

# CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH  
DATE: MONDAY, NOVEMBER 17, 2014 TIME: 5:30PM

## AGENDA

- I. CALL TO ORDER (5:30 P.M.)
- II. ROLL CALL
- III. ANTICIPATED “NON-MEETING” IN ACCORDANCE WITH RSA 91-A:2, I (a) REGARDING COLLECTIVE BARGAINING
- IV. ANTICIPATED “NON-PUBLIC” SESSION
  - A. LAND NEGOTIATIONS IN ACCORDANCE WITH RSA 91-A:3, II (d)
  - B. PERSONNEL IN ACCORDANCE WITH RSA 91-A:3, II (a)
- V. INVOCATION
- VI. PLEDGE OF ALLEGIANCE

### PRESENTATIONS

1. Blue Ribbon Committee on Sustainable Practices
2. U.S. Post Office Relocation

- VII. ACCEPTANCE OF MINUTES – JULY 14, 2014
- VIII. PUBLIC COMMENT SESSION
- IX. PUBLIC HEARINGS
  - A. ORDINANCE AMENDING CHAPTER 1, ARTICLE IX, SECTION 1.901: - CONFLICT OF INTEREST OF THE ADMINISTRATIVE CODE
  - B. ORDINANCE AMENDING THAT THE FOLLOWING LOTS BE REZONED FROM INDUSTRIAL (I), OFFICE RESEARCH (OR) OR MUNICIPAL (M) TO CHARACTER DISTRICT 4 (CD4):
    - ASSESSORS MAP 163, LOTS 33, 34 AND 37;
    - ASSESSORS MAP 165, LOTS 1, 2 AND 14
    - ASSESSORS MAP 172, LOTS 1 AND 2;
    - ASSESSORS MAP 173, LOTS 2 AND 10

AND INCLUDING CATE STREET BETWEEN HODGSON'S BROOK AND BARTLETT STREET, AS SHOWN ON THE ATTACHED EXHIBITS TITLE "AREAS PROPOSED TO BE REZONED TO CHARACTER DISTRICT 4 (CD4)", AND FURTHER THAT THE ZONING MAP REFERENCED IN CHAPTER 10, ARTICLE 4, SECTION 10.420 (DISTRICT LOCATION AND BOUNDARIES) OF THE ORDINANCES OF THE CITY OF PORTSMOUTH BE REVISED ACCORDINGLY *(Continued from the September 22, 2014 City Council meeting)* **(Close the public hearing after comments are received)**

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

### **A. Acceptance of Police Department Grant and Donations:**

1. A grant from the Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP), for the Internet Crimes Against Children Task Force - \$260,254.00
2. Donations:
  - a) A donation in the amount of \$3,000 from the Banyan Fund, under the aegis of Mr. and Mrs. Gerald W. Howe, to defray the cost of producing and airing Public Service Announcements (PSAs) regarding the department's opiate addiction initiative.
  - b) Donations in support of the Police Explorer Cadets:
    - A donation in the amount of \$50 from retired Chief David "Lou" Ferland
    - A donation in the amount of \$25 from former Commissioner William Mortimer
    - A donation in the amount of \$400 from the "Friends of the South End"

***(Sample motion – move to approve and accept the grants and donation to the Portsmouth Police Department)***

3. \*Acceptance of Donation to Senior Services Program from the Balance of the Margaret Tebbetts Checking Account - \$813.52 ***(Sample motion – move to approve and accept the donation to the Senior Services Program, as presented)***

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

- A. First Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.440 Table of Uses, use #15.20 and Section 10.1530 Terms of General Applicability, regarding Helipad and Heliport ***(Sample motion – move to pass first reading and schedule a second reading and public hearing for January 5, 2015 regarding the proposed Ordinance, as presented, and further refer this matter to the Planning Board for report back)***

- B. Second Reading of Proposed Ordinance amending that the following lots be rezoned from Industrial (I), Office Research (OR) or Municipal (M) to Character District 4 (CD4):
- Assessors Map 163, Lots 33, 34 and 37;
  - Assessors Map 165, Lots 1, 2 and 14
  - Assessors Map 172, Lots 1 and 2;
  - Assessors Map 173, Lots 2 and 10
- and including Cate Street between Hodgson's Brook and Bartlett Street, as shown on the attached exhibits title "Areas Proposed To Be Rezoned to Character District 4 (CD4)", and further that the Zoning Map referenced in Chapter 10, Article 4, Section 10.420 (District Location and Boundaries) of the Ordinances of the City of Portsmouth be revised accordingly *(Continued from the September 22, 2014 City Council meeting)*  
***(Sample motion – move to table Second Reading until the December 8, 2014 City Council meeting)***
- C. Second Reading of Proposed Ordinance amending Chapter 1, Article IX, Section 1.901: - Conflict of Interest of the Administrative Code ***(Sample motion – move to pass second reading and schedule and third and final reading of the proposed Ordinance at the December 8, 2014 City Council Meeting.)***
- D. Third and Final Reading of Proposed Ordinance amending Chapter 7, Article II, Section 7.213 – Fees and Terms for Medallions/Licenses ***(Sample motion – move to pass third and final reading of the proposed Ordinance as presented)***
- E. Third and Final Reading of Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.202, Table of Uses – Residential Mixed Residential, Business and Industrial Districts, by changing Use #1.30 (Townhouse) and Use #1.41 (Multifamily Dwelling, 3 or 4 Dwelling Units) from "P" (Permitted) to "S" (Special Exception) in the General Residence A and B (GRA & GRB) Districts ***(Sample motion – move to pass third and final reading of the proposed Ordinance as presented)***

## XII. CONSENT AGENDA

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

- A. \*Acceptance of Membership Dues to Art-Speak
- Portsmouth Pro Musica \$100.00
  - New Hampshire Theatre Project \$125.00
- (Sample motion – move to approve and accept the membership dues to the Piscataqua Arts & Cultural Alliance, a program of Art-Speak, as listed)***
- B. Letter from Donald Allison requesting to hold the 20<sup>th</sup> Annual Eastern State 20 Mile Road Race on Sunday, March 29, 2015 ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Donna Hepp, Seacoast Century C-Coordinator, Granite State Wheelmen, Inc, requesting to hold the Seacoast Century on September 26-27, 2015 ***(Anticipated action – move to refer to the City Manager with power)***

- D. Letter from Caroline Amport Piper, Friends of the South End, requesting permission to hold the Annual Fairy House Tour on Saturday, September 26, 2015 and Sunday, September 27, 2015 from 11:00 a.m. – 3:00 p.m. (***Anticipated action – move to refer to the City Manager with power***)
- E. Request for Approval of Pole License to install 2 poles located at the intersection of Lafayette Road and the Route 1 ByPass in conjunction with the NHDOT Project replacing the Flyover bridge (***Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes***)
- F. Request for Approval of Comcast License agreement to install 40' of underground conduit located on Green Street to provide cable services to on-going developments on Green Street (***Anticipated action – move to approve the aforementioned Comcast License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes***)
- G. Request for License from Keith R. Malinowski, owner of Portsmouth Buddhist Center for property located at 84 Pleasant Street for a projecting sign on a bracket (***Anticipated action – move to accept the recommendation of the Planning Director with the aforementioned stipulations and approve the request of Keith R. Malinowski, owner of Portsmouth Buddhist Center for a projecting sign at property located at 84 Pleasant Street and, further, authorize the City Manager to execute License Agreements for this request***)

**Planning Director's Stipulations:**

- ***The license shall be approved by the Legal Department as to content and form;***
  - ***Any removal or relocation of the projecting sign, for any reason, shall 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 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***
- H. Request for License from Angel Williams, owner of SIX Degrees for property located at 47 Bow 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 Angel Williams, owner of SIX Degrees for a projecting sign at property located at 47 Bow Street and, further, authorize the City Manager to execute License Agreements for this request***)

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- ***The license shall be approved by the Legal Department as to content and form;***
- ***Any removal or relocation of the projecting sign, for any reason, shall 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 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***

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

- A. Letter from Kyle Crosen-Langelier regarding The Board of Adjustment controversial denial of carport application
- B. Letter from Gloria Guyette regarding noise and other issues at Prescott Park
- C. Letter from Attorney Bernie Pelech Re: Rezoning Request for Cate Street/Route 1 ByPass Area Gateway District (*Refer to City Manager's comment in Section XIV. A.*)

**XIV. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS**

**A. CITY MANAGER**

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

- 1. First Reading of Proposed Resolutions and Ordinances:
  - 1.1 Report Back and First Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.440 Table of Uses, use #15.20 and Section 10.1530 Terms of General Applicability, regarding Helipad and Heliport (***Action on this items should take place under Section XI of the Agenda***)
- 2. Public Hearing/Second Reading of Proposed Resolutions and Ordinances:
  - 2.1 Public Hearing/Second Reading of Proposed Ordinance amending Chapter 1 , Article IX, Section 1.901: Conflict of Interest of the Administrative Code (***Action on this items should take place under Section XI of the Agenda***)

3. Third and Final Reading of Proposed Ordinances:
  - 3.1 Third and Final Reading of Proposed Ordinance amending Chapter 7, Article II, Section 7.213 – Fees and Terms for Medallions/Licenses (**Action on this item to take place under Section XI of the Agenda**)
  - 3.2 Third and Final Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.202, Table of Uses – Residential Mixed Residential, Business and Industrial Districts, by changing Use #1.30 (Townhouse) and Use #1.41 (Multifamily Dwelling, 3 or 4 Dwelling Units) from “P” (Permitted) to “S” (Special Exception) in the General Residence A and B (GRA & GRB) Districts (**Action on this item to take place under Section XI of the Agenda**)

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

1. Request for First Reading of Bonding Resolution of up to \$600,000.00 (Six Hundred Thousand Dollars) for the Purchase of a Heavy Rescue Fire Truck
2. Easement Deed for Public Service Company of New Hampshire for Transformer Pad in Prescott Park
3. Establish a Mayor’s Blue Ribbon Committee Re: City-Owned Sagamore Creek Land – Capital Improvement Plan Project
4. Report Back and Request for First Reading regarding a Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.1110- Off-street Parking for Conference Centers
5. Request for Special Non-Public Session with Counsel regarding discussions on Parking Garage Land Negotiations
6. Holiday Free Parking
7. Report Back and Request for First Reading Re: Rezone Cate street Area to Gateway
8. Request for Approval Re: Isles of Shoals Employee Parking Agreement
9. Request for Approval Re: Strawberry Banke Snow Ban Parking Agreement

**Informational items**

1. Events Listing
2. Planning Board Presentation and Public Hearing Re: Capital Improvement Plan
3. Senior Activity Center Update
4. Parking Shuttle Report
5. Meeting with Federal Aviation Administration in Burlington, Massachusetts
6. Final Bicycle and Pedestrian Plan
7. Annual Update on Complete Streets Policy Implementation

8. Update Re: Red Pine Scale
9. Airbnb and Similar Online Property Rental Arrangements
10. Update Re: Commercial Alley Lighting

**B. MAYOR LISTER**

1. Report Back Re: Meeting with Police Commission
2. \*Report of Appointment Process
3. eCity Award (*See attached Award & Press Release*)
4. Appointment to be Considered:
  - Everett Eaton – Reappointment to the Economic Development Commission

**C. COUNCILOR LOWN**

1. Fire Department Study Committee Recommendation
2. Parking and Traffic Safety Committee Action Sheet and Minutes of the September 11, 2014 meeting (***Sample motion – move to approve and accept the action sheet and minutes of the September 11, 2014 Parking and Traffic Safety Committee meeting***)

**D. COUNCILOR THORSEN**

1. Conflict of Interest Ordinance Amendment Options #1 - #3

**XV. MISCELLANEOUS/UNFINISHED BUSINESS**

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

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

*\*Indicates Verbal Report*

**INFORMATIONAL ITEMS**

1. Notification from the Planning Board that the minutes of the June 19, 2014 and September 18, 2014 meetings are available on the city website
2. Notification from the Zoning Board of Adjustment that the minutes of the August 19, 2014 meeting are available on the city website

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

# RELOCATION OF PORTSMOUTH MAIN POST OFFICE

## NOTICE OF PUBLIC MEETING AND COMMENT PERIOD

The US Postal Service is planning to relocate the retail services from the Portsmouth Main Post Office currently located at 80 Daniels Street, Portsmouth, New Hampshire to a yet-to-be-determined new location. The Postal Service needs to relocate because its occupancy agreement with the General Service Administration on the present site will terminate on April 30, 2016, and the GSA has informed us that there is no option to extend the occupancy beyond that date.

A copy of our letter to the Portsmouth Mayor, which contains additional project information, is posted next to this notice.

The Postal Service will be making a presentation about the relocation before the Portsmouth City Council at its public meeting scheduled for November 17, 2014 being held in City Council Chambers, Municipal Complex, One Junkins Avenue, Portsmouth, NH 03801. The meeting is planned to start at 7:00 pm. Additionally, for 15 days after the public meeting, anyone may submit written comments to the address below for the Postal Service's consideration.

Joseph J. Mulvey  
U. S. Postal Service  
2 Congress Street, Room 8  
Milford, MA 01757-9998



## CITY COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: MONDAY, JULY 14, 2014

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

At 6:00PM, An Anticipated "Non-Meeting" with Counsel was held Re: Negotiations – RSA: 91-A:2, I (b-c)

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

Mayor Lister called the meeting to order at 7:25 p.m.

### **II. ROLL CALL**

Present: Mayor Lister, Assistant Mayor Splaine, Councilors Shaheen, Kennedy (8:30 P.M.), Lown, Dwyer, Morgan, Spear (via teleconference) and Thorsen

### **III. INVOCATION**

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

Mayor Lister asked Nancy Novelline Clayburgh from the audience to lead in a moment of silence and the Pledge of Allegiance.

### **PRESENTATION**

1. Cynthia Scarano, Executive Vice President, Pan Am Railways Re: Sea-3 Terminal  
NHDOT Chief of Design Services – Melodie Esterberg  
NHDOT Rail and Transit Administrator – Michelle "Shelly" Winters  
NHDOT Railroad Inspector – John Robinson  
Peter Britiz, City's Environmental Planner/Sustainability Coordinator

City Manager Bohenko asked Deputy City Manager Dave Allen to introduce the above stated officials in the audience and what they will be speaking about. Deputy City Manager Allen gave a brief introduction of each official and then asked Cynthia Scarano, Executive Vice President of Pan Am Railways to speak first.

Ms. Scarano gave a brief overview of the 3 miles of railway in the City of Portsmouth, out of 13.4 miles, and some of the recent upgrades that have taken place. She stated there are 6 crossings in Portsmouth, all Class I. She then reviewed a map of the crossings and the different types of crossings they are i.e., passive, stop and protect, etc. She concluded stating that since 2009 there have been approximately 1015 cars a year with scheduled service 2-3 times per week.

Assistant Mayor Splaine stated that the concern of the residents is that the speed stays low even if the improvements are made and would like a commitment from Pan Am that they will keep the 10 mph limit even though with improvements they could go up to 25 mph.

Ms. Scarano replied that they cannot make that commitment as they do not administer the classification. She stated she doesn't see the need to go over 10 mph but admitted that it could be done. Assistant Mayor Splaine continued that with the investments for the upgrades to get to Class II, he wonders if the lines were not up to par before the upgrades. He also is concerned with the railway ties and the environmental impact of the treated wood. Ms. Scarano responded that the track was up to standard but they committed to the Town of

Newington to make the upgrades. She continued that the rail ties are treated with creosote but they are not an environmental leachate and assured that there have been extensive studies done on this.

Councilor Dwyer asked how their agreements with the users of the railway are codified. Ms. Scarano explained that each customer has different requirements and places where they are going and starting from etc. Councilor Dwyer asked about Sea-3 specifically and Ms. Scarano stated that she cannot speak about specific customers. She gave an analogy of loads of carrots or paper mill products being shipped and tracked through a computer system from point A to point B.

Councilor Shaheen thanked Ms. Scarano for coming and referred to the 3 miles of railway in Portsmouth being mentioned, stating that to the residents, those are the only 3 miles that matter as it is next to their homes. She stated we need to be certain of safety and asked if Pan Am is willing to disclose their safety records. Ms. Scarano responded that through the Federal Regulatory Authority, safeguards are put in place and monitored with testing done on a daily basis. She stated that a NHDOT employee has FRA qualifications and safety is taken very seriously. Councilor Shaheen continued that the speed limit is able to go up to 25 mph although we are being told it won't, but who decides. Ms. Scarano stated Pan Am decides the speed limit. Councilor Shaheen stated she is concerned that these decisions can be made without any notice to the residents and the city. She then asked if Pan Am supports "quiet zones". Ms. Scarano stated that they are never proponents of quiet zones as they are unsafe and that the whistles are blown for safety reasons.

Councilor Lown stated that Pan Am railways is owned by Boston Maine Airways with common management for Pan Am Airways as well and asked if she is aware of the investigation on managerial incompetence. Ms. Scarano stated she is unaware but can refer this to their attorney.

