Date
5/ 4/2014 5/ 4/2014	FESTIVAL Barbara Massar is the contact for this event. This event begins at Noon to 4:00 p.m. Street closure - Pleasant Street - State Street to Market Square No Parking on Market Street-Bow Street to Isle of Shoals Steamship Company entrance.	Downtown	Pro Portsmouth - Children's Da	9/ 3/2013
5/10/2014 5/10/2014	ROAD RACE Allison Brownell, Race Co-Chair is one of the contacts for this race. Her cell number is 845-430-9351 The race begins at 8:30 a.m.	Marcy Street	Susan G. Komen New Hampshire R	8/19/2013
5/17/2014 5/17/2014	RACE Pack & Boots 5K Community Road Race Series Contact: Doug Bates, Portsmouth Chamber - President@portsmouthchamber.org		Easter Seals Veteran's Count	11/18/2013
6/ 8/2014 6/ 8/2014	RACE 5K to Keep Kids Safe Community Road Race Series Contact: Christiana Amesquita (603) 437-4107 or Cristiana@sassnh.org		Sexual Assault Support Service	11/18/2013
6/14/2014 6/14/2014	FAIR This is the 37th Annual Market Square Day from 4:00 a.m. to 6:00 p.m. Barbara Massar is the contact for this event.	Market Square	Pro Portsmouth	9/ 3/2013
6/14/2014 6/14/2014	ROAD RACE This is the 37th Annual 10K Road Race that beings at 9:00 a.m. in Market Squire.	Market Square	Pro Portsmouth	9/ 3/2013
6/21/2014 6/21/2014	RACE Alyssa Salmon is the contact on this event. She can be reached at 430-1140 ex. 14 The event is from 3:00 p.m. to 6:00 p.m. Rain date of June 22, 2014.	Pleasant Street	Big Brother Big Sister	9/ 3/2013
6/28/2014 6/28/2014	MUSIC This is Summer in the Street event. It begins at 5:00 p.m. to 9:30 p.m. Street closurers - Pleasant Street - Porter Street to Market Square.	Market Square	Pro Portsmouth	9/ 3/2013
7/ 5/2014 7/ 5/2014	MUSIC This is Summer in the Street event. This event is from 5:00 p.m. to 9:30 p.m. Street Closurers - Pleasant Street - Porter Street to Market Square.	Market Square	Pro Portsmouth	9/ 3/2013
7/12/2014 7/12/2014	MUSIC This is a Summer in the Street event. The event is from 5:00 p.m. to 9:30 p.m. Street Closures - Pleasant Street - Porter Street to Market Square	Market Square	Pro Portsmouth	9/ 3/2013
7/19/2014 7/19/2014	MUSIC This is the Summer in the Street event. This event is from 5:00 p.m. to 9:30 p.m. Street Closures - Pleasant Street - Porter Street to Market Square	Market Square	Pro Portsmouth	9/ 3/2013

Event Listing by Date

Starting Date: 11/18/2013

Ending Date: 12/31/2014

Start End	Type Description	Location	Requestor	Vote Date
7/26/2014 7/26/2014	MUSIC This is the Summer in the Street event. This event is from 5:00 to 9:30 p.m. Street Closures - Pleasant Street - Porter Street to Market Square	Market Square	Pro Portsmouth	9/ 3/2013
8/ 2/2014 8/ 2/2014	MUSIC This is a Summer in the Street event. The event is from 5:00 p.m. to 9:30 p.m. Street closures - Pleasant Street - Porter Street to Market Square	Market Square	Pro Portsmouth	9/ 3/2013
8/23/2014 8/23/2014	ROAD RACE Thunder Chicken Community Road Race Series Contact: Justin Finn		Portsmouth Rotary Club	11/18/2013
9/13/2014 9/13/2014	ROAD RACE Celebrate Pink Community Road Race Series Contact: Wendy McCoolle		My Breast Cancer Support	11/18/2013
9/27/2014 9/27/2014	ROAD RACE Portsmouth High School Karen Butz Webb is the contact for this event. She can be reached at projectsafetyassociation@gmail.com. This race begins and ends at Portsmouth High School at 8:30 a.m.		Project Safety Association	11/18/2013
10/11/2014 10/11/2014	RACE Contacts: Catherine Edison, Community Child Care Center (603) 422-8223 Ben Anderson and Hannah Comeau, Prescott Park Arts Festival (603) 436-2848 or hannah@prescottpark.org Community Road Race Series		Prescott Park Arts Festival/Co	11/18/2013
11/27/2014 11/27/2014	ROAD RACE Contact: Matt Junkin		Seacoast Rotary Club	11/18/2013

CITY OF PORTSMOUTH



The City's Holiday Parade – Announcements

October 22, 2013

FOR MORE INFORMATION:
Brinn Chute, (603) 610-4433

PORTSMOUTH— The City's 2013 annual illuminated Holiday Parade will be held on Saturday, December 7 at 6:00 p.m. This year's theme will be "A Celebration of Lights", in honor of the Memorial Bridge.