Councilor Thorsen went back to the "quiet zone" issue asking if they oppose all quiet zones. Ms. Scarano stated there have been quiet zones implemented if the FRA requires them to do so. Councilor Thorsen then asked if the customers specify the routes they want their products delivered by. Ms. Scarano stated that the customer chooses the rail system. Councilor Thorsen asked who chooses the actual route. Ms. Scarano clarified that the only way to get to Newington is through Portsmouth. Councilor Thorsen asked if the Pease railway was an option would they use that route instead. Ms. Scarano stated that this is a dead end at this point. Discussion ensued regarding the Pease route option and feasibility as it is currently only a conceptual plan and would required tens of millions of dollars and property taking to accomplish. Discussion ensued regarding passenger rail service with Ms. Scarano stating that there are liability issues with passenger service and it also takes time away from freight service. Councilor Thorsen asked regarding liability insurance, who has the responsibility of coverage if a train derails and a house catches fire and also what level of insurance is required. Ms. Scarano stated the courts decide in that case. She stated they carry their own insurance and they decide on the coverage and the client is responsible for the coverage on their product i.e. carrots. Councilor Thorsen clarified that there is no government agency requirement on insurance coverage. Ms. Scarano confirmed that to be true.

Councilor Dwyer stated there have been several high profile railroad problems in North America and asked if the industry has developed any policies as a result. Ms. Scarano stated yes quite a few including limiting the maximum speed for hazardous material to 25 mph although the government allows up to 40 mph. She stated there have also been more drills with first responders and extensive training with crews. Councilor Dwyer asked about the maintenance schedule of the local tracks. Ms. Scarano stated that the tracks are inspected weekly.

Assistant Mayor Splaine asked about the speed limit requirements and how many additional propane cars will be allowed if the track is upgraded to Class II. Ms. Scarano stated Class I is 10 mph and Class II is up to 25 mph. She stated that currently there are 6 cars and it can go up to 16 with the upgrade. Assistant Mayor Splaine stated that back in the late '70's B&M Railways invested a lot of money and had an agreement that they would let the Police and Fire Departments know the schedule of hazardous material coming through the city and asked if this could be done again. Ms. Scarano stated that freight service does not have a firm schedule and is on an as needed basis but the Safety Department does get together with first responders on an annual basis and also have constant communication.

Councilor Shaheen asked when the quote of 2-3,000 cars a year which class is that referring to. Ms. Scarano clarified that they do not need the upgrade to Class II to expand and can go up to 3-4 times a day with 75 cars but the upgrade is needed for the cooling facility holding tank. She stated if the expansion is approved they will upgrade to Class II per their commitment with the Town of Newington. Discussion ensued regarding the notification of Police/Fire personnel when hazardous materials travel through town. Councilor Shaheen stated it is terribly troubling that via approval in another town, 2-3 times more cars of these materials will go through Portsmouth and feels this is unacceptable.

Councilor Morgan discussed training requirements and asked if they would be willing to step up the training. Ms. Scarano stated they train on average 2-3 times a year and when there are any issues they have reviews with crews.

Next, NHDOT Chief of Design Services Melodie Esterberg explained the upgrades taking place at highway crossings stating there are 300 crossings in the State of NH and that there are 6 crossings in the City of Portsmouth with 4 being programmed in the upgrade assessment. She stated that the Market Street/Maplewood crossings were not programmed yet.

Environmental Planner Peter Britz briefly explained the process of designating "quiet zones" stating that there are none designated in the State of New Hampshire but there was one recently approved in Freeport Maine. Councilor Shaheen asked if he uncovered any data that showed a "quiet zone" being removed after it was approved. Mr. Britz stated no. Councilor Shaheen asked if it would be beneficial to know what upgrades would be required going forward as part of the 130 crossing upgrade process.

NHDOT Railroad Inspector John Robinson explained that there are a lot of nuances involved and that Portsmouth contains only 3 miles and all are passive intersections and signalized. Councilor Shaheen stated that research shows there are 40 quiet zones in the State of Maine and asked how those crossing are paid for. Ms. Esterberg stated that the 130 funds might not be able to be used on quiet zones because they are to be used for same orders @ current

crossings, not different orders. Councilor Dwyer asked how much money is set aside and who decides where it goes. Ms. Esterberg stated \$1,000,000 a year and it is the communities who are willing to work with them that are on the list.

Mayor Lister passed the gavel to Assistant Mayor Splaine.

Mayor Lister stated there have been good questions asked by the Council and stated that the Council's task is to advocate for and protect the citizens in Portsmouth. He stated he is concerned that decisions made in another town impact us and we have no say. He stated we need to have continued dialogue with Pan Am and a commitment for our safety but feels the answers are not clear. He stated the speed limit being able to be raised to 25 mph without notification concerns him as he feels that decisions could be made because of deadlines needing to be met etc. He stated we have been in touch with our State representatives and we are looking forward to the appeal process. He stated it is upsetting to the residents and a general frustration that we have no control over our 3 miles of railway and we need to continue the dialogue.

Assistant Mayor Splaine returned the gavel to Mayor Lister.

Assistant Mayor Splaine stated he is concerned that there is only one State Inspector for 800 miles of railway in New Hampshire and that we have to rely on self-inspection by Pan Am. Mr. Robinson stated that there are 450 miles of active track so yes he is busy, but he gives a lot of credit to the State DOT for funding this position. Discussion ensued regarding inspection and citizens are able to request the reports filed by Pan Am through the FRA. Councilor Kennedy asked how long the reports are kept on file. Mr. Robinson stated one year.

Mayor Lister thanked everyone for attending the meeting.

**Councilor Shaheen moved to suspend the rules to address Mayor Lister Item 2 on the Agenda, seconded by Councilor Thorsen. Motion passed on an 8-1 roll call vote, Councilor Kennedy voted opposed.**

2. Proposal to Allow the City Manager to Enroll in the NH Retirement System and Buy Back Years of Service and to Amend the City Manager's Employment Agreement Section 14, Paragraph B Re: NH Retirement System

Mayor Lister explained that due to an e-mail received by the Human Resources Director an hour before the meeting from NHRS, the Council will not be acting on this item this evening.

Assistant Mayor Splaine asked City Manager Bohenko to give a brief summary of this issue for the public.

City Manager Bohenko explained that as a result of an audit which found that the Council had never voted to exempt him from the New Hampshire Retirement System, at this point he would have to buy back all of his years of service at 93% in order to comply with the current rules of the retirement system. He stated he would appreciate this going through but is fine if the Council needs to postpone.

**Concilor Shaheen moved to postpone action on this item until the City hears back from the New Hampshire Retirement System regarding issues conveyed by NHRS shortly before meeting. Seconded by Councilor Lown and passed on a 9-0 roll call vote.**

#### **V. ACCEPTANCE OF MINUTES – APRIL 7, 2014**

**Councilor Thorsen moved to accept and place on file the minutes from April 7, 2014 City Council meeting. Seconded by Councilor Dwyer and passed on a 9-0 roll call vote.**

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

Tom Carroll – stated he would like the Dept. of Environmental Services to monitor the air quality stating that the report (see 07/14/2014 meeting folder) that he distributed shows alarming results from the dust that is coming from the scrap pile. He stated this preliminary report is missing key elements that need to be followed up. He listed the various issues and concluded by asking that the City Manager file a motion to request these answers. He concluded by stating that Grimmel Industries may not comply with vacating by December 31<sup>st</sup>.

Bob Hassold – stated he doesn't understand why we are having discussions with Pan Am at all as we are about to end our contract with Grimmel Industries because of it negative impact but instead we are going to allow propane to travel through the city. He continued listing recent incidents of train derailments with propane tanks involved and doesn't understand why they have to go through a major intersection such as Market Street. He stated they should go through Pease and it is the responsibility of the City Council to ensure the safety of our citizens.

Beth Margeson – stated that she feels that the abutters of Prescott Park should be allowed to participate in the review of the Prescott Park Arts Festival noise issue the same as any development project with notification to the abutters because this issue affects property values and quality of life.

Tom O'Leary – resident of Panaway Manor, spoke regarding his history of living in the neighborhood and the effects of the noise since the Interstate 95 was built. He stated in 60 years the New Hampshire Department of Transportation has not shown any concern to their questions of pollution, noise, etc. He stated when travelling along other interstates, there are state-of-the-art sound barriers and it is only in New Hampshire that this isn't done as a part of the project. He asked the Council to address these concerns.

David Lafevers – spoke regarding the motorcycle noise and drivers going through the stop sign on Daniel Street on a regular basis stating it is unsafe.

Raymond Faulkner - Eliot Maine, spoke regarding the Sea-3 Expansion asking what is the real concern because ships already travel up the waterway with fuel and there have been incidents with ships breaking away and hitting a bridge. He stated all modes of transport have risk.

Rich DiPentima – discussed various issues that have been disclosed in other areas with this issue, including environmental and liability coverage. He continued that in a recent case where there was an accident, it was found that there is no entity that has enough liability insurance to cover the costs involved with rebuilding. He stated that the DOT should do a study on the impact of transporting hazardous materials through densely populated areas.

Lou Salome – began by asking who has been inspecting the rails up to this point as he has walked the line from Market Street to Maplewood Avenue which has presumably been restored and it is a disaster. He cited several areas where spikes are missing, ties are broken etc. and said that the work has been haphazard and needs to be monitored regularly.

Catherine DiPentima – thanked the Council for the presentation this evening but as a resident within 100 feet of the rails, she doesn't feel any safer. She continued that there are no assurances that they will not go over 10 mph and the analogy of "carrots" being transported is very different than 33,000 gallons of explosive liquid per car. She stated there are still no answers regarding insurance coverage, notification to residents, quiet zones, etc.

Erik Anderson – spoke regarding derelict buildings which he spoke of several months ago and has since walked the neighborhood with Assistant Mayor Splaine. He stated the Council was presented with pictures and is looking for an answer as to where this issue currently stands. He stated the State statutes are ineffective and this is not a property rights issue but a property respect issue.

Aaron Garganta – began by thanking all of the Councilors past a present who have supported the Panaway Manor Neighborhood I-95 Sound Barrier issue. He gave a brief history of the issue since the highway was built and urged the Council to continue pursuing this with the State of NH DOT and legislation.

Joan Hamblett – resident of Panaway Manor, stated the 2 biggest detractors of the neighborhood are 2 abandoned buildings and the highway without a sound barrier and urged the Council to alleviate these problems.

Ben Anderson – Executive Director of Prescott Park Arts Festival – thanked the Council for approving the long-term agreement with Prescott Park and gave a brief overview of the various activities and benefits to the citizens and patrons of the Arts Festival and the many free season passes that are distributed to those who may not be able to donate. He stated that he is concerned with the drop in donations by approximately 50% at a recent event, which he feels is because of questions of where the money goes.

Claudette Barker – President of the Prescott Park Arts Festival – thanked the Council for their support and stated she is looking forward to continuing a successful season.

Mark Brighton – stated he was going to speak about the City Manager Retirement buy-in but because it has been pulled he will just comment that recent a recent newspaper quote by Councilor Lown that only a "few people complain" is demeaning to those who have a dissenting opinion.

Arthur Clough – discussed contracts that are coming up for ratification and insurance increases that will be coming including the Cadillac tax and feels that these issues need to be reviewed and looked into more closely.

Joe Caldarola – discussed the Portwalk project stating he can't believe the Historic District Commission has been lured into allowing it to continue when there are still issues that need to be addressed. He stated that because of the economic impact on the employees, there needs to be a way for the hotel to open for the summer.

Pat Ford – discussed the history of the alternative railroad route through Pease which used to be used 30 years ago and is referred to as the Newington Spur. She stated that the right-of-way is still viable and the Spaulding Turnpike has a plan to incorporate that under the bridge and she feels this should be looked at as a way to detour the trains from downtown.

Nancy Novelline Clayburgh – stated she is here to speak on the City Manager's retirement issue stating that she has worked with him for many years as a School Board member and City Councilor and he has done many things to improve the City of Portsmouth and save the taxpayers money. She also commented on the Prescott Parks Art Festival issue stating she has confidence that the PPAF Board and Trustees of the Trust Fund will resolve their issues.

**At 10:00 p.m. voted on a 9-0 roll call to continue meeting past 10:00 p.m.**

*Mayor Lister called a 10 minute recess and reconvened at 10:10 p.m.*

*Councilor Spear has left the meeting via tele-conference.*

**Councilor Dwyer moved to suspend the rules to address City Manager Item 9 on the Agenda. Seconded by Councilor Shaheen and voted.**

9. Request for License to Occupy a City Sidewalk for South Church Exterior Wood Louver Repair

**Councilor Kennedy moved to authorize the City Manager to enter into a license with the South Church to facilitate repair activities to the structure along Court Street. Seconded by Councilor Lown and voted.**

**Councilor Shaheen moved to suspend the rules to address Consent Agenda as a whole. Seconded by Assistant Mayor Splaine and voted.**

## **IX. CONSENT AGENDA**

**Councilor Shaheen moved to adopt the Consent Agenda. Seconded by Assistant Mayor Splaine.**

Councilor Kennedy stated she would once again like to urge some of these events to take place in other areas of the City besides the South End.

**Motion voted.**

- A. Letter from Amanda Morneault, The Harbor Agency, Re: Reserving Four Parking Spots for Wednesday, July 16, 2014 for Tour Bus and Trailer **(Anticipated action – move to refer to the City Manager with power)**
- B. Letter from Doug Bates, President, Greater Portsmouth Chamber of Commerce, requesting permission to close Pleasant Street from State Street to Congress Street on Wednesday, August 6, 2014 for conducting the 2014 Greater Portsmouth Chamber of Commerce Annual Dinner: Street.life! **(Anticipated action – move to refer to the City Manager with power)**
- C. Letter from Mary-Jo Monusky, Arts In Reach, requesting permission to hold a 5K Walk on Saturday, October 18, 2014 from 9:00 a.m. – 11:00 a.m. **(Anticipated action – move to refer to the City Manager with power)**
- D. Letter from Matthew Raffio, Arthritis Foundation, requesting permission to hold the Jingle Bell Run on Saturday, December 13, 2014 at 10:00 a.m. **(Anticipated action – move to refer to the City Manager with power)**
- E. Acceptance of Donations for Art-Speak
- 3S Artspace - \$150.00
  - Star Island Corporation - \$150.00
  - Proximity Lab LLC - \$150.00
  - The Portsmouth Music and Art Center - \$150.00
  - Players' Ring - \$125.00
  - Albacore Park - \$125.00
  - Pro Portsmouth - \$125.00
  - Barbara Jenny - \$25.00
- (Anticipated action – move to approve and accept the donations to Art-Speak, as listed)**
- F. Acceptance of Donation to the Coalition Legal Fund
- Town of Carroll for \$1,000.00
- (Anticipated action – move to approve and accept the donation, as listed, to be placed in the Coalition Legal Fund)**
- G. Donation to Fire Department from Bruce J. and Victoria A. Kennedy two pieces of fitness equipment Elliptical Machine and BowFlex Ultimate **(Sample motion – move to accept and approve the donation of equipment to the Fire Department, as presented)**
- H. Letter from Donna Hepp, Granite State Wheelmen, Inc. requesting permission to hold the Tri-State Seacoast Century Bicycle Ride on Saturday, September 20, 2014 – Sunday, September 21, 2014 **(Anticipated action – move to refer to the City Manager with power)**
- I. Request for Approval of Pole License to install 11 temporary poles located on Stark Street as part of the Stark Street Bridge Replacement Project over the Route 1 By-Pass **(Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes)**



- J. Request for Approval of Pole License to install 2 temporary poles located on Woodbury Avenue as part of the Woodbury Avenue Bridge Replacement Project over the Route 1 By-Pass (***Anticipated action – move to approve the aforementioned Pole License Agreement as recommended by the Public Works Department with the approval conditioned upon amendment of the license to allow for the collection of any lawfully assessed real estate taxes***)

## VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Grant from the Our New Hampshire Heritage – a fund of Northeast Auctions, an advised fund within the New Hampshire Charitable Foundation for Restoration of the Kearsarge Fire Pumper - \$15,000.00

**Councilor Kennedy moved to approve and accept the grant from the Our New Hampshire Heritage – a fund of Northeast Auctions, as advised fund within the New Hampshire Charitable Foundation, as submitted. Seconded by Councilor Shaheen and voted.**

## VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Ordinance amending Chapter 10 – Zoning Ordinance, Article 15, Definitions, Section 10.1530 – Terms of General Applicability, are hereby amended by adding the following new term and definition: Building Footprint – The horizontal area of a lot covered by the building, excluding (a) gutters, cornices and eaves projecting not more than 30 inches from a vertical wall, and (b) structures less than 18 inches above ground level such as decks and patios

**Councilor Dwyer moved to pass first reading and schedule a public hearing and second reading on the proposed Ordinance amendment at the August 4, 2014 City Council meeting, as presented. Seconded by Councilor Lown and voted.**

- B. First reading of Ordinance amending that the following lots be rezoned from Industrial (I), Office Research (OR) or Municipal (M) to Character District 4 (CD4):
- Assessors Map 163, Lots 33, 34 and 37;
  - Assessors Map 165, Lots 1, 2 and 14
  - Assessors Map 172, Lots 1 and 2;
  - Assessors Map 173, Lots 2 and 10

and including Cate Street between Hodgson's Brook and Bartlett Street, as shown on the attached exhibits title "Areas Proposed To Be Rezoned to Character District 4 (CD4)", and further that the Zoning Map referenced in Chapter 10, Article 4, Section 10.420 (District Location and Boundaries) of the Ordinances of the City of Portsmouth be revised accordingly

City Manager Bohenko asked Planning Director Rick Taiintor to give background on this proposed ordinance.