"A Celebration of Lights is a wonderful theme to honor the reopening of the Memorial Bridge, and the illumination which will take place next month," Mayor Eric Spear announced on Monday.

Portsmouth's illuminated Holiday Parade traditionally takes place on the first Saturday evening in December; following the Holiday Tree Lighting ceremony which begins at 5:00 p.m. Music is provided from the Portsmouth Middle School during this ceremony and includes the lighting of the downtown Christmas tree at 5:30 p.m.

Floats, walking units and marching bands will join Santa Claus as they begin their march from Plaza 800 on Islington Street at 6:00 p.m. and proceed towards downtown, where the road turns into Congress Street. They will continue through Market Square and onto Pleasant Street before reaching the South Playground. As many as 9,000 people are expected to line the 1.1-mile route. To view this map, please visit: <http://cityofportsmouth.com/mayor/StagingLocation2013.pdf>.

Mayor Spear is proud to announce that the Parade, for the third year in a row, will partner with local food pantries to include a food drive. Parade participants and attendees are encouraged to bring non-perishable food items to donate during the parade. There will be stationary food drop-off stations designated throughout the parade. "Donating food during the holidays" says Mayor Spear "is a great way to show support of the community and your neighbors during this season of giving."

Applications for this year's Holiday Parade are available on the City's website <http://www.cityofportsmouth.com/mayor/index.htm>. The deadline to submit applications to enter a float – either on a flatbed trailer, trailer truck or towed behind a vehicle, is Tuesday, November 12. A representative for these entries must attend the Parade Safety meeting on Wednesday, November 13 at 6:30 p.m. at the Portsmouth Police Station. The application deadline for all other entries is November 18. Please visit the "Mayor" link on the left side of the City's webpage for more detailed information.

For more information, please be sure to contact Brinn Chute at (603) 610-4433 or by email at bchute@cityofportsmouth.com.

Kelli L. Barnaby

From: ericspearportsmouth@gmail.com
Sent: Monday, November 25, 2013 3:21 PM
To: Kelli L. Barnaby; Valerie A. French
Cc: John P. Bohenko
Subject: Bob Shouse and Sustainability

Please note that Bob Shouse has resigned from the Sustainability Committee
thanks

CITY OF PORTSMOUTH PORTSMOUTH, NH 03801

Office of the Mayor

DATE: November 27, 2013

TO: Honorable Mayor and City Council Members

FROM: Robert J. Lister, ^mAssistant Mayor, Chairman of the City Manager's Evaluation Committee

RE: Proposed Amendment to City Manager's Employment Agreement

As you may recall, back in September, the Evaluation Committee, which included Councilor Clayburgh, Councilor Smith and Councilor Lown, made its report to the City Council regarding the City Manager's performance during the previous year. As part of that discussion, the Evaluation Committee was asked to go back and discuss with the City Manager a proposed amendment to his employment agreement to recognize his achievement throughout the previous year, as well as, during his tenure with the City of Portsmouth. As part of these discussions, the Evaluation Committee is recommending the following amendment to his agreement:

1. Upon notice from the Employee of his retirement, the City shall purchase an annuity for the benefit of the Employee in an amount equal to one month's salary (based on Employee's salary in effect at the time of Employee's retirement) multiplied by the Employee's total completed years of service with the City prior to the date of his retirement. For purposes of this section, the Employee will be considered to have retired when he provides notice of his voluntary termination of employment with the City for any reason.

Further, that all other terms and conditions of the City Manager's Employment Agreement dated October 23, 2012 shall remain in full force and effect.

The cost of this Amendment is estimated to be approximately \$14,000 for every year of service to the City (one months salary times years of service). The cost of this amendment could be reserved within the leave at termination fund which presently has a \$1.3 million fund balance. (See attached memorandum from Judie Belanger, Finance Director.) Also, it should be noted that as a follow-up to the Council question that the Manager has received on the average since 1997 an 18% contribution to his 401(a) plan. The annuity would average 9% per year. As you may be aware, the City Manager is not a member of the New Hampshire Retirement System as all other full-time City Employees. I am requesting that the City Council act on this matter at Monday evening's meeting as recommended by the Evaluation Committee.

If you have any questions regarding this matter, please do not hesitate to contact me.


c.: John P. Bohenko, City Manager

FINANCE DEPARTMENT



MEMORANDUM

TO: Dianna Fogarty, Director of Human Resources

FROM: Judie Belanger, Finance Director 

DATE: November 19, 2013

RE: City Manager's Annuity

The close of Fiscal Year 2013 will result in an unaudited committed fund balance for Leave at Termination of approximately \$1.3 million to pay for financial obligations owed to employees if eligible upon termination.

General Government, Police, Fire and School Departments annually budget a fixed amount for each fiscal year determined by an actuarial study and periodic review, which is transferred into this fund where this liability is paid. At the end of each fiscal year, departments maintain a fund balance, which is carried over from year to year to fund future liabilities. Any surplus in this fund is transferred to committed fund balance and likewise, any deficit is paid from committed fund balance in accordance with the special revenue fund resolution adopted annually by the City Council.

The General Government appropriates \$300,000 of the \$925,287 annual appropriation to transfer to the leave at termination fund. It is of my opinion that funds for a future annuity for the City Manager may be included to this appropriation and reserved in committed fund balance until such time that it would be forwarded to an annuity account.

ACTION SHEET
PARKING and TRAFFIC SAFETY COMMITTEE

Councilor Ken Smith, Chairman

To: City Council Meeting of December 2, 2013

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

ACTIONS:

- [1] Accepted and placed on file the minutes of the Parking and Traffic Safety Committee Meeting held October 10, 2013.
- [2] Accepted and placed on file the Financial Report.
- [3] **Action Item – 111 Maplewood** – Per stipulations of approval from TAC, loading zone changes, intersection configuration – After a presentation by Tighe and Bond, **VOTED** to accept the proposal as presented with the following stipulations:
 - 1. applicant may come back at a later time to request a loading zone if it is needed;
 - 2. install beveled curbing per Public Works Director recommendation; and
 - 3. work with city staff on the final alignment configuration.
- [4] **Action Item – Driveway Application – Andrew Jarvis Drive** – After a presentation by John Chagnon, Ambit Engineering – **VOTED** to accept the proposal as presented and request the applicant to work with the city to realign a section of the roadway for a turning lane.
- [5] **Discussion Item – Residential Parking** - **VOTED** to direct the Public Works Director to retain a firm to look at the issue of residential parking permits in the City of Portsmouth as a whole.
- [6] **Action Item – Establishing Procedure for Short-Term Valet Requests** – **VOTED** to establish the procedure for short-term valet requests with the following revisions:
 - 1. The City Manager or designee has the authority to approve the requests with a summary presented to the Parking and Traffic Safety Committee monthly;
 - 2. The fee is recommended to be established at \$100.00, to be confirmed by the fee committee;
 - 3. Verification of agreement with parking lot owners be presented with application.
- [7] **Action Item – Approval of Portwalk Valet Agreement** - **VOTED** to accept the license agreement as presented and to set the expiration date to June 30th in line with all other Valet Agreements.

- [8] **Action Item – Change to loading zone periods for salt trucks on Market Street** - **VOTED** to accept the recommended changes to the loading zone periods and direct the Department of Public Works to revise the signs accordingly. *(This Item is enacted as a temporary regulation and will be considered for inclusion in a future omnibus ordinance)*
- [9] **Discussion Item – Woodbury Avenue pedestrian-activated crosswalk** – Public Works Director Rice explained that a pedestrian-activated crosswalk will be installed on Woodbury Avenue as a pilot program. **No action Taken.**
- [10] **Discussion Item – Ordinance Section 7.103 regarding Parking and Traffic Safety Committee** – **VOTED** to authorize the Chairman of the Parking and Traffic Safety Committee, in the minutes presented to the City Council for approval, request an amendment to the membership of the Parking and Traffic Safety Committee with the addition of 2 alternative (non-voting) members from the public.
- [11] **Miscellaneous** – At the request of Mr. Cypher, Public Works Director Rice will report back on the warrant requirements for a 4-way Stop Sign at Hanover/Bridge Streets.

MINUTES
PARKING AND TRAFFIC SAFETY COMMITTEE MEETING

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

I. CALL TO ORDER:

Chairman Ken Smith called the meeting to order at 8:05 a.m.