Planning Director Taintor reviewed that the City Council voted to refer to the Planning Board a request to consider rezoning the east side of the Route 1 Bypass from Islington Street to the Traffic Circle. This area includes several zoning districts with differing contexts and development opportunities and constraints. Of particular interest at present is the area between the railroad tracks and Hodgson's Brook, which includes the Frank Jones Conference Center and adjoining parcels which are currently being offered for sale, along with adjacent parcels such as the former Nissan dealership and the U-Haul parcel. This area has long been considered for a future road connection between the Route 1 Bypass and Bartlett Street, which would advance the goal of creating a new connection between Route 33 and the downtown. The parcels in this area are currently zoned Industrial, which limits their redevelopment potential and is contrary to City goals for upgrading the area in a manner compatible with adjoining residential and business uses.

He continued that the Planning Board has not yet had an opportunity to study the area covered in the City Council's request. However, much of this area is slated for study for an expansion of Character-Based Zoning, and the Planning Department anticipates that the final recommended zoning will be either Character District 4 (CD4) or a variant of that district. Therefore, as an interim measure, the Planning Department has suggested that the Council consider rezoning the area bounded by the Route 1 Bypass, Hodgson's Brook, Bartlett Street and the railroad tracks to CD4. The effect of the suggested rezoning would be to allow residential and retail uses (which are not permitted in the Industrial district), while requiring site and building design to be consistent with the standards established for the downtown area. Character-based zoning thus expands the development potential for the property owner while strengthening the City's ability to ensure a high quality of development.

**Councilor Dwyer moved to pass first reading and schedule a public hearing and second reading on the proposed Ordinance amendment at the September 22, 2014 City Council meeting, as presented, and further, refer to the Planning Board for report back to the City Council. Seconded by Councilor Thorsen and voted.**

**Councilor Lown moved to suspend the rules to address City Manager Item 4. Seconded by Assistant Mayor Splaine and voted.**

4. Request from John G. Pappas for Restoration of Involuntarily Merged Lots at 1474 Islington Street under RSA 674:39-aa

**Councilor Lown voted to approve the request for restoration of Involuntarily Merged Lots at 1474 Islington Street, seconded by Councilor Thorsen.**

Councilor Lown stated that Planning Director Taintors' memo explained it clearly that the City has the burden of proving that the previous owner purposely merged and that cannot be determined. He stated that in that case, the City is required to approve the unmerging of these lots in accordance with State statute.

Councilor Kennedy stated that in the past the Planning Director has give his opinion on these requests but did not do so this time and asked why. City Manager Bohenko stated that the facts have been laid out in accordance with the State RSA.

**Motion voted.**

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

- A. Letter from Josh Henry, Founder/Brewer, 7<sup>th</sup> Settlement Brewery, requesting permission for sales of beer in growlers at the Portsmouth Farmers' Market

**Councilor Low moved to authorize the City Manager to negotiate and execute an amendment to the Farmer's Market agreement with Seacoast Growers Association to allow for the sale of beer in growlers by 7<sup>th</sup> Settlement Brewery, seconded by Councilor Dwyer.**

Councilor Shaheen asked for clarification on "growlers" and that they are not open containers. City Manager Bohenko stated that was correct.

Councilor Kennedy asked what the Liquor Commission feels about this product at a Farmer's Market. City Manager Bohenko stated they have no problem with it.

Councilor Thorsen stated he is generally okay with this but doesn't want this to become a brewery showcase instead of a Farmer's market. City Manager Bohenko stated the Seacoast Grower's Association votes on who is able to participate in the market.

**Motion voted.**

- B. Letter from Mark Hiza, Nottingham Orchard, requesting permission to sell hard cider at the Portsmouth Farmers' Market during the months of August through November 1<sup>st</sup> on Saturday during the hours of 8:00 a.m. to 1:00 p.m.

**Councilor Kennedy moved to authorize the City Manager to negotiate and execute an amendment to the Farmer's Market agreement with Seacoast Growers Association to allow for the sale of hard cider by Nottingham Orchard, seconded by Councilor Lown.**

Councilor Shaheen again asked if these are open containers. City Manager stated no and the liquor commission doesn't allow that.

Councilor Kennedy stated we keep bringing these forward and wonders if there is a certain allowable percentage of alcohol booths to food stands. Councilor Dwyer clarified that this particular vendor also sells apples and not just wine.

Councilor Thorsen stated that if the Seacoast Growers Association approves who participates then why are the City Council voting on them as well. City Attorney Sullivan stated that from its inception the City has made the determination in regards to alcohol sales. He further explained that once they are approved by the Council they are added to the list and are part of the agreement in future contracts.

City Manager Bohenko stated he will look into the percentages question and report back.

Mayor Lister stated this is a family event so we need to be cognizant of what is being sold.

**Motion voted.**

- C. Letter from Peter Taylor, Property Manager, Anchor Property Management, requesting the Worth dumpster area be enlarged so it can accommodate two 10 year containers

**Assistant Mayor Splaine moved to refer to the City Manager for report back, seconded by Councilor Kennedy.**

Assistant Mayor Splaine stated he supports referring to the City Manager for a report back, but he spoke to Mr. Taylor several weeks ago about the dilemma as to where to put the dumpster and doesn't want this issue to delay the work at the Worth Lot. He stated there is also a concern of smell in that area.

City Manager Bohenko stated he is looking at totes versus dumpsters.

Councilor Kennedy stated the issue of trash in the downtown in general needs to be looked into and a plan developed. She stated there is a lot of trash on the sidewalks on collection day and wonders if adding an additional collection day would help. City Manager Bohenko stated he agrees and they are working on this issue.

**Motion voted.**

- D. Letter from Peirce Island Committee in support of the Phase II Study of the Middens that have been discovered on the island

**Assistant Mayor Splaine moved to refer to City Manager for report back, seconded by Councilor Shaheen.**

Councilor Kennedy stated that Steve Marison, Chair of the Peirce Island Committee, is in attendance. She stated this is an important issue and a rare opportunity.

Mayor Lister stated we also need to see how this all can tie into our upcoming 400<sup>th</sup> Anniversary event.

**Assistant Mayor Splaine moved to suspend the rules to allow Mr. Marison to address the Council on the issue. Seconded by Councilor Kennedy and voted.**

Mr. Marison stated they have been working with the architect who did the test pits and there is no other place that has had this opportunity to see how life was lived in two different eras; the Revolutionary War and War of 1812.

Councilor Shaheen asked how the study will be funded. City Manager Bohenko stated the Peirce Island Committee proposes it come from the CIP, but he will need to review if it meets the criteria but it may need to come from contingency.

Councilor Thorsen asked how much it is projected to cost and are there any grants available. City Manager Bohenko stated \$65,000.00 and that will be a part of his report back.

**Motion voted.**

- E. Letter from The Concerned Stakeholders of Commercial Alley requesting enhanced lighting of Commercial Alley

**Councilor Shaheen moved to refer to the City Manager for report back, seconded by Councilor Kennedy.**

Councilor Shaheen stated she has heard from several business owners and the need for lighting. City Manager Bohenko stated they type of lighting and location all need to be worked out.

**Motion voted.**

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

**A. CITY MANAGER**

1. Request for Approval of a One-year Contract Extension between the Portsmouth School Department and the Association of School Administrators'

City Manager Bohenko asked Human Resource Director Dianna Fogarty to address the comment made by a citizen during the public comment session.

Human Resource Director Fogarty explained the health plan was designed by School Care to address the Affordable Care Act with higher deductible plans and will have an option for the employee to fund reimbursement accounts. She further explained that the cost to the city and the employee would be significantly lower and is a change in philosophy of what the employees are used to, but is what we are facing as part of the Affordable Care Act.

**Councilor Shaheen moved to adopt the proposed Agreement between the Portsmouth School Board and the Association of Portsmouth School Administrators to expire on June 30, 2015, seconded by Councilor Lown.**

Councilor Kennedy stated that this addresses only one year and the affordable care act doesn't go into effect until 2018, so we will be able to address changes in the meantime.

Councilor Dwyer stated she understands the confusion of the public, but for one year, there will be significant savings and is what people have been asking us to do, address insurance costs.

**Motion voted.**

2. Resolution Re: Rescission of the Four Million Dollars (\$4,000,000.00) balance from the Borrowing Authorization for the construction of the Madbury Water Treatment Plant

**Councilor Lown moved to approve the Resolution rescinding the remaining borrowing authority with regard to Resolution #13-2008 adopted by the City Council on November 10, 2008. Seconded by Councilor Shaheen and voted.**

3. Cemetery Improvement Trust and Cemetery Action Plan

Community Development Director David Moore gave a brief presentation explaining the Trust creates a repository for all funds authorized, contributed, or received by the City of Portsmouth for the conservation, restoration, and repair of cemeteries, burial grounds, and burial sites owned by the City of Portsmouth. If adopted, the Trust would be able to accept donations and grant funds given or awarded to the City to aid in carrying out future projects, such as those identified in the Cemetery Assessment and Conservation Plan completed in 2013. The Trust would be managed by the Trustees of Trust Funds and all expenditures would be authorized by the City Council. He further stated that this would provide training opportunities for the Department of Public Works employees in regards to sensitivity of these sites.

**Councilor Kennedy moved to adopt the Portsmouth Historic Cemetery Trust, and further, to authorize the City Manager to execute the Portsmouth Historic Cemetery Trust, as presented, seconded by Councilor Shaheen.**

Councilor Dwyer stated that because we also have the African Burying Ground Trust she would like to make sure that a clarification between the two trusts will be clear. City Manager Bohenko responded that by virtue of the fact that it is managed by the Trustees of the Trust Fund it will be clear and it is our responsibility to ensure the division of the two.

**Motion voted.**

4. Request from John G. Pappas for Restoration of Involuntarily Merged Lots at 1474 Islington Street under RSA 674:39-aa (**Action taken previously**)
5. Portsmouth Housing Authority Communication Re: Cottage Senior Housing (Sample -motion)

**Councilor Lown moved to refer this matter to the CDBG Citizens Advisory Committee for a report back. Motion passed on a 7-0 vote, Councilor Shaheen abstained.**

6. Request for a License Agreement Re: 75 Congress Street (Ben Franklin Block Buildings)

**Councilor Kennedy moved to authorize the City Manager to enter into a license with Michael De La Cruz to facilitate restoration activities at 75 Congress Street. Seconded by Councilor Lown and voted.**

7. Request for License Agreement Re: 311 Marcy Street (Hunking Holdings LLC)

**Councilor Lown moved to authorize the City Manager to enter into a license with Hunking Holding, LLC to facilitate construction activities at 311 Marcy Street, seconded by Councilor Shaheen. Motion passed on a 7-0 vote, Councilor Kennedy abstained.**

8. Request for First reading of Ordinance Re: Parking Omnibus

**Councilor Lown moved to schedule a First Reading of the proposed ordinance amendments to be incorporated into Chapter 7, Vehicle, Traffic and Parking Ordinance, as presented, at the August 4<sup>th</sup> City Council meeting, seconded by Councilor Shaheen.**

Councilor Kennedy stated she would like to know how many parking spaces are lost or gained with these changes. Parking Division Director Mark Nelson will have that figure on August 4, 2014.

**Motion voted.**

9. Request for License to Occupy a City Sidewalk for South Church Exterior Wood Louver Repair (***Action taken previously***)

### **Informational items**

#### **B. MAYOR LISTER**

1. Appointments to be Considered:
  - Robert Capone to the Cable Television and Communications Commission
  - Matthew Cardin to the Conservation Commission as an Alternate
  - Vincent Lombardi to the Historic District Commission as an Alternate
  - Mary Lou McElwain to the Parking and Traffic Safety as an Alternate
  - Lisa Louttit to the Recreation Board
  - Jeremiah Johnson to the Zoning Board of Adjustment as an Alternate

The above appointments were considered and will be voted at the August 4, 2014 City Council Meeting.

2. Proposal to Allow the City Manager to Enroll in the NH Retirement System and Buy Back Years of Service and to Amend the City Manager's Employment Agreement Section 14, Paragraph B Re: NH Retirement System (see attached memorandum) (***Action taken previously***)
3. Meeting with Port Advisory Committee on September 17, 2014 at 6:00 p.m.

Mayor Lister stated that the meeting will be held at the Port Authority and is not a Council work session.

Assistant Mayor Splaine stated that Mr. Hassold had requested this meeting and requested that all Councilors try and attend. He also asked that the report Mr. Carroll distributed during the public comment session be made a part of the minutes.

Councilor Kennedy stated she hopes that everyone will listen to each other during this meeting and reminded everyone that the Port Authority meetings are and always have been open to the public and it will be the first time any of the people who have requested this meeting are attending.

4. Request to establish a date for a City Council Retreat – Saturday, October 4, 2014

Mayor Lister stated that as a result of the Council's request to start the budget process early, a Council Retreat is being scheduled and he is looking for consensus as to whether Saturday October 4<sup>th</sup> will work for everyone. He stated he would like Councilors to send him any items they would like added to the agenda, but doesn't want to see it over scheduled either.

Councilor Kennedy asked if the Master Plan will be included. Mayor Lister stated it could be.

The consensus of the Council was to begin at 9:00 a.m. on Saturday October 4, 2014.

5. Appointment of Howard Altschiller to the Portsmouth Public Media Television Board of Directors

**Councilor Shaheen moved to approved the appointment of Howard Altschiller to the Portsmouth Public Media Television Board of Directors as the City of Portsmouth representative, seconded by Councilor Lown.**

Councilor Thorsen explained that he had been an original member of the board when this first began and explained that this is a Mayoral appointment and is to replace the previous appointment of Chase Bailey who served for many years.

Councilor Kennedy asked why this was not on for consideration first. City Manager Bohenko explained that this is a special appointment made by the Mayor for a city representative to the Board.

Mayor Lister stated he worked with Assistant City Attorney Woodland on this appointment.

Councilor Dwyer asked for clarification as to if this is a 501c-3 non-profit. Councilor Thorsen stated this is a stand-alone non-profit organization and this is not a part of the City's Boards and Commissions. He stated it is included in their Charter by the City to fulfill certain functions of public broadcast and the owner of the public broadcast in the City.

Councilor Kennedy asked what is the term of the appointment. Mayor Lister stated it is an indefinite term. Councilor Kennedy asked if this can be rescinded as she is concerned that this appointee owns other media. Mayor Lister stated that is why he consulted the Legal Department.

**Motion passed on a 7-0 vote, Assistant Mayor Splaine abstained.**



### **C. ASSISTANT MAYOR SPLAINE**

1. Portwalk Status, Other Development Projects, and Compliance with Approved Requirements

Assistant Mayor Splaine stated he is not looking for a motion but would just like the concerns raised previously to be addressed.

Deputy City Manager Dave Allen reviewed a memorandum distributed to the Council reviewing the history of the HDC Review of the Portwalk Project and the changes that have been approved to date (available on the city website).

Assistant Mayor Splaine asked what the timing is for an appeal process. Deputy City Manager Allen stated that as part of the agreement, the applicants cannot appeal.

Councilor Shaheen urged the public and Councilors to attend the HDC meeting and give their opinions. Councilor Thorsen suggested the Council draw up a resolution instead of separate sets of opinions.

Assistant Mayor Splaine stated he considered doing a resolution but feels that we should have confidence in our Boards and Commissions and give them the teeth to do what they need to do.

Councilor Dwyer stated she agrees with Assistant Mayor Splaine as there are no details available to make a recommendation and may put us in legal jeopardy if we don't agree. She stated that there is no substitute for attending the meetings and the role of the Council is that of a sitting Board in terms of the law.

Councilor Kennedy stated it is unfair to allow the Board to have to revisit this. She continued that it is the role of the Council to beef up the process and not let this happen again. She stated she wants to start this conversation sooner than later. She stated they didn't follow the rules and shouldn't have been given an occupancy permit. She stated they made a choice and we are going through all of this because of corporate decisions and feels that the city should be reimbursed for all of the extra staff time involved.

### **D. COUNCILORS SHAHEEN AND THORSEN**

1. Sound Barriers on I-95

Councilor Shaheen thanked Councilor Thorsen for fighting the fight on this issue that stems from the I-95 expansion in the late '80's and the impact on the neighborhoods should have been mitigated at that time.

Councilor Thorsen reviewed the history of the attempts by the neighborhoods to get the State DOT to install sound barriers as this is a serious health and quality of life issue. He stated we have gone as far as the process allows us to go but wants this Council to be the one that resolves this issue after decades of following the process.