II. ROLL CALL:

Members Present:

Councilor Ken Smith, Chair
John Boehnko, City Manager
Frank Warchol, Police Captain
Peter Rice, Public Works Director
Ronald Cypher, Member
Shari Donnermeyer, Member
Ted Gray, Member
Harold Whitehouse, Member

Members Absent:

Steve Achilles, Fire Chief

Staff Advisors Present:

Mark Nelson, Parking Division Director
Juliet Walker, Transportation Planner

III. ACCEPTANCE OF THE MINUTES:

Mr. Cypher moved to accept the minutes of October 10, 2013, seconded by Mr. Gray. Motion passed.

IV. FINANCIAL REPORT:

Mr. Whitehouse moved to accept the Financial Report and place on file, seconded by Ms. Donnermeyer. Motion passed.

II. NEW BUSINESS:

- A. Action Item: 111 Maplewood: – Per stipulations of approval from TAC, loading zone changes, intersection configuration (DPW)

Brian Sweeter representing Tighe and Bond stated that after meeting on 11/12/13 with the Committee members on the site walk, they have made the suggested adjustments and presented plans and drawings to illustrate the changes.

Capt. Warchol stated he was concerned with the placement of the stop signs with cars being parked there as well as trees possibly limiting the site line and creating a dangerous situation. Mr. Sweeter responded that they did test that intersection with cars parked and felt that there was plenty of site distance both ways.

Mr. Whitehouse asked if there will be a push button for pedestrians. Public Works Director Rice responded no. He stated push buttons are not typically installed unless there is a traffic light at the intersection as well. He stated we are exploring motion-activated crosswalk systems which will be discussed later on the agenda.

City Manager Bohenko explained that at the request of Mr. Whitehouse, the area near St. Catherine's Church on Woodbury Avenue will be the site for the pilot program of this crosswalk system. He stated if it works well it may be installed in other areas as well.

Ms. Donnermeyer asked if we are losing any parking spaces with this plan. Mr. Sweeter stated no, they are relocating some spaces. Another representative of Tighe and Bond stated there are 5 new spaces being added on the easterly side.

Chairman Smith clarified that there will be a net gain of 4 spaces. He then referred to the photo stating that there are 3 cars parked on the Raynes Avenue side that aren't striped so should those be counted or not. Mr. Sweeter responded that those cars are not necessarily supposed to be parked there.

Chairman Smith asked about the loading zone and since it has not been used for several years and doesn't appear to be needed for some time in the future, will this area be used for parking. Mr. Sweeter stated yes, as long as they can come back in the future to reestablish the zone if needed.

Mr. Cypher stated that years ago the 5 parking spaces on Vaughan Street were removed because of the loading zone for the Lollipop Tree and the large trucks were clipping cars because there wasn't enough room. Chairman Smith stated that currently 3-S Art Space occupies the whole building and there will not be any tractor trailers.

Mr. Gray asked if fire trucks have room to go down Maplewood Avenue under the new plan. Mr. Sweeter stated yes.

Discussion ensued regarding the width of the roadway and possible larger trucks heading down the roadway and it becoming too narrow at the island. Mr. Sweeter suggested the island be shifted over 2 feet.

Public Works Director Rice stated that this is meant to be a bridge until the other block is developed and acknowledges that more work is needed on the Cindy Cleaners side of the road. Chairman Smith stated that this will be a great improvement but feels the adjustment should be made now instead of later. Public Works Director Rice suggested a beveled edge curb instead of a slope.

City Manager Bohenko moved to accept the proposal as presented with the following stipulations:

- 1. applicant may come back at a later time to request a loading zone if it is needed; and**
- 2. install beveled curbing per Public Works Director recommendation; and**
- 3. Work with City staff on the final alignment configuration.**

Motion seconded by Ms. Donnermeyer and passed.

B. Action Item: Driveway Application – Andrew Jarvis Drive (DPW)

John Chagnon, Ambit Engineering, explained this is regarding a subdivision of land that is at 417 Andrew Jarvis Drive.

City Manager Bohenko stated it looks like the traffic would be on both sides and asked why it would be better to have the driveway enter onto Andrew Jarvis. He stated there was a similar situation in the Little Harbour School area which was denied. Mr. Chagnon replied that typically they go to the less traveled road which Andrew Jarvis would be usually. He further clarified that this property sits by itself, but 4 of the properties have joint access to Lafayette road and this property would have to cut across another property to have the same egress.

Chairman Smith stated he would like to see the High School sign be able to stay put or at least find another appropriate location along Lafayette Road. He stated he would also like an easement for the right-hand turn travel lane coming out of Andrew Jarvis Drive.

Mr. Gray moved to approve the application as presented, seconded by Mr. Whitehouse.

Chairman Smith invited Supt. of Schools Ed McDonough to speak.

Mr. McDonough thanked the Committee for inviting he and Principal Collins to attend the Site Walk and stated neither of them has any concerns with this request.

Public Works Director Rice asked the motioner and seconder to include “request the applicant to work with the city to realign a section of the roadway for a turning lane” to the main motion. Both agreed.

Mr. Whitehouse stated he is concerned with enforcement of parking on Andrew Jarvis and the possibility of this driveway being blocked during events.

Motion to accept proposal as presented and request the applicant to work with the city to realign a section of the roadway for a turning lane passed.

C. Discussion Item: Residential Permits (PTS Chairman Smith)

Chairman Smith explained this request has come from several different neighborhoods including the South End and Islington Creek Neighborhood and he would like to see a pilot program implemented in the Islington Creek Neighborhood. He stated that currently, the only enforcement is for cars with out-of-state license plates.

City Manager Bohenko stated he doesn't disagree with the idea but feels that this needs to be looked at as a city-wide policy and we need to be careful how we roll it out. He continued that there are various factors that need to be considered i.e. how many visitors are allowed per household, etc. and then when you implement permit parking on one street but not the next one over, then those cars will move to the next street to park and have a cascading affect. He stated he would like to see someone hired to look at the overall permit process who has experience with this in other cities of similar size etc. He concluded that this should be decided by the City Council as a policy decision once and for all.

Chairman Smith stated he was originally asked to bring this forward because that neighborhood was having an issue with visitor parking but for now they have the Heinemann Lot on Rock Street so he agrees with City Manager Bohenko. He asked if this could be done in-house instead of hiring an outside company.

City Manager Bohenko stated that the staff is quite busy and feels we need someone who is familiar with that particular issue and will look at the traffic patterns in the neighborhoods, enforcement issues, etc.

City Manager Bohenko moved to direct the Public Works Director to retain a firm to look at the issue of residential parking permits in the City of Portsmouth as a whole, seconded by Ms. Donnermeyer.

City Manager Bohenko clarified that this would be a study only and before any policy would be implemented there would be opportunities for public comment and it would require City Council approval.

Chairman Smith stated he would like to see a recommendation to the Council by the summer.

Mr. Whitehouse asked if there are any grants available to fund this study. City Manager Bohenko stated that we would utilize the money from the transportation fund which is specifically meant to be used for this activity and needs to be spent. Public Works Director Rice confirmed that there are funds available.

Motion passed.

III. OLD BUSINESS:

A. Action Item: Establishing Procedure for Short-Term Valet Requests (DPW)

Parking Division Director Nelson stated that have drafted a procedure and the only thing missing at this time is the fee which they recommend to be \$100.00. He stated the fee will need to be set by the Fee Committee. He stated the application would be submitted and put on the next available Parking and Traffic Safety Committee Agenda for approval.

City Manager Bohenko stated there are instances where the request will come in for an event occurring before a PTS meeting so would like to have administrative authority to approve with ratification by the Parking and Traffic Safety Committee of the applications.

Chairman Smith agreed with companies that already have long-term agreements for long-term valet services as their insurance information etc. would already be on file.

Mr. Whitehouse stated it should be indicated where the cars will be parked and the signature of the owner of the lot should be required. City Manager Bohenko agreed that this information should be part of the application, but not necessarily the signature of the owner of the lot.

Public Works Director Rice moved to establish the procedure for short-term valet requests with the following revisions:

1. **The City Manager or designee has the authority to approve the requests with a summary presented to the Parking and Traffic Safety Committee monthly; and**
2. **The fee is recommended to be established at \$100.00 to be confirmed by the fee committee; and**
3. **Verification of agreement with parking lot owners be presented with the application.**

Motion passed.

Ms. Donnermeyer excused herself from the meeting at 8:55 a.m.

- B. Action Item: Approval of Portwalk Valet agreement. (DPW)

Parking Division Director Nelson stated the expiration date of this agreement will fall in line with the other valet parking agreements expiring June 30, 2014.

Public Works Director Rice moved to accept the license agreement as presented and to set the expiration date to June 30, 2014 with all other Valet parking agreements, seconded by Mr. Cypher. Motion passed.