Discussion ensued regarding the criteria involved to get a sound barrier and that the State

legislature needs to propose legislation to change the criteria to rectify this issue.

Mayor Lister will send a letter to the Governor and other pertinent State and Federal government officials regarding the Sound Barrier request for various areas along portions of I-95 in the City of Portsmouth.

**E. COUNCILOR LOWN**

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the June 12, 2014 meeting

**Councilor Thorsen moved to approve and accept the action sheet and minutes of the June 12, 2014 Parking and Traffic Safety Committee meeting. Seconded by Councilor Dwyer and voted 8-1, Councilor Kennedy voted opposed.**

**F. COUNCILOR DWYER**

1. African Burying Ground Updates

Councilor Dwyer reported that Piscataqua Landscaping has been selected for the project the groundbreaking date will be announced soon. She stated that Chestnut Street will be closed permanently once the project begins.

**G. COUNCILOR MORGAN**

1. Building and Development – Compliance with Land Use Board approved plans

Councilor Morgan stated she wants to look at how the Council as a group moves forward and how the process will be different so that a “Portwalk type” issue doesn’t happen again.

City Manager Bohenko will report back at the August 4, 2014 City Council meeting.

2. Request for a non-public meeting to discuss Contract negotiations and new Health Plan options

City Manager Bohenko stated he will arrange for a report back on Health Care options and concepts at an upcoming meeting as well as a timeline for ongoing contract negotiations.

3. Quality of life in our neighborhoods: helicopters, motorcycles and speeding

City Manager Bohenko stated he, as a member of the PDA, testified and voted against allowing the helicopters at Pease but the FAA has full responsibility over this activity. He stated that large cities such as Los Angeles and San Francisco are fighting this issue as well, but the cities have no control and neither does the PDA.

Councilor Kennedy stated she agrees that we don’t have a lot of recourse but we can ask the company to cooperate.

Councilor Shaheen stated we should encourage the PDA and Congressional Delegation to be invited to discuss this issue as well.

Mayor Lister stated that regarding the motorcycle noise and speeding issue, he will communicate with the Chair of the Police Commission regarding these concerns.

#### **H. COUNCILOR THORSEN**

##### **1. Gambling Ordinance**

Councilor Thorsen stated that we already have a prohibition against gambling as we have no allowable uses for gambling so by omission from the list, it is restricted. He stated that he feels that gambling needs to be specifically defined in our ordinance and the City Attorney has agreed to bring back language defining gambling.

Councilor Dwyer asked if this is being defined in the zoning ordinance shouldn't the Planning Board be addressing it. City Attorney Sullivan stated yes, but we can refer to Planning at the first reading.

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

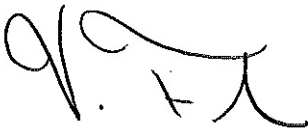
Councilor Shaheen stated she will not be able to attend the August 4, 2014 Council meeting.

Councilor Kennedy stated that another noise concern that has been brought up by citizens is at the Gas Light and asked if these have been addressed. City Attorney Sullivan stated the City has been working with the owners and it has dramatically improved but they will continue to monitor.

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

**Councilor Lown moved to adjourn at 12:25 a.m., July 15, 2014. 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, November 17, 2014 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH on a Proposed Ordinance amending Chapter 1, Article IX, Section 1.901 – Conflict of Interest of the Administrative Code. The complete Ordinance is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

KELLI L. BARNABY, CMC/CNHMC  
CITY CLERK

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KELLI L. BARNABY, CMC/CNHMC  
CITY CLERK

ORDINANCE #  
THE CITY OF PORTSMOUTH ORDAINS

That Chapter 1, Article IX, Section 1.901: - CONFLICT OF INTEREST of the ADMINISTRATIVE CODE of the Ordinances of the City of Portsmouth be amended to read as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

ARTICLE IX CONFLICT OF INTEREST/ MANDATORY FINANCIAL DISCLOSURE

Section 1.901: CITY COUNCIL AND SCHOOL BOARD DISCLOSURES

- A. Preliminary: This ordinance is adopted by the City of Portsmouth in compliance with the mandate contained in the Charter Amendment entitled "CONFLICT OF INTEREST" which was adopted by referendum vote of the City of Portsmouth on November 3, 1987. This ordinance may be referred to as the Mandatory Disclosure Ordinance.
- B. Definition: For purposes of this Article only, the following terms shall be defined in the following manner:

Municipal Official: For the purpose of mandatory financial disclosure, the term "Municipal Official" shall be defined to include **members of the** City Council, ~~and~~ School Board **members Police Commission, and Fire Commission.**

Income: The term "income" shall be defined as a gain of recurrent benefit usually measured in money that derives from capital, labor, or investment.

Capital Assets: The term "capital assets" shall be defined to include all corporate stocks or bonds or any other business interest in **directly attributable to** any business entity which maintains a business location in the City of Portsmouth, owns property in the City of Portsmouth, transacts substantial business in the City of Portsmouth, or transacts business with the City of Portsmouth. The term "capital assets: shall also be defined to include all real estate holdings and interest in real estate located in the City of Portsmouth.

Financial Disclosure Statement: The term "financial disclosure statement" shall mean a written statement, given under oath:<sup>7</sup>

- A. **Listing an individual's primary source of annual income and capital assets. However, in no instance shall disclosure be mandated of any capital assets whose value at the time of disclosure is below Ten Five Thousand (\$105,000) dollars nor shall the value of any source of income or the value of any capital asset be required for disclosure.**
- B. **Listing any sources of income, whether or not connected with the City of Portsmouth which produce income in an amount greater than \$10,000 calculated annually and per calendar year basis.**

- C. Obligation of All Municipal Officials: ~~From and after June 30, 1988, a~~All municipal officials will maintain an updated financial disclosure statement in the Office of the City Clerk. The Financial Disclosure Statement shall be updated annually as of June 30th. Forms shall be **based on the form used by the State to implement RSA 15-A (attached)** prepared by the City Clerk **for approval by the City Council** and made available to all municipal officials for this purpose, ~~the form shall be substantially the form attached.~~
- D. Determining Violations: For violation and enforcement purposes, complaints alleging violation of the mandatory disclosure ordinances shall be administered in accordance with the process ~~and penalties available~~ under the Municipal code of Ethics, Reference Chapter I, Article VIII.
- E. Public Records: Financial Disclosure Statements shall be public records. (Amended 6/4/2007)
- F. Return of Records: Financial Disclosure Statements shall be returned to the public official six (6) months after leaving office.  
(Adopted In Its Entirety 3/21/88, Amended 3/28/88)
- G. **Penalties: Any violation of this article shall be subject to the penalties prescribed for violation of the City Code of Ethics, Sec. 1.801 et seq.**

Section 1.902: ELECTION CANDIDATE FINANCIAL DISCLOSURE

- A. Required Disclosure: Any candidate running for City Council, School Board, Police or Fire Commissions receiving a monetary contribution from any one person or entity in the amount of a cumulative total of \$100.00 or more in any calendar year must report the name of the individual, address, amount, and date of contribution. The report must be filed, or updated as appropriate, with the Office of the City Clerk seven (7) days prior to any election at which that person is a candidate for any of the foregoing offices. Any contributions which would otherwise require reporting under this ordinance received within the seven days prior to the election must be submitted in a final report to the Office of the City Clerk no later than two weeks following the election.
- B. Violations: For violation and enforcement purposes, complaints alleging violation of the mandatory disclosure ordinance shall be administered in accordance with the process and penalties available under the Municipal Code of Ethics, Reference Chapter 1, Article VIII.
- C. Public Records: All election candidate financial disclosures shall be public records.  
(Adopted Section 1.902 In Its Entirety 6/4/2007)

**FINANCIAL DISCLOSURE STATEMENT**

~~Pursuant to the Charter and Ordinances of the City of Portsmouth (Chapter 1, Article IX) the undersigned makes the following financial disclosure:~~

A. ~~Primary Source of Annual Income:~~

\_\_\_\_\_

B. ~~Capital Assets:~~

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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

Signature: \_\_\_\_\_

~~Before me appeared the above named individual who stated under oath that the information supplied in this disclosure statement is a true and complete disclosure as required by the Charter and Ordinances of the City of Portsmouth.~~

Date: \_\_\_\_\_  
Justice of the Peace/Notary Public

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 passage **with respect to the City Council and the School Board. It will take effect with respect to Police and Fire Commission as of January 1, 2016.**

APPROVED:

\_\_\_\_\_  
Robert J. Lister, 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, SEPTEMBER 22, 2014 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH, on the proposed Ordinance:

Rezone the following lots from Industrial (I), Office Research (OR) or Municipal (M) to Character District 4 (CD4):

- Assessors Map 163, Lots 33, 34 and 37;
- Assessors Map 165, Lots 1, 2 and 14;
- Assessors Map 172, Lots 1 and 2;
- Assessors Map 173, Lots 2 and 10;

and including Cate Street between Hodgson's Brook and Bartlett Street, as shown on two exhibits titled "Areas Proposed To Be Rezoned to Character District 4 (CD4)" dated 6-23-2014;

and revise the Zoning Map referenced in Chapter 10, Article 4, Section 10.420 (District Location and Boundaries) of the Ordinances of the City of Portsmouth accordingly.

The proposed amendment to the Zoning Ordinance and may be reviewed during normal business hours of City Hall in the offices of the City Clerk and Planning Department.

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, SEPTEMBER 22, 2014 at 7:00 p.m., Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH, on the proposed Ordinance:

Rezone the following lots from Industrial (I), Office Research (OR) or Municipal (M) to Character District 4 (CD4):

- Assessors Map 163, Lots 33, 34 and 37;
- Assessors Map 165, Lots 1, 2 and 14;
- Assessors Map 172, Lots 1 and 2;
- Assessors Map 173, Lots 2 and 10;

and including Cate Street between Hodgson's Brook and Bartlett Street, as shown on two exhibits titled "Areas Proposed To Be Rezoned to Character District 4 (CD4)" dated 6-23-2014;

and revise the Zoning Map referenced in Chapter 10, Article 4, Section 10.420 (District Location and Boundaries) of the Ordinances of the City of Portsmouth accordingly.

The proposed amendment to the Zoning Ordinance and may be reviewed during normal business hours of City Hall in the offices of the City Clerk and Planning Department.

KELLI L. BARNABY, CMC/CNHMC  
CITY CLERK

#12517 1t P. 7/18



ORDINANCE #  
THE CITY OF PORTSMOUTH ORDAINS

That the following lots be rezoned from Industrial (I), Office Research (OR) or Municipal (M) to Character District 4 (CD4):

- Assessors Map 163, Lots 33, 34 and 37;
- Assessors Map 165, Lots 1, 2 and 14;
- Assessors Map 172, Lots 1 and 2; and
- Assessors Map 173, Lots 2 and 10;

and including Cate Street between Hodgson's Brook and Bartlett Street, as shown on the attached exhibits titled "Areas Proposed To Be Rezoned to Character District 4 (CD4)", dated 6-23-2014;

And that the Zoning Map referenced in Chapter 10, Article 4, Section 10.420 (District Location and Boundaries) of the Ordinances of the City of Portsmouth be revised accordingly.

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

This ordinance shall take effect upon its passage.

APPROVED:

\_\_\_\_\_  
Robert J. Lister, Mayor

ADOPTED BY COUNCIL:

\_\_\_\_\_  
Kelli L. Barnaby, City Clerk

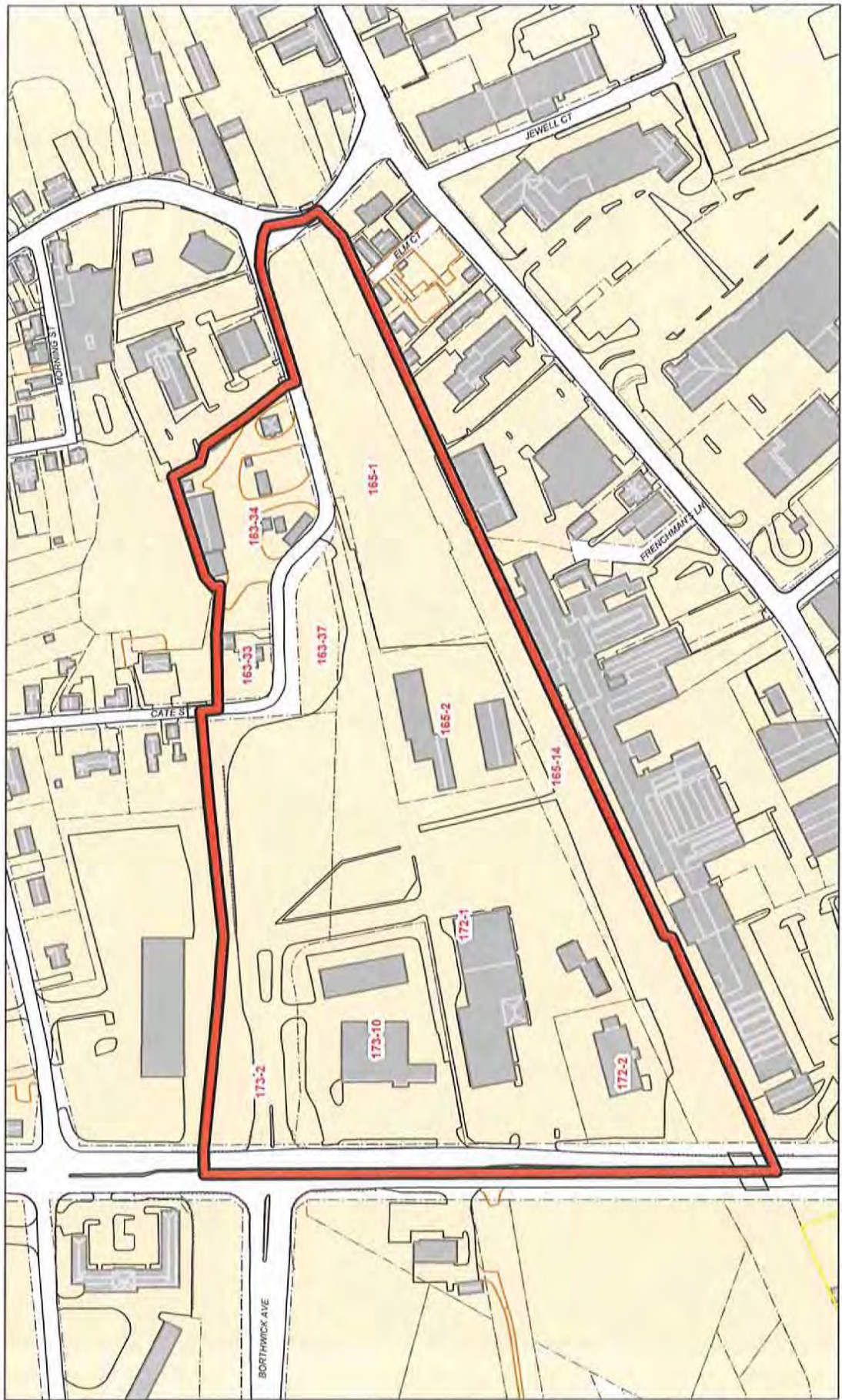


Area Proposed To Be Rezoned to Character District 4 (CD4)

Proposed CD4 District

0 80 160 240 320 Feet  
 Portsmouth Planning Department | 6-23-2014





Area Proposed To Be Rezoned to Character District 4 (CD4)

Proposed CD4 District

0 80 160 240 320 Feet  
Portsmouth Planning Department | 6-23-2014



**PORTSMOUTH POLICE DEPARTMENT**

**MEMORANDUM**

OCT 27 2014

DATE: 22 OCTOBER, 2014  
TO: JOHN P. BOHENKO, CITY MANAGER  
FROM: JOHN F. GOLUMB, CHAIRMAN, PORTSMOUTH POLICE COMMISSION  
STEPHEN J. DUBOIS, CHIEF OF POLICE  
RE: GRANTS & DONATIONS

At the October 22<sup>nd</sup>, 2014 monthly Police Commission meeting, the Board of Police Commissioners approved and accepted the following grant and donations:

- 1.) A grant in the amount of \$260,254 has been received from the Dept. of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP), for the Internet Crimes Against Children Task Force. This grant provides funding for all the New Hampshire ICAC Task Force satellites throughout the state for FY 14.
- 2.) Donations:
  - a. A donation in the amount of \$3,000 from the Banyan Fund, under the aegis of Mr. and Mrs. Gerald W. Howe, to defray the cost of producing and airing Public Service Announcements (PSAs) regarding the department's opiate addiction initiative
  - b. Donations as follows in support of the Police Explorer Cadets:
    1. A donation in the amount of \$50 from retired Chief David 'Lou' Ferland
    2. A donation in the amount of \$25 from former Commissioner Wm. Mortimer
    3. A donation in the amount of \$400 from the "Friends of the South End"

We submit the information to you pursuant to City Policy Memorandum #94-36, for the City Council's consideration and approval at their next meeting.

Respectfully submitted,



John F. Golumb, Chairman  
Board of Police Commissioners



Stephen J. DuBois, Chief of Police  
copies: Board of Police Commissioners  
Finance Director Judie Belanger  
Admin. Mgr. Karen Senecal  
Business Assistant Tammie Perez



**Department of Justice**  
Office of Justice Programs

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Office of the Assistant Attorney General

Washington, D.C. 20531

September 22, 2014

Chief Stephen J. DuBois  
City of Portsmouth  
1 Junkins Ave  
Portsmouth, NH 03801-4554

Dear Chief DuBois:

On behalf of Attorney General Eric Holder, it is my pleasure to inform you that the Office of Justice Programs has approved your application for funding under the FY 14 Internet Crimes Against Children Task Force Invited Awards in the amount of \$260,254 for City of Portsmouth.

Enclosed you will find the Grant Award and Special Conditions documents. This award is subject to all administrative and financial requirements, including the timely submission of all financial and programmatic reports, resolution of all interim audit findings, and the maintenance of a minimum level of cash-on-hand. Should you not adhere to these requirements, you will be in violation of the terms of this agreement and the award will be subject to termination for cause or other administrative action as appropriate.

If you have questions regarding this award, please contact:

- Program Questions, Jacqueline O'Reilly, Program Manager at (202) 514-5024; and
- Financial Questions, the Office of the Chief Financial Officer, Customer Service Center (CSC) at (800) 458-0786, or you may contact the CSC at [ask.ocfo@usdoj.gov](mailto:ask.ocfo@usdoj.gov).

Congratulations, and we look forward to working with you.

Sincerely,

A handwritten signature in cursive script that reads "Karol V. Mason".

Karol Virginia Mason  
Assistant Attorney General

Enclosures



## OFFICE FOR CIVIL RIGHTS

Office of Justice Programs

Department of Justice

810 7th Street, NW  
Washington, DC 20531

Tel: (202) 307-0690

TTY: (202) 307-2027

E-mail: [askOCR@usdoj.gov](mailto:askOCR@usdoj.gov)

Website: [www.ojp.usdoj.gov/ocr](http://www.ojp.usdoj.gov/ocr)

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September 22, 2014

Chief Stephen J. DuBois  
City of Portsmouth  
1 Junkins Ave  
Portsmouth, NH 03801-4554

Dear Chief DuBois:

Congratulations on your recent award. In establishing financial assistance programs, Congress linked the receipt of federal funding to compliance with federal civil rights laws. The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) is responsible for ensuring that recipients of financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) comply with the applicable federal civil rights laws. We at the OCR are available to help you and your organization meet the civil rights requirements that come with DOJ funding.

### **Ensuring Access to Federally Assisted Programs**

Federal laws that apply to recipients of financial assistance from the DOJ prohibit discrimination on the basis of race, color, national origin, religion, sex, or disability in funded programs or activities, not only in employment but also in the delivery of services or benefits. A federal law also prohibits recipients from discriminating on the basis of age in the delivery of services or benefits.

In March of 2013, President Obama signed the Violence Against Women Reauthorization Act of 2013. The statute amends the Violence Against Women Act of 1994 (VAWA) by including a nondiscrimination grant condition that prohibits discrimination based on actual or perceived race, color, national origin, religion, sex, disability, sexual orientation, or gender identity. The new nondiscrimination grant condition applies to certain programs funded after October 1, 2013. The OCR and the OVW have developed answers to some frequently asked questions about this provision to assist recipients of VAWA funds to understand their obligations. The Frequently Asked Questions are available at <http://ojp.gov/about/ocr/vawafaqs.htm>.

### **Enforcing Civil Rights Laws**

All recipients of federal financial assistance, regardless of the particular funding source, the amount of the grant award, or the number of employees in the workforce, are subject to prohibitions against unlawful discrimination. Accordingly, the OCR investigates recipients that are the subject of discrimination complaints from both individuals and groups. In addition, based on regulatory criteria, the OCR selects a number of recipients each year for compliance reviews, audits that require recipients to submit data showing that they are providing services equitably to all segments of their service population and that their employment practices meet equal opportunity standards.

### **Providing Services to Limited English Proficiency (LEP) Individuals**

In accordance with DOJ guidance pertaining to Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, recipients of federal financial assistance must take reasonable steps to provide meaningful access to their programs and activities for persons with limited English proficiency (LEP). See U.S. Department of Justice, Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 67 Fed. Reg. 41,455 (2002). For more information on the civil rights responsibilities that recipients have in providing language services to LEP individuals, please see the website <http://www.lep.gov>.

### **Ensuring Equal Treatment for Faith-Based Organizations**

The DOJ regulation, Equal Treatment for Faith-Based Organizations, 28 C.F.R. pt. 38, requires State Administering Agencies (SAAs) to treat faith-based organizations the same as any other applicant or recipient. The regulation prohibits SAAs from making awards or grant administration decisions on the basis of an organization's religious character or affiliation, religious name, or the religious composition of its board of directors.

The regulation also prohibits faith-based organizations from using financial assistance from the DOJ to fund inherently (or explicitly) religious activities. While faith-based organizations can engage in non-funded inherently religious activities, they must hold them separately from the program funded by the DOJ, and recipients cannot compel beneficiaries to participate in them. The Equal Treatment Regulation also makes clear that organizations participating in programs funded by the DOJ are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion. For more information on the regulation, please see the OCR's website at [http://www.ojp.usdoj.gov/about/ocr/equal\\_fbo.htm](http://www.ojp.usdoj.gov/about/ocr/equal_fbo.htm).

SAAs and faith-based organizations should also note that the Omnibus Crime Control and Safe Streets Act (Safe Streets Act) of 1968, as amended, 42 U.S.C. § 3789d(c); the Victims of Crime Act of 1984, as amended, 42 U.S.C. § 10604(e); the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, 42 U.S.C. § 5672(b); and VAWA, Pub. L. No. 113-4, sec. 3(b)(4), 127 Stat. 54, 61-62 (to be codified at 42 U.S.C. § 13925(b)(13)) contain prohibitions against discrimination on the basis of religion in employment. Despite these nondiscrimination provisions, the DOJ has concluded that it may construe the Religious Freedom Restoration Act (RFRA) on a case-by-case basis to permit some faith-based organizations to receive DOJ funds while taking into account religion when hiring staff, even if the statute that authorizes the funding program generally forbids recipients from considering religion in employment decisions. Please consult with the OCR if you have any questions about the regulation or the application of RFRA to the statutes that prohibit discrimination in employment.

### **Using Arrest and Conviction Records in Making Employment Decisions**

The OCR issued an advisory document for recipients on the proper use of arrest and conviction records in making hiring decisions. See Advisory for Recipients of Financial Assistance from the U.S. Department of Justice on the U.S. Equal Employment Opportunity Commission's Enforcement Guidance: Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964 (June 2013), available at [http://www.ojp.usdoj.gov/about/ocr/pdfs/UseofConviction\\_Advisory.pdf](http://www.ojp.usdoj.gov/about/ocr/pdfs/UseofConviction_Advisory.pdf). Recipients should be mindful that the misuse of arrest or conviction records to screen either applicants for employment or employees for retention or promotion may have a disparate impact based on race or national origin, resulting in unlawful employment discrimination. In light of the Advisory, recipients should consult local counsel in reviewing their employment practices. If warranted, recipients should also incorporate an analysis of the use of arrest and conviction records in their Equal Employment Opportunity Plans (EEOs) (see below).

### **Complying with the Safe Streets Act**

An organization that is a recipient of financial assistance subject to the nondiscrimination provisions of the Safe Streets Act, must meet two obligations: (1) complying with the federal regulation pertaining to the development of an EEO (see 28 C.F.R. pt. 42, subpt. E) and (2) submitting to the OCR findings of discrimination (see 28 C.F.R. §§ 42.204(c), .205(c)(5)).

### **Meeting the EEOP Requirement**

If your organization has less than fifty employees or receives an award of less than \$25,000 or is a nonprofit organization, a medical institution, an educational institution, or an Indian tribe, then it is exempt from the EEOP requirement. To claim the exemption, your organization must complete and submit Section A of the Certification Form, which is available online at <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>.

If your organization is a government agency or private business and receives an award of \$25,000 or more, but less than \$500,000, and has fifty or more employees (counting both full- and part-time employees but excluding political appointees), then it has to prepare a Utilization Report (formerly called an EEOP Short Form), but it does not have to submit the report to the OCR for review. Instead, your organization has to maintain the Utilization Report on file and make it available for review on request. In addition, your organization has to complete Section B of the Certification Form and return it to the OCR. The Certification Form is available at <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>.

If your organization is a government agency or private business and has received an award for \$500,000 or more and has fifty or more employees (counting both full- and part-time employees but excluding political appointees), then it has to prepare a Utilization Report (formerly called an EEOP Short Form) and submit it to the OCR for review within sixty days from the date of this letter. For assistance in developing a Utilization Report, please consult the OCR's website at <http://www.ojp.usdoj.gov/about/ocr/eeop.htm>. In addition, your organization has to complete Section C of the Certification Form and return it to the OCR. The Certification Form is available at <http://www.ojp.usdoj.gov/about/ocr/pdfs/cert.pdf>.

To comply with the EEOP requirements, you may request technical assistance from an EEOP specialist at the OCR by telephone at (202) 307-0690, by TTY at (202) 307-2027, or by e-mail at [EEOSubmission@usdoj.gov](mailto:EEOSubmission@usdoj.gov).

### **Meeting the Requirement to Submit Findings of Discrimination**

If in the three years prior to the date of the grant award, your organization has received an adverse finding of discrimination based on race, color, national origin, religion, or sex, after a due-process hearing, from a state or federal court or from a state or federal administrative agency, your organization must send a copy of the finding to the OCR.

### **Ensuring the Compliance of Subrecipients**

SAAs must have standard assurances to notify subrecipients of their civil rights obligations, written procedures to address discrimination complaints filed against subrecipients, methods to monitor subrecipients' compliance with civil rights requirements, and a program to train subrecipients on applicable civil rights laws. In addition, SAAs must submit to the OCR every three years written Methods of Administration (MOA) that summarize the policies and procedures that they have implemented to ensure the civil rights compliance of subrecipients. For more information on the MOA requirement, see [http://www.ojp.usdoj.gov/funding/other\\_requirements.htm](http://www.ojp.usdoj.gov/funding/other_requirements.htm).

If the OCR can assist you in any way in fulfilling your organization's civil rights responsibilities as a recipient of federal financial assistance, please contact us.

Sincerely,



Michael L. Alston  
Director

cc: Grant Manager  
Financial Analyst





**Department of Justice**  
Office of Justice Programs  
Office of the Chief Financial Officer

Washington, D.C. 20531

September 22, 2014

Chief Stephen J. DuBois  
City of Portsmouth  
1 Junkins Ave  
Portsmouth, NH 03801 - 4554

Reference Grant Number: 2012-MC-FX-K034  
Supplemental Budget Number: 2

Dear Chief DuBois:

I am pleased to inform you that my office has approved the following budget categories for the aforementioned grant award in the cost categories identified below:

Category	Prior Budget	Supplemental Budget	Total
Personnel	\$237,843	\$129,071	\$366,914
Fringe Benefits	\$137,934	\$86,817	\$224,751
Travel	\$16,860	\$6,491	\$23,351
Equipment	\$12,400	\$500	\$12,900
Supplies	\$3,855	\$2,336	\$6,191
Construction	\$0	\$0	\$0
Contractual	\$39,376	\$12,645	\$52,021
Other	\$45,516	\$22,394	\$67,910
Total Direct Cost	\$493,784	\$260,254	\$754,038
Indirect Cost	\$0	\$0	\$0
Total Project Cost	\$493,784	\$260,254	\$754,038
Federal Funds Approved:	\$493,784	\$260,254	\$754,038
Non-Federal Share:	\$0	\$0	\$0
Program Income:	\$0	\$0	\$0

Match is not required for this grant program.

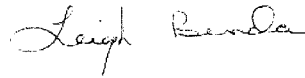
All individual consultant fees in excess of \$650 per 8 hour day require prior approval of OJP.

If you have questions regarding this award, please contact:

- Program Questions, Jacqueline O'Reilly, Program Manager at (202) 514-5024
- Financial Questions, the Office of Chief Financial Officer, Customer Service Center(CSC) at (800) 458-0786, or you may contact the CSC at [ask.ocfo@usdoj.gov](mailto:ask.ocfo@usdoj.gov).

Congratulations, and we look forward to working with you.

Sincerely,

A handwritten signature in cursive script that reads "Leigh Benda".

Leigh Benda  
Chief Financial Officer



Department of Justice  
Office of Justice Programs  
**Office of Juvenile Justice and  
Delinquency Prevention**

**Cooperative Agreement**

1. RECIPIENT NAME AND ADDRESS (Including Zip Code) City of Portsmouth 1 Junkins Ave Portsmouth, NH 03801-4554		4. AWARD NUMBER: 2012-MC-FX-K034	
		5. PROJECT PERIOD: FROM 07/01/2012 TO 06/30/2015 BUDGET PERIOD: FROM 07/01/2012 TO 06/30/2015	
1A. GRANTEE IRS/VENDOR NO. 026000715		6. AWARD DATE 09/22/2014	7. ACTION Supplemental
		8. SUPPLEMENT NUMBER 02	
3. PROJECT TITLE New Hampshire Internet Crimes Against Children Task Force to conduct rapid, thorough, and legally defensible investigations related to technology facilitated exploitation of children.		9. PREVIOUS AWARD AMOUNT	\$ 493,784
		10. AMOUNT OF THIS AWARD	\$ 260,254
		11. TOTAL AWARD	\$ 754,038
12. SPECIAL CONDITIONS THE ABOVE GRANT PROJECT IS APPROVED SUBJECT TO SUCH CONDITIONS OR LIMITATIONS AS ARE SET FORTH ON THE ATTACHED PAGE(S).			
13. STATUTORY AUTHORITY FOR GRANT This project is supported under FY14(OJJDP ICAC Task Forces) Pub. L. No. 113-76; 128 Stat. 5, 64			
15. METHOD OF PAYMENT GPRS			
AGENCY APPROVAL		GRANTEE ACCEPTANCE	
16. TYPED NAME AND TITLE OF APPROVING OFFICIAL Karol Virginia Mason Assistant Attorney General		18. TYPED NAME AND TITLE OF AUTHORIZED GRANTEE OFFICIAL Stephen J. DuBois Chief	
17. SIGNATURE OF APPROVING OFFICIAL 		19. SIGNATURE OF AUTHORIZED RECIPIENT OFFICIAL 	19A. DATE 10/2/14
AGENCY USE ONLY			
20. ACCOUNTING CLASSIFICATION CODES FISCAL FUND BUD. DIV. YEAR CODE ACT. OFC. REG. SUB. POMS AMOUNT X F MC 70 00 00 260254		21. LMCTGT0141	



Department of Justice  
Office of Justice Programs  
**Office of Juvenile Justice and  
Delinquency Prevention**

**AWARD CONTINUATION  
SHEET**  
**Cooperative Agreement**

PAGE 2 OF 7

PROJECT NUMBER 2012-MC-FX-K034

AWARD DATE 09/22/2014

*SPECIAL CONDITIONS*

1. The recipient agrees to comply with the financial and administrative requirements set forth in the current edition of the Office of Justice Programs (OJP) Financial Guide.
2. The recipient acknowledges that failure to submit an acceptable Equal Employment Opportunity Plan (if recipient is required to submit one pursuant to 28 C.F.R. Section 42.302), that is approved by the Office for Civil Rights, is a violation of its Certified Assurances and may result in suspension or termination of funding, until such time as the recipient is in compliance.
3. The recipient agrees to comply with the organizational audit requirements of OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations, and further understands and agrees that funds may be withheld, or other related requirements may be imposed, if outstanding audit issues (if any) from OMB Circular A-133 audits (and any other audits of OJP grant funds) are not satisfactorily and promptly addressed, as further described in the current edition of the OJP Financial Guide.
4. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of the enactment, repeal, modification or adoption of any law, regulation or policy, at any level of government, without the express prior written approval of OJP.
5. The recipient must promptly refer to the DOJ OIG any credible evidence that a principal, employee, agent, contractor, subgrantee, subcontractor, or other person has either 1) submitted a false claim for grant funds under the False Claims Act; or 2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving grant funds. This condition also applies to any subrecipients. Potential fraud, waste, abuse, or misconduct should be reported to the OIG by -

mail:

Office of the Inspector General  
U.S. Department of Justice  
Investigations Division  
950 Pennsylvania Avenue, N.W.  
Room 4706  
Washington, DC 20530

e-mail: [oig.hotline@usdoj.gov](mailto:oig.hotline@usdoj.gov)

hotline: (contact information in English and Spanish): (800) 869-4499

or hotline fax: (202) 616-9881

Additional information is available from the DOJ OIG website at [www.usdoj.gov/oig](http://www.usdoj.gov/oig).