- C. Action Item: Change to loading zone periods for salt trucks on Market St (Art VI, Section 7.602) (DPW)

Parking Director Nelson explained that Granite State Minerals use the loading zones early in the morning through mid afternoon Monday through Saturday and are willing to allow public parking in the off times. He stated ***this will be enacted as a temporary regulation and will be considered for inclusion in a future omnibus ordinance.***

Chairman Smith stated he would like to make sure the signage is clearly outlines the hours parking will be available.

City Manager Bohenko moved to accept the recommended changes to the loading zone periods and direct the Department of Public Works to revise the signs accordingly, seconded by Mr. Gray. Motion passed.

- D. Discussion Item: Woodbury Ave pedestrian-activated crosswalk (DPW)

Public Works Director Rice referred to the picture provided in the packet stating that this is located in Kittery Maine and explained that the pedestrian hits a button and a strobe light starts alerting vehicles that a pedestrian is about to cross. He stated the preliminary cost estimate is \$15,000.00 and it is solar powered. He stated he feels this are is a good place to try it as a pilot.

Mr. Whitehouse asked if maintenance is included. Public Works Director Rice stated it is for the equipment, installation and a warranty.

Chairman Smith stated this is a good location and wants to add Deer Street/Market Street to a list of future locations.

- E. Discussion Item: Ordinance (Section 7.103) on Parking Traffic and Safety Committee. (per request of Committee member Whitehouse.)

Mr. Whitehouse stated he asked this item to be placed on the agenda because he is concerned that next year will be very busy and he feels that there should be more members added to the committee including planning staff and alternate members.

Mr. Whitehouse moved to authorize the Chairman in the next minutes of the Parking and Traffic Safety Committee to the Council that they review the make-up of the committee or any other issue in the ordinance they find important in this ordinance, seconded by Mr. Cypher.

City Manager Bohenko stated that there will be a lot of issues coming up but clarified that the Parking and Traffic Safety Committee is an advisory committee and makes recommendations for the Council. He stated that there are already 5 staff members as well as advisory staff in the audience when needed.

Chairman Smith stated he feels that alternates would be helpful and clarified that 4 of the staff members currently are voting members and the 5th, Parking Division Director Nelson is non-voting.

Mr. Whitehouse amended his motion as follows:

Authorize the Chairman of the Parking and Traffic Safety Committee, in the minutes presented to the City Council for approval, request an amendment to the membership of the Parking and Traffic Safety Committee with the addition of 2 alternate (non-voting) members from the public, seconded by Mr. Cypher.

Motion passed.

Mr. Cypher asked Public Works Director Rice how long it takes to determine if the warrants allow a 4-way stop intersection at Hanover/Bridge Streets.

Public Works Director Rice stated that traffic counts have to be reviewed as well as accident history etc. so can take a couple of months. He stated he will report back on the warrant requirements for this intersection.

VII. PUBLIC COMMENT:

There were no speakers for Public Comment.

VIII. INFORMATIONAL:

None

IX. ADJOURNMENT

City Manager Bohenko moved to adjourn at 9:15 a.m. Seconded by Mr. Whitehouse and voted unanimously.

MEMORANDUM

TO: John P. Bohenko, City Manager
FROM: Liz Good, Planning Department *lg*
SUBJECT: Historic District Commission Minutes
DATE: November 18, 2013

Please be advised that the approved minutes from the December 5, 2012 Historic District Commission meeting are now available on the City's website for your review.

MEMORANDUM

TO: John P. Bohenko, City Manager
FROM: Liz Good, Planning Department *lg*
SUBJECT: Historic District Commission Minutes
DATE: November 18, 2013

Please be advised that the approved minutes from the February 6, 2013 Historic District Commission meeting are now available on the City's website for your review.

MEMORANDUM

TO: John P. Bohenko, City Manager
FROM: Liz Good, Planning Department *lg*
SUBJECT: Historic District Commission Minutes
DATE: November 18, 2013

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

MEMORANDUM

TO: John P. Bohenko, City Manager
FROM: Liz Good, Planning Department *lg*
SUBJECT: Historic District Commission Minutes
DATE: November 18, 2013

Please be advised that the approved minutes from the August 7, 2013 Historic District Commission meeting are now available on the City's website for your review.

MEMORANDUM

TO: John Bohenko, City Manager
FROM: Mary E. Koepenick, Planning Department *Mary E. Koepenick*
SUBJECT: Board of Adjustment Minutes
DATE: November 21, 2013

The approved Minutes of the following Board of Adjustment meetings are now available for review on the City's website:

July 24, 2012

August 21, 2012