6. Recipient understands and agrees that it cannot use any federal funds, either directly or indirectly, in support of any contract or subaward to either the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries, without the express prior written approval of OJP.
7. The recipient agrees to comply with any additional requirements that may be imposed during the grant performance period if the agency determines that the recipient is a high-risk grantee. Cf. 28 C.F.R. parts 66, 70.

SJJ  
2012/11



Department of Justice  
Office of Justice Programs  
**Office of Juvenile Justice and  
Delinquency Prevention**

**AWARD CONTINUATION  
SHEET**  
**Cooperative Agreement**

PAGE 3 OF 7

PROJECT NUMBER 2012-MC-FX-K034

AWARD DATE 09/22/2014

*SPECIAL CONDITIONS*

8. The recipient agrees to comply with applicable requirements regarding registration with the System for Award Management (SAM) (or with a successor government-wide system officially designated by OMB and OJP). The recipient also agrees to comply with applicable restrictions on subawards to first-tier subrecipients that do not acquire and provide a Data Universal Numbering System (DUNS) number. The details of recipient obligations are posted on the Office of Justice Programs web site at <http://www.ojp.gov/funding/sam.htm> (Award condition: Registration with the System for Award Management and Universal Identifier Requirements), and are incorporated by reference here. This special condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).
9. Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), the Department encourages recipients and sub recipients to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this grant, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.
10. The recipient agrees to comply with all applicable laws, regulations, policies, and guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences, meetings, trainings, and other events, including the provision of food and/or beverages at such events, and costs of attendance at such events. Information on pertinent laws, regulations, policies, and guidance is available in the OJP Financial Guide Conference Cost Chapter.
11. The recipient understands and agrees that any training or training materials developed or delivered with funding provided under this award must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <http://www.ojp.usdoj.gov/funding/ojptrainingguidingprinciples.htm>.
12. The recipient agrees that if it currently has an open award of federal funds or if it receives an award of federal funds other than this OJP award, and those award funds have been, are being, or are to be used, in whole or in part, for one or more of the identical cost items for which funds are being provided under this OJP award, the recipient will promptly notify, in writing, the grant manager for this OJP award, and, if so requested by OJP, seek a budget-modification or change-of-project-scope grant adjustment notice (GAN) to eliminate any inappropriate duplication of funding.
13. The recipient understands and agrees that award funds may not be used to discriminate against or denigrate the religious or moral beliefs of students who participate in programs for which financial assistance is provided from those funds, or of the parents or legal guardians of such students.
14. The recipient understands and agrees that - (a) No award funds may be used to maintain or establish a computer network unless such network blocks the viewing, downloading, and exchanging of pornography, and (b) Nothing in subsection (a) limits the use of funds necessary for any Federal, State, tribal, or local law enforcement agency or any other entity carrying out criminal investigations, prosecution, or adjudication activities.
15. Prior to the expenditure of confidential funds, the recipient and any subrecipients agree to sign a certification indicating that he or she has read, understands, and agrees to abide by all of the conditions pertaining to confidential fund expenditures as set forth in the OJP Financial Guide.

SJD  
10/21/14



Department of Justice  
Office of Justice Programs  
**Office of Juvenile Justice and  
Delinquency Prevention**

**AWARD CONTINUATION  
SHEET**  
**Cooperative Agreement**

PAGE 4 OF 7

PROJECT NUMBER 2012-MC-FX-K034

AWARD DATE 09/22/2014

*SPECIAL CONDITIONS*

16. The recipient agrees to comply with applicable requirements to report first-tier subawards of \$25,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients of award funds. Such data will be submitted to the FFATA Subaward Reporting System (FSRS). The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the Office of Justice Programs web site at <http://www.ojp.gov/funding/ffata.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here. This condition, and its reporting requirement, does not apply to grant awards made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).
  
17. With respect to this award, federal funds may not be used to pay cash compensation (salary plus bonuses) to any employee of the award recipient at a rate that exceeds 110% of the maximum annual salary payable to a member of the federal government's Senior Executive Service (SES) at an agency with a Certified SES Performance Appraisal System for that year. (An award recipient may compensate an employee at a higher rate, provided the amount in excess of this compensation limitation is paid with non-federal funds.)

This limitation on compensation rates allowable under this award may be waived on an individual basis at the discretion of the OJP official indicated in the program announcement under which this award is made.

501  
10/2/14



Department of Justice  
Office of Justice Programs  
**Office of Juvenile Justice and  
Delinquency Prevention**

**AWARD CONTINUATION  
SHEET**  
**Cooperative Agreement**

PAGE 5 OF 7

PROJECT NUMBER 2012-MC-FX-K034

AWARD DATE 09/22/2014

*SPECIAL CONDITIONS*

18. Within 45 calendar days after the end of any conference, meeting, retreat, seminar, symposium, training activity, or similar event funded under this award, and the total cost of which exceeds \$20,000 in award funds, the recipient must provide the program manager with the following information and itemized costs:

- 1) name of event;
- 2) event dates;
- 3) location of event;
- 4) number of federal attendees;
- 5) number of non-federal attendees;
- 6) costs of event space, including rooms for break-out sessions;
- 7) costs of audio visual services;
- 8) other equipment costs (e.g., computer fees, telephone fees);
- 9) costs of printing and distribution;
- 10) costs of meals provided during the event;
- 11) costs of refreshments provided during the event;
- 12) costs of event planner;
- 13) costs of event facilitators; and
- 14) any other costs associated with the event.

The recipient must also itemize and report any of the following attendee (including participants, presenters, speakers) costs that are paid or reimbursed with cooperative agreement funds:

- 1) meals and incidental expenses (M&IE portion of per diem);
- 2) lodging;
- 3) transportation to/from event location (e.g., common carrier, Privately Owned Vehicle (POV)); and,
- 4) local transportation (e.g., rental car, POV) at event location.

Note that if any item is paid for with registration fees, or any other non-award funding, then that portion of the expense does not need to be reported.

Further instructions regarding the submission of this data, and how to determine costs, are available in the OJP Financial Guide Conference Cost Chapter.

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Department of Justice  
Office of Justice Programs  
**Office of Juvenile Justice and  
Delinquency Prevention**

**AWARD CONTINUATION  
SHEET**  
**Cooperative Agreement**

PAGE 6 OF 7

PROJECT NUMBER 2012-MC-FX-K034

AWARD DATE 09/22/2014

*SPECIAL CONDITIONS*

19. Approval of this award does not indicate approval of any consultant rate in excess of \$650 per day. A detailed justification must be submitted to and approved by the Office of Justice Programs (OJP) program office prior to obligation or expenditure of such funds.
20. The Office of Juvenile Justice and Delinquency Prevention has elected to enter into a Cooperative Agreement rather than a grant with the recipient. This decision reflects the mutual interest of the recipient and OJJDP in the operation of the project as well as the anticipated level of Federal involvement in this project. OJJDP's participatory role in the project is as follows:
  - a. Review and approve major work plans, including changes to such plans, and key decisions pertaining to project operations.
  - b. Review and approve major project generated documents and materials used in the provision of project services. Provide guidance in significant project planning meetings, and participate in project sponsored training events or conferences.
21. The Project Director and key program personnel designated in the application shall be replaced only for compelling reasons. Successors to key personnel must be approved, and such approval is contingent upon submission of appropriate information, including, but not limited to, a resume. OJP will not unreasonably withhold approval. Changes in other program personnel require only notification to OJP and submission of resumes, unless otherwise designated in the award document.
22. The recipient agrees that it will submit quarterly financial status reports to OJP on-line (at <https://grants.ojp.usdoj.gov>) using the SF 425 Federal Financial Report form (available for viewing at [www.whitehouse.gov/omb/grants/standard\\_forms/ff\\_report.pdf](http://www.whitehouse.gov/omb/grants/standard_forms/ff_report.pdf)), not later than 30 days after the end of each calendar quarter. The final report shall be submitted not later than 90 days following the end of the award period.
23. The recipient shall submit semiannual progress reports. Progress reports shall be submitted within 30 days after the end of the reporting periods, which are June 30 and December 31, for the life of the award. These reports will be submitted to the Office of Justice Programs, on-line through the Internet at <https://grants.ojp.usdoj.gov/>.
24. The recipient agrees to submit a final report at the end of this award documenting all relevant project activities during the entire period of support under this award. This report will include detailed information about the project(s) funded, including, but not limited to, information about how the funds were actually used for each purpose area, data to support statements of progress, and data concerning individual results and outcomes of funded projects reflecting project successes and impacts. The final report is due no later than 90 days following the close of this award period or the expiration of any extension periods. This report will be submitted to the Office of Justice Programs, on-line through the Internet at <https://grants.ojp.usdoj.gov/>.

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Department of Justice  
Office of Justice Programs  
**Office of Juvenile Justice and  
Delinquency Prevention**

**AWARD CONTINUATION  
SHEET**  
**Cooperative Agreement**

PAGE 7 OF 7

PROJECT NUMBER 2012-MC-FX-K034

AWARD DATE 09/22/2014

*SPECIAL CONDITIONS*

25. ICAC Annual Reports

The recipient agrees to submit annual reports to OJP that set forth the following:

(A) Staffing levels of the task force, including the number of investigators, prosecutors, education specialists, and forensic specialists dedicated to investigating and prosecuting Internet crimes against children.

(B) Investigation and prosecution performance measures of the task force, including--

(i) the number of investigations initiated related to Internet crimes against children;

(ii) the number of arrests related to Internet crimes against children; and

(iii) the number of prosecutions for Internet crimes against children, including--

(I) whether the prosecution resulted in a conviction for such crime; and

(II) the sentence and the statutory maximum for such crime under State law.

(C) The number of referrals made by the task force to the United States Attorneys office, including whether the referral was accepted by the United States Attorney.

(D) Statistics that account for the disposition of investigations that do not result in arrests or prosecutions, such as referrals to other law enforcement.

(E) The number of investigative technical assistance sessions that the task force provided to nonmember law enforcement agencies.

(F) The number of computer forensic examinations that the task force completed.

(G) The number of law enforcement agencies participating in Internet crimes against children program standards established by the task force.

26. The recipient agrees to forward reports of ICAC Task Force Program Monthly Performance Measures to the OJJDP-designated site.

27. The recipient agrees to comply with the OJJDP approved ICAC Task Force Operational and Investigative Standards

28. The recipient acknowledges that the Office of Justice Programs (OJP) reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), for Federal purposes: (1) any work subject to copyright developed under an award or subaward; and (2) any rights of copyright to which a recipient or subrecipient purchases ownership with Federal support.

The recipient acknowledges that OJP has the right to (1) obtain, reproduce, publish, or otherwise use the data first produced under an award or subaward; and (2) authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes. "Data" includes data as defined in Federal Acquisition Regulation (FAR) provision 52.227-14 (Rights in Data - General).

It is the responsibility of the recipient (and of each subrecipient, if applicable) to ensure that this condition is included in any subaward under this award.

The recipient has the responsibility to obtain from subrecipients, contractors, and subcontractors (if any) all rights and data necessary to fulfill the recipient's obligations to the Government under this award. If a proposed subrecipient, contractor, or subcontractor refuses to accept terms affording the Government such rights, the recipient shall promptly bring such refusal to the attention of the OJP program manager for the award and not proceed with the agreement in question without further authorization from the OJP program office.

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**Department of Justice**

Office of Justice Programs

*Office of Juvenile Justice and Delinquency Prevention*

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Washington, D.C. 20531

**Memorandum To:** Official Grant File

**From:** Lou Ann Holland, Program Manager

**Subject:** Categorical Exclusion for City of Portsmouth

The recipient agrees to assist OJJDP to comply with the National Environmental Policy Act (NEPA) and other related federal environmental impact analyses requirements in the use of these grant funds either directly by the recipient or by a subrecipient. Accordingly, prior to obligating grant funds, the grantee agrees to first determine if any of the following activities will be related to the use of the grant funds and, if so, to advise OJJDP and request further NEPA implementation guidance. Recipient understands that this special condition applies to its activities whether or not they are being specifically funded with these grant funds. That is, as long as the activity is being conducted by the recipient, a subrecipient, or any third party and the activity needs to be undertaken in order to use these grant funds, this special condition must first be met. The activities covered by this special condition are: a. new construction; b. minor renovation or remodeling of a property either; (1) listed on or eligible for listing on the National Register of Historic Places or; (2) located within a 100-year flood plain; c. a renovation, lease, or any other proposed use of a building or facility that will either; (1) result in a change in its basic prior use or; (2) significantly change its size and; d. Implementation of a new program involving the use of chemicals other than chemicals that are; (1) purchased as an incidental component of a funded activity and; (2) traditionally used, for example, in office, household, recreational, or education environments.

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1/21/14



Department of Justice  
Office of Justice Programs  
Office of Juvenile Justice and  
Delinquency Prevention

**GRANT MANAGER'S MEMORANDUM, PT. I:  
PROJECT SUMMARY**  
**Cooperative Agreement**

PROJECT NUMBER  
2012-MC-FX-K034

PAGE 1 OF 1

This project is supported under FY14(OJJDP ICAC Task Forces) Pub. L. No. 113-76; 128 Stat. 5, 64

1. STAFF CONTACT (Name & telephone number)

Jacqueline O'Reilly  
(202) 514-5024

2. PROJECT DIRECTOR (Name, address & telephone number)

Karen Senecal  
Administrative Manager  
3 Junkins Ave  
Portsmouth, NH 03801-4554  
(603) 610-7416 ext.401

3a. TITLE OF THE PROGRAM

OJJDP FY 14 Internet Crimes Against Children Task Force Invited Awards

3b. POMS CODE (SEE INSTRUCTIONS  
ON REVERSE)

4. TITLE OF PROJECT

New Hampshire Internet Crimes Against Children Task Force to conduct rapid, thorough, and legally defensible investigations related to technology facilitated exploitation of children.

5. NAME & ADDRESS OF GRANTEE

City of Portsmouth  
1 Junkins Ave  
Portsmouth, NH 03801-4554

6. NAME & ADDRESS OF SUBGRANTEE

7. PROGRAM PERIOD

FROM: 07/01/2012 TO: 06/30/2015

8. BUDGET PERIOD

FROM: 07/01/2012 TO: 06/30/2015

9. AMOUNT OF AWARD

\$ 260,254

10. DATE OF AWARD

09/22/2014

11. SECOND YEAR'S BUDGET

12. SECOND YEAR'S BUDGET AMOUNT

13. THIRD YEAR'S BUDGET PERIOD

14. THIRD YEAR'S BUDGET AMOUNT

15. SUMMARY DESCRIPTION OF PROJECT (See instruction on reverse)

Pursuant to Section 104 of the PROTECT Our Children Act of 2008, the Internet Crimes Against Children (ICAC) Task Force shall 1) consist of State and local investigators, prosecutors, forensic specialists, and education specialists who are dedicated to addressing the goals of the task force; 2) engage in proactive investigations, forensic examinations, and effective prosecutions of Internet crimes against children; 3) provide forensic, preventive, and investigative assistance to parents, educator, prosecutors, law enforcement, and others concerned with Internet crimes against children; 4) develop multijurisdictional, multiagency responses and partnerships to Internet crimes against children offenses through ongoing informational, administrative, and technological support to other State and local law enforcement agencies, as a means for such agencies to acquire the necessary knowledge, personnel, and specialized equipment to investigate and prosecute such offenses; 5) participate in nationally coordinated investigations in any case in which the Attorney General determines such participation to be necessary, as permitted by the available resource of such task force; 6) establish or adopt investigative and prosecution standards consistent with norms, to which such task force shall comply; 7) investigate, and seek prosecution on, tips related to Internet crimes against children, including tips from Operation Fairplay, the National Internet

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Crimes Against Children Data System, the National Center for Missing and Exploited Children's CyberTipline, ICAC task forces, and other Federal, State, and local agencies, with priority being given to investigate leads that indicate possibility of identifying or rescuing child victims, including investigative leads that indicate a likelihood of seriousness of offense or dangerousness to the community; 8) develop procedures for handling seized evidence; 9) maintain reports required by OJJDP and other reports and records as determined by the Attorney General; and 10) seek to comply with national standards regarding the investigation and prosecution of Internet crimes against children, as set forth by the Attorney General, to the extent such standards are consistent with the law of the State where the task force is located.

The Portsmouth Police Department (PD) will continue its efforts to provide an effective statewide response to technology facilitated exploitation of children in the State of New Hampshire (NH). This funding will be used to support salaries and benefits of Portsmouth PD employees tasked with duties related to the administration and implementation of the ICAC Task Force program within the State of New Hampshire. The NH ICAC Task Force Commander position will be funded on a full time basis and is responsible for coordinating and managing NH ICAC activities and oversight of affiliate agencies. In addition, grant funds will partially support a Portsmouth PD detective responsible for computer forensic examinations. Grant funds will also support training such as the Dallas Crimes Against Children Conference and digital forensics. The Portsmouth PD will also provide overtime reimbursement for costs incurred by Portsmouth PD and five affiliate agencies to conduct ICAC operations, investigations, prosecutions and provide for increased educational/public internet safety presentations.

NCA/CF

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# M E M O R A N D U M

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**TO:** John P. Bohenko, City Manager  
**FROM:** Rick Taintor, Planning Director *RT.*  
**DATE:** November 7, 2014  
**RE:** City Council Referral – Heliports

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Attached is a draft amendment to the Zoning Ordinance regarding heliports and helipads. This is being submitted in response to a request by Councilor Morgan at the October 20, 2014, City Council meeting, which was referred to the City Manager for report back.

The Zoning Ordinance currently prohibits “heliport” except in the Office Research (OR), Industrial (I) and Waterfront Industrial (WI) districts. Within those districts, the Ordinance allows the following use by Special Exception from the Zoning Board of Adjustment:

Heliport, as an accessory use incidental to a permitted use, not to include the carrying of persons or freight as a commercial operation  
[Zoning Ordinance, Section 10.440, use #15.20]

Note that even in those districts where a “heliport” may be allowed by the BOA, it may only be established as an accessory use to a use that is permitted in the district, and may not include any commercial transportation of passengers or materials. The requirement for a special exception means that the Board of Adjustment must evaluate a proposed heliport with respect to its impacts on surrounding properties, roads and utilities; and allows the Board to impose appropriate conditions to manage or mitigate impacts of the use. The term “heliport” is not defined in the Zoning Ordinance, but has been interpreted to mean the type of facility that has recently been approved for emergency medical transport to the Portsmouth Regional Hospital.

The attached draft amendment to the Zoning Ordinance defines the terms “helipad” and “heliport” and prohibits both uses anywhere in the City that is subject to the Zoning Ordinance.

Because land in the Pease International Tradeport is not subject to the City’s zoning, the proposed amendment would not have any effect on existing or future helicopter takeoff and landing areas at Pease.

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

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

1. In Section 10.440, Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, amend use # 15.20 as follows:

Use		OR	I	WI
15.20 Helipad, <del>as an accessory use incidental to a permitted use, not to include the carrying of persons or freight as a commercial operation</del> <b>Helipad or heliport</b>		<b>S N</b>	<b>S N</b>	<b>S N</b>

[Note: Designations in all other zoning districts to remain “N”.]

2. In Section 10.1530, Terms of General Applicability, insert the following new terms and definitions in alphabetical order:

**Helipad**

An area of land, water, or a structure designated for the occasional landing and takeoff of helicopters but not used solely for that purpose, and not including facilities for helicopter fuel, service, maintenance or overhaul, or sale of products.

**Heliport**

An area of land, water, or a structure used or intended to be used for the landing and takeoff of helicopters, together with appurtenant buildings and facilities.

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

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

This ordinance shall take effect upon its passage.

APPROVED:

\_\_\_\_\_  
Robert Lister, Mayor

ADOPTED BY COUNCIL:

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Kelli L. Barnaby, City Clerk

DRAFT

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 7, Article II, Section 7.213 – **FEES AND TERMS FOR MEDALLIONS/LICENSES** of the Ordinances of the City of Portsmouth which shall read as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

**Section 7.213: FEES AND TERMS FOR MEDALLIONS/LICENSES**

- D. The fee for restoration of any medallion that has been ~~revoked~~ **suspended** shall be one hundred dollars (\$100.00), except that when the ~~revocation~~ **suspension** is due to failure to meet vehicle inspection requirements, no fee shall be due if the vehicle is repaired to the satisfaction of the taxi inspector within ~~24 hours of the revocation~~ **1 business day after suspension**. (Adopted this item (D) 7/19/99; amended 04/21/08).

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:

\_\_\_\_\_  
Robert J. Lister, Mayor

ADOPTED BY COUNCIL:

\_\_\_\_\_  
Kelli L. Barnaby, City Clerk



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# MEMORANDUM

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**TO:** John P. Bohenko, City Manager  
**FROM:** Rick Taintor, Planning Director *RT.*  
**DATE:** October 14, 2014  
**RE:** City Council Referral – Rezoning for 3-4 Unit Multifamily Structures in the GRA and GRB Zoning Districts

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At its meeting on August 4, 2014, the City Council passed first reading on a proposed ordinance to require a special exception for the development of a 3- or 4-unit dwelling in the GRA or GRB district, referred it to the Planning Board for a report and recommendations, and scheduled a public hearing and second reading for September 22, 2014. The Planning Board considered the proposed amendment to the Zoning Ordinance at its meeting on August 21, 2014, and voted unanimously to recommend in favor of it.

Subsequent to the Planning Board meeting, it was determined that the intent of the proposed change would not be fully met as the amendment was then drafted. This was because the term “multifamily dwelling” in the Zoning Ordinance does not encompass the term “townhouse.” Rather, to be consistent with the Building Code, the Zoning Ordinance defines “townhouse” as an attached single-family dwelling:

Townhouse

A single-family dwelling unit in a group of three or more attached units, foundation to roof, open space on at least two sides, separated by a fire-rated wall.

Thus, as originally written, the proposed zoning amendment would require a special exception for a 3- or 4-unit dwelling where the units are stacked vertically or not separated by a fire wall, but would continue to allow 3- or 4-unit townhouse developments as of right, because each townhouse in the development would be considered a single-family dwelling.<sup>1</sup> The resulting inconsistency in the regulation of multifamily developments would therefore have the unintended consequence of promoting townhouses over other forms of 3- and 4-family development projects regardless of the type of structure that might be appropriate in a given situation.

It seems clear that this technical distinction between a single-family townhouse and a multifamily garden apartment was not considered by the staff, the City Council or the Planning Board, and thus does not reflect the intent of the City Council or the Planning

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<sup>1</sup> In fact, the existing ordinance allows more than 4 townhouse units per parcel in the GRA and GRB districts if there is sufficient lot area (7,500 sq. ft. per unit in the GRA district; 5,000 sq. ft. per unit in the GRB district).

Board. Further, the City Manager’s comment on the proposed ordinance for the August 4 City Council meeting addressed the issue of “adding density” more broadly than would be limited by this technical distinction, and the discussion at both the City Council meeting and the Planning Board meeting focused on dwelling unit density rather than the particular type of dwelling structure.

Because of this, the Planning Department brought the matter back to the Planning Board’s meeting on September 18, 2014, with a recommendation to change the Table of Uses with respect to use # 1.30 (Townhouse) as well as use #1.41 (Multifamily dwelling, 3 or 4 dwelling units), as follows:

Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH
1.30 Townhouse	N	N	<del>P</del> <b>S</b>	P	P
1.40 Multifamily dwelling 1.41 3 or 4 dwelling units	N	N	<del>P</del> <b>S</b>	P	P

The Planning Board voted to recommend in favor of the ordinance as amended.

City Attorney Robert P. Sullivan advised that adding use #1.30 to the proposed zoning amendment did not require posting a new public hearing. This was because the information given to the City Council for its August 4 meeting and to the Planning Board for its August 21 meeting, as well as the discussion at both meetings, clearly described the purpose of the ordinance as addressing a concern regarding infill multifamily development in primarily single-family neighborhoods, without making any distinction between different forms of multifamily development.

At its meeting on September 22, 2014, the City Council voted to amend the Ordinance “to include the provision requiring a special exception for the Townhouse use.” The Council then held the public hearing on the amended ordinance, and voted to continue the public hearing and second reading to the October 20, 2014 City Council meeting.

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

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

In Section 10.440, Table of Uses – Residential, Mixed Residential, Business and Industrial Districts, change “P” (permitted) to “S” (special exception) for uses #1.30 and #1.41 in the General Residence A and B (GRA & GRB) districts, as follows:

Use	R	SRA SRB	GRA GRB	GRC (A)	GA/ MH
1.30 Townhouse	N	N	<b>PS</b>	P	P
1.40 Multifamily dwelling					
1.41 3 or 4 dwelling units	N	N	<b>PS</b>	P	P
1.42 5 to 8 dwelling units	N	N	N	S	P
1.43 More than 8 dwelling units	N	N	N	N	P

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

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

This ordinance shall take effect upon its passage.

APPROVED:

\_\_\_\_\_  
Robert Lister, Mayor

ADOPTED BY COUNCIL:

\_\_\_\_\_  
Kelli L. Barnaby, City Clerk

received  
11/3/14

October 30, 2014

Portsmouth City Council  
1 Junkins Ave  
Portsmouth, NH 03801

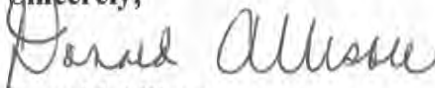
Dear Sirs,

Please accept this letter as a request to once again hold the Eastern States 20 Mile Road Race, scheduled for Sunday, March 29, 2015. I have successfully held this race the past 19 years and look forward to doing do again this year. I hope you will grant a permit, as you have done in each of the last 19 years. This will be our 20<sup>th</sup> anniversary!

I have worked with the City of Portsmouth Police Department and will contact them again about securing police detail for all intersections that the runners pass through. The race is expected to have a few hundred runners, and since Portsmouth High School is the start, all runners will move through Portsmouth very quickly.

Thank you very much for your cooperation in this matter. I hope to hear from you soon.

Sincerely,



Donald Allison  
Eastern States 20 Mile  
10 Washington Green #301  
Walpole, MA 02032  
617-835-2378



# Granite State Wheelmen, Inc.

181 Leavitt Road  
Belmont, NH 03220



November 4, 2014

Portsmouth City Council  
1 Jenkins Avenue  
Portsmouth, NH 03801

To: Portsmouth City Council

On behalf of the Granite State Wheelmen bicycle club, please accept our thanks for the excellent support provided by the City of Portsmouth, City Manager John Bohenko and his staff including Ann Sharpe and your Police Department for the September 20-21, 2014 Tri-State Seacoast Century. We did a Rider Survey recently and the Police details received high marks from the cyclists participating in our event. The riders appreciated the support from the Police details and mentioned that they were helpful and friendly. We appreciated the assistance of Chief Du Bois, Capt. Michael Schwartz, Capt. Frank Warchol and the Police details.

We have set the date for next year's Seacoast Century as September 26-27, 2015. We will contact the City staff in the Spring to start the process for 2015. Please let us know if the permit application process for Portsmouth changes; to be safe, we request a copy of the application you will be using for 2015.

Again, our thanks for your support and assistance in making the Seacoast Century a safe and successful event. We could not host this event without the support and cooperation of the City of Portsmouth staff, citizens and Police Department. I have sent a separate letter to your Police Chief to thank him for the assistance, but wanted to ensure that the City knew how much we appreciate your assistance.

Sincerely yours,

Donna L. Hepp  
Seacoast Century Co-Coordinator  
[dhepp3@gmail.com](mailto:dhepp3@gmail.com)  
414-258-3287

File: Thanks to City-P14.doc



Friends of the South End  
PO Box 443  
Portsmouth, NH 03802



November 7, 2014

Mr. John Bohenko, City Manager  
Portsmouth City Hall  
One Junkins Ave.  
Portsmouth, NH 03801

Dear John,

On behalf of the Friends of the South End and the annual Fairy House Tour event, I am seeking the City's permission to host this event on Saturday, Sept. 26, 2015 and Sunday, Sept. 27, 2015 from 11:00-3:00 pm both days, as well as to help clear the area from conflicting events. I am communicating with you earlier than normal this year because these dates are a week later on the calendar than in past years.

The Tour will encompass the usual route within the South End and we are asking the city for permission to use Peirce Island for parking and fairy house building, as well as the use of Prescott Park.

We will once again supply crossing guards at the Prescott Park side of the Peirce Island Bridge and anticipate hiring a police officer to aid in the public's crossing over Marcy Street at the Prescott Park flag pole.

We look forward to working once again with the city to create one of our area's most beloved events. Please let us know if you need more detailed information at this time and we look forward to meeting with the city departments at a date set at your convenience.

Thank you for always helping us create a magical event in our neighborhood.

Caroline Amport Piper  
2015 Event Coordinator  
caroline@canoeharbor.com  
(603) 686-4338

Cc: Thomas Hindle and Hilary O'Neil, FOSE Co-Presidents

City of  
Portsmouth  
*Department of Public Works*



**MEMORANDUM**

---

**TO:** John P. Bohenko, City Manager  
**FROM:** Tom Richter, Engineering Technician  
**DATE:** October 23, 2014  
**SUBJECT:** PSNH License Agreement 63-0587

---

I have reviewed the pole location information provided by PSNH for Petition and Pole License 63-0587.

This request is to license 2 poles located at the intersection of Lafayette Road and the Route 1 ByPass. This work was in conjunction with the NHDOT Project that replaced the old Flyover bridge with an at grade signalized intersection. The poles in question were poles located on state property until the project moved the Urban Compact line to now include the poles within city jurisdiction.

The installation of these two poles pose no impact to existing City infrastructure. The Public Works Department recommends approval of this license.

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

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



**Public Service  
of New Hampshire**

60 W. Pennacook Street, Manchester, NH 03101

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

The Northeast Utilities System

October 7, 2014

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



Dear City Clerk,

Public Service of New Hampshire is hereby requesting permission to install/replace pole(s) located in City of Portsmouth, New Hampshire.

Enclosed for your review find two copies of PSNH Petition and Pole License number 63-0587 for City of Portsmouth review.

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

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

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

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

Thank you.

*Lisa-Marie Pinkes*

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

Enclosure(s)



**PETITION AND POLE LICENSE  
PETITION**

Manchester, New Hampshire

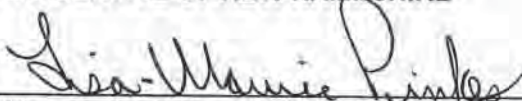
October 7, 2014

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

PUBLIC SERVICE OF NEW HAMPSHIRE requests a license to install and maintain underground conduits, cable and wires, and maintain poles and structures with wires, cables, conduits and devices thereon, together with such sustaining, strengthening and protecting fixtures as may be necessary along, and under the following public ways:

License one ( 1) pole(s), 146/25, 146/24Y on Route 1 Bypass/Lafayette Road in the City of Portsmouth.

**PUBLIC SERVICE OF NEW HAMPSHIRE**

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

**LICENSE**

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

**ORDERED**

This 7th day of October, 2014, that, PUBLIC SERVICE OF NEW HAMPSHIRE be granted a license to erect and maintain poles and structures, with wires, cables, conduits and devices thereon, together with sustaining, strengthening and protecting fixtures, in the public ways covered by said petition. All of said wires, except such as are vertically attached to poles and structures, shall be placed in accordance with the National Electrical Safety Code in effect at the time of petition and/or license is granted.

The approximate location of the poles and structures shall be shown on plan marked "PUBLIC SERVICE OF NEW HAMPSHIRE" No. 63-0587, dated 10/7/2014, attached to and made a part hereof.

Town of Portsmouth, New Hampshire

Town of Portsmouth, New Hampshire

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

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

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

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

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

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

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

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

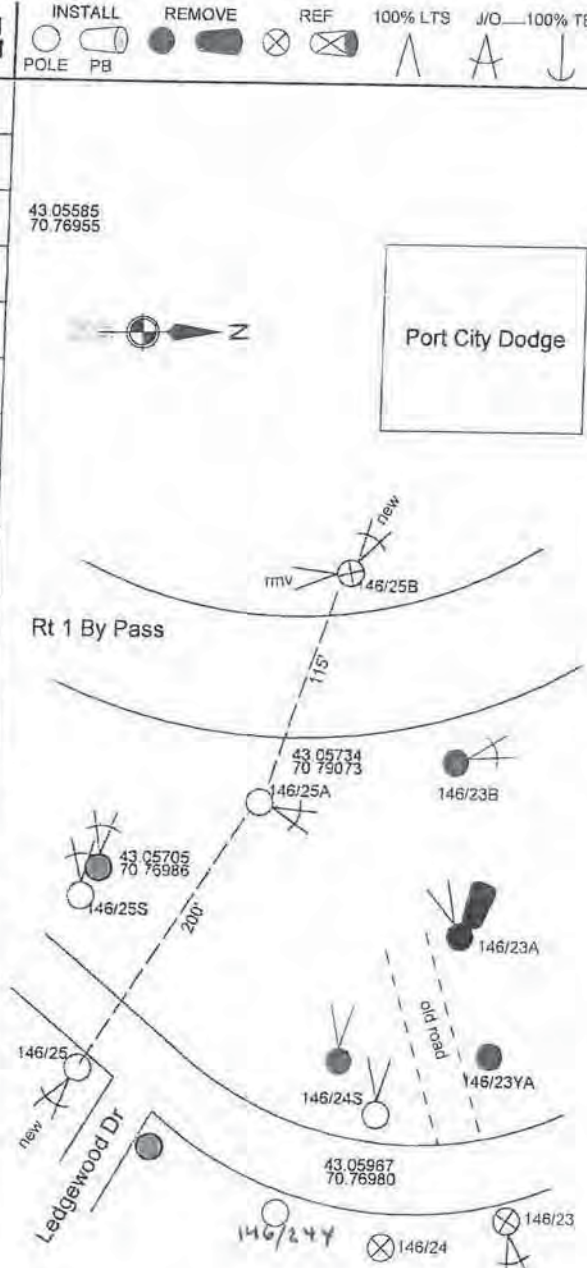
ATTEST: \_\_\_\_\_  
Town Clerk

# POLE LOCATION PLAN

DATE 10/07/2014  
 MUNICIPALITY: Portsmouth  
 STREET / ROAD: Route 1 Bypass/Lafayette Road  
 PSNH OFFICE: Portsmouth  
 PSNH ENGINEER: Jim Osburn  
 TELCO ENGINEER: \_\_\_\_\_

LICENSE NO. 63-0587  
 STATE HWY. DIV. NO. 6  
 STATE LICENSE NO. \_\_\_\_\_  
 WORK REQUEST# 2197030  
 WORK FINANCIAL # 9P320775  
 TELCO PROJECT # \_\_\_\_\_

Pole Numbers		Pole Sz-CI	Eq BH	INSTALL			REMOVE		REF	100% LTS	J/O	100% TEL	Span	Dist. from:	Remarks	DOC REQ
LTS	TEL			POLE	PB	●	◐	⊗	⊕	∧	∨	↓				
146/28	10/26														install Lts anchor	
146/25B	1001/1B														inst/rmv JO anchor	
146/24B	1001/1A														rmv JO pole/anchor	
146/25A	1002/1	50/2													inst JO pole/anchor	H
146/23A	1001/2														rmv JO pole/anchor	
146/23YB	1001/.5														rmv JO pole	
146/25S	10/23S	40/2													inst/rmv JO pole/anchor	H
146/25	10/23														inst/rmv JO pole/anc	M
146/24Y	10/22.5														inst JO pole	M
146/24	10/22															
146/24S	N/A	40/2													inst/rmv Lts pole/anc	H
146/23	10/21															





ADDENDUM PER RSA 231:163

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

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

**Approved by City Council:**



L. S. K. ROAD

Shakeen

SHAKEEN





City of  
Portsmouth  
*Department of Public Works*



**MEMORANDUM**

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**TO:** John P. Bohenko, City Manager  
**FROM:** Tom Richter, Engineering Technician  
**DATE:** October 23, 2014  
**SUBJECT:** Comcast License Agreement for Green Street

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I have reviewed the underground conduit location information provided by Comcast for an underground conduit system 40 feet long that will cross underneath Green Street.

This system is intended to provide cable services to on-going developments on Green Street.

The installation of this underground system poses no impact to existing City infrastructure. The Public Works Department recommends approval of this license.

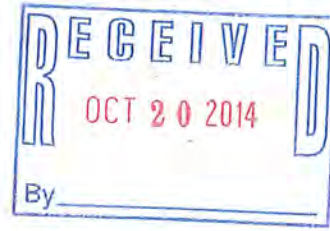
Attached is a picture of the system corridor. Please call with any questions you may have.

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



October 20, 2014/2014

Office of City Clerk  
One Junkins Ave  
Portsmouth NH



Dear City Clerk

On behalf of Comcast Please find enclosed an Petition for Underground Conduit License to place conduit from our current conduit location  
To cross Green St at a depth of 24" for 40'

I have discussed this work with the City's Public Works Department.

Should you have any questions please contact me at 603-679-5695 X 1037 Cell 617-279-6360

Sincerely,

Comcast

Michael Collins  
Project Coordinator

334B Calef Highway  
Epping NH 03042



# PETITION AND CONDUIT LICENSE

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## PETITION

Portsmouth New Hampshire

October 20, 2014

To the City Council of the City of Portsmouth New Hampshire

Comcast of New Hampshire requests a license to install and maintain underground conduits, cables and maintain structures with cables conduits and devices thereon, together with such sustaining strengthening and protecting fixtures as may be necessary along and under the following public way

**Green St** – one (1), 3” PVC conduit at an approximate depth of twenty four inches at a length of 40’ to feed customers at 55 Green St. More particularly shown on the associated plans prepared by Comcast dated October 20, 2014 should it become as issue, Comcast will move the conduit at our expense in the event of any development in the Green Ave area. Work shall be complete within 60 days of said notice

## ORDERED

This      day of      2014 that Comcast be and hereby is granted a license to install and maintain underground conduits and devices thereon together with such sustaining strengthening and protecting fixtures in the public way covered by said petition. All conduits shall be installed in accordance with the city’s Public Works Departments specifications

**City of Portsmouth New Hampshire**

**BY:**

**BY:**

**BY:**

**BY:**

**BY:**

**BY:**

Received and entered in the records of the City of Portsmouth New Hampshire

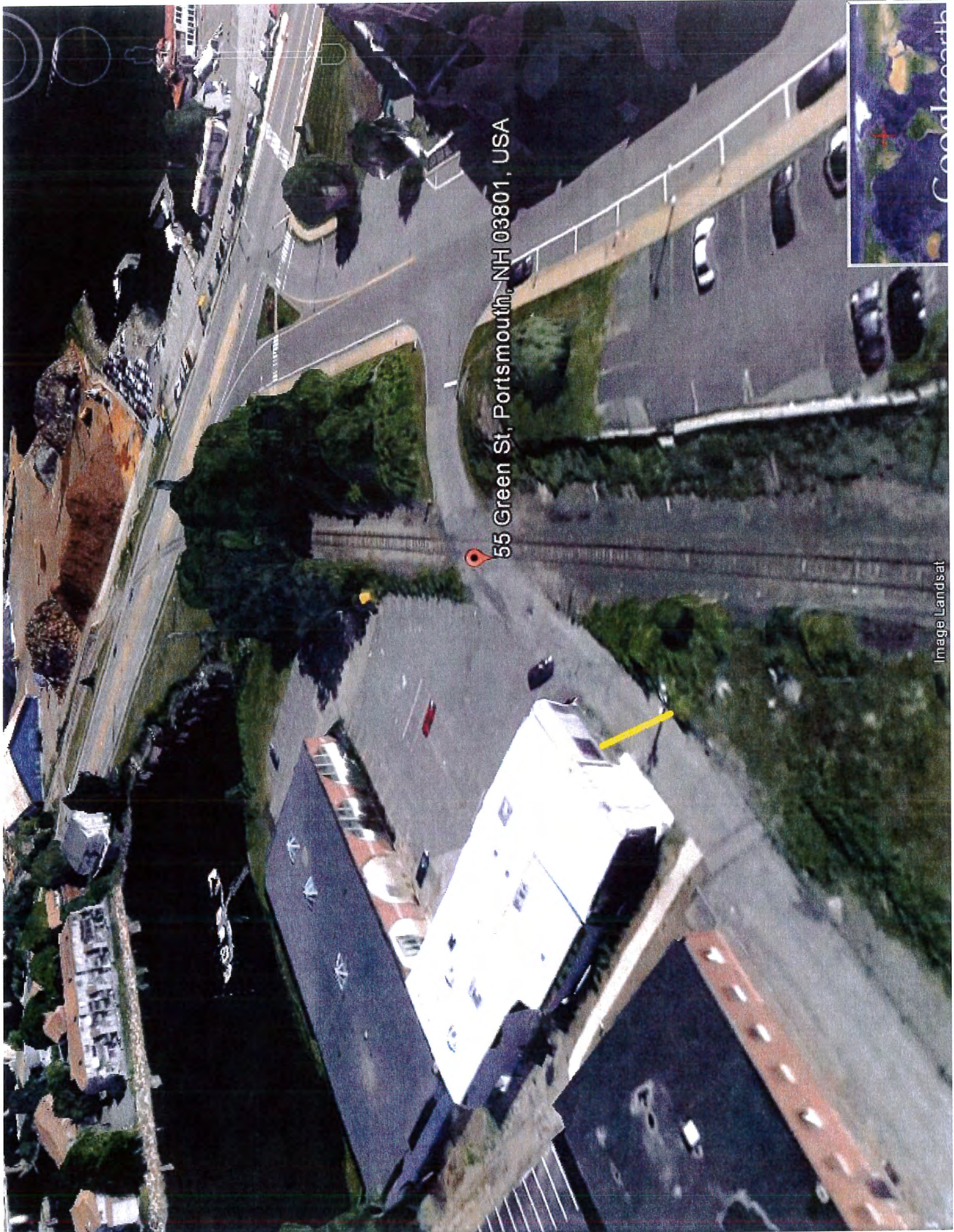
Book      Page

Date

Attest

City Clerk





55 Green St, Portsmouth, NH 03801, USA

Image Landsat

Google Earth



ADDENDUM PER RSA 231:163

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

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

**Approved by City Council:**





55 Green St, Portsmouth, NH 03801, USA

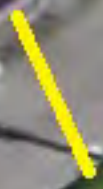


Image Landsat



1993


Imagery Date: 4/9/2013 43°04'47.75" N 70°45'41.33" W elev 17 ft eye alt 199 ft



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# MEMORANDUM

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**TO:** John P. Bohenko, City Manager  
**FROM:** Rick Taintor, Planning Director   
**DATE:** November 17, 2014  
**RE:** City Council Referral – Projecting Sign  
Address: 84 Pleasant Street  
Business Name: Portsmouth Buddhist Center  
Business Owner: Keith R. Malinowski

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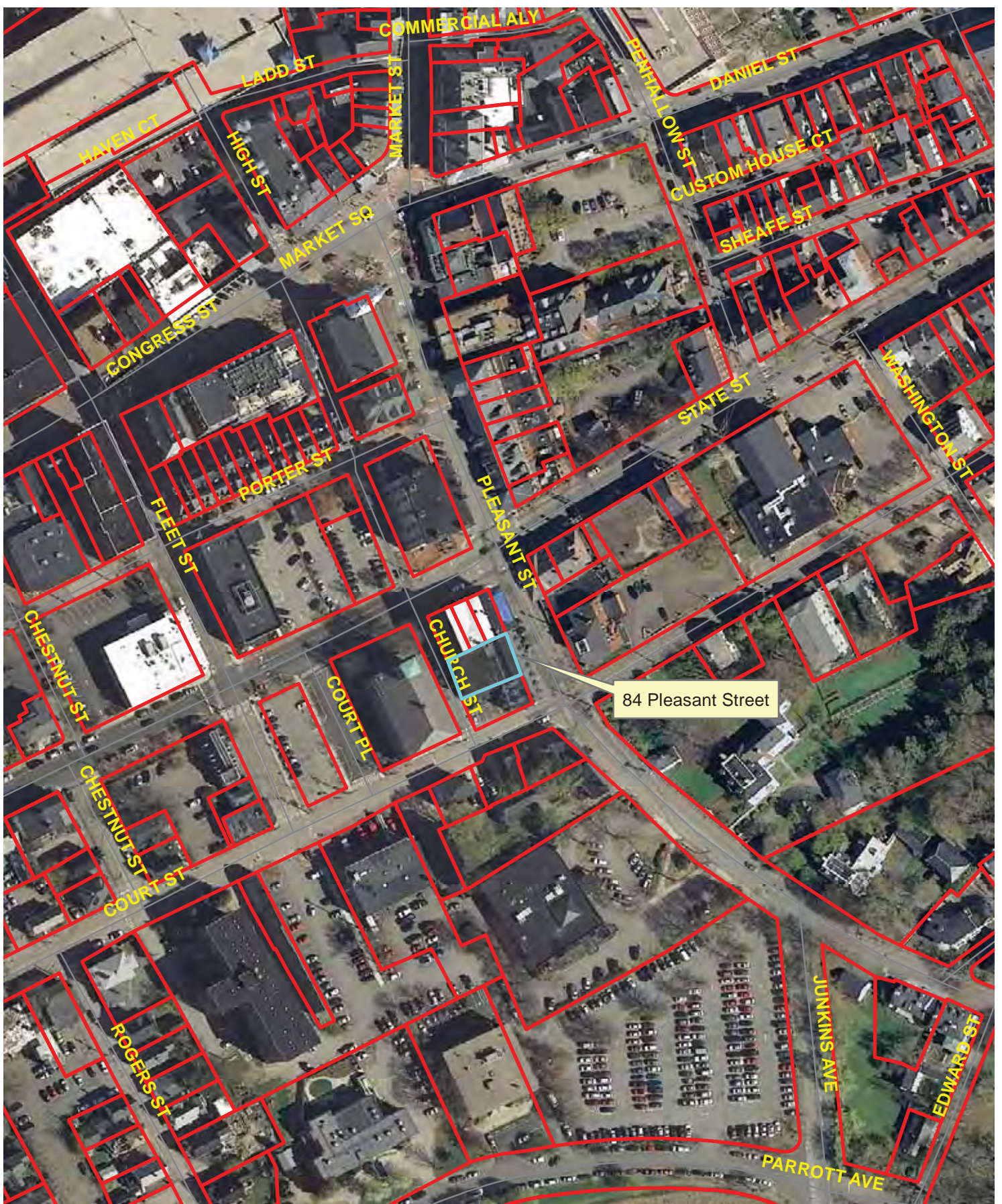
Permission is being sought to install a projecting sign on a bracket, as follows:

Sign dimensions: 38" x 30"  
Sign area: 7.9 sq. ft.  
Height from sidewalk to bottom of sign: 15'0"

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.





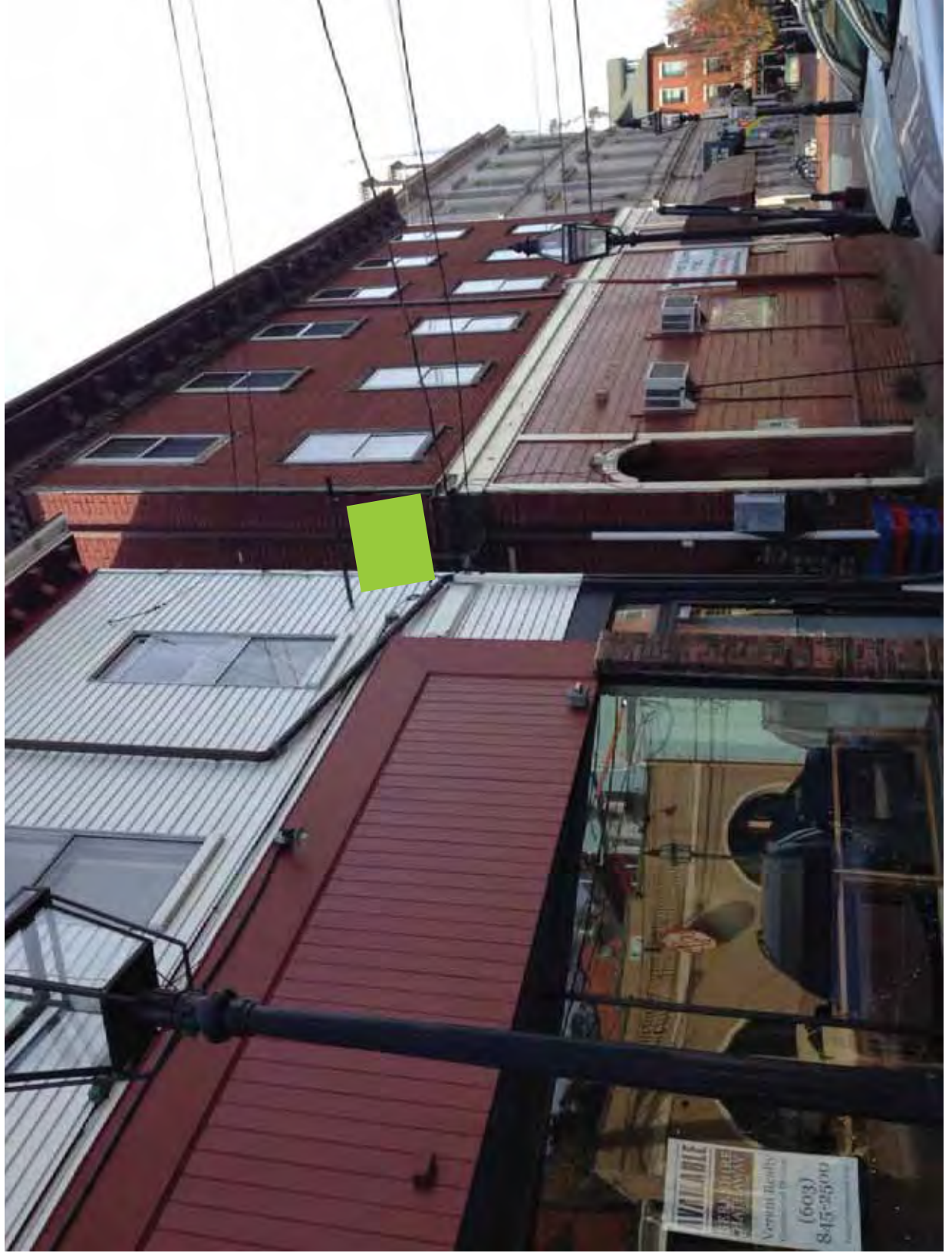
84 Pleasant Street

0 75 150 300 Feet

# Request for Projecting Sign License 84 Pleasant Street



Portsmouth Buddhist Center  
84 Pleasant Street  
1 Projecting Sign







Frontage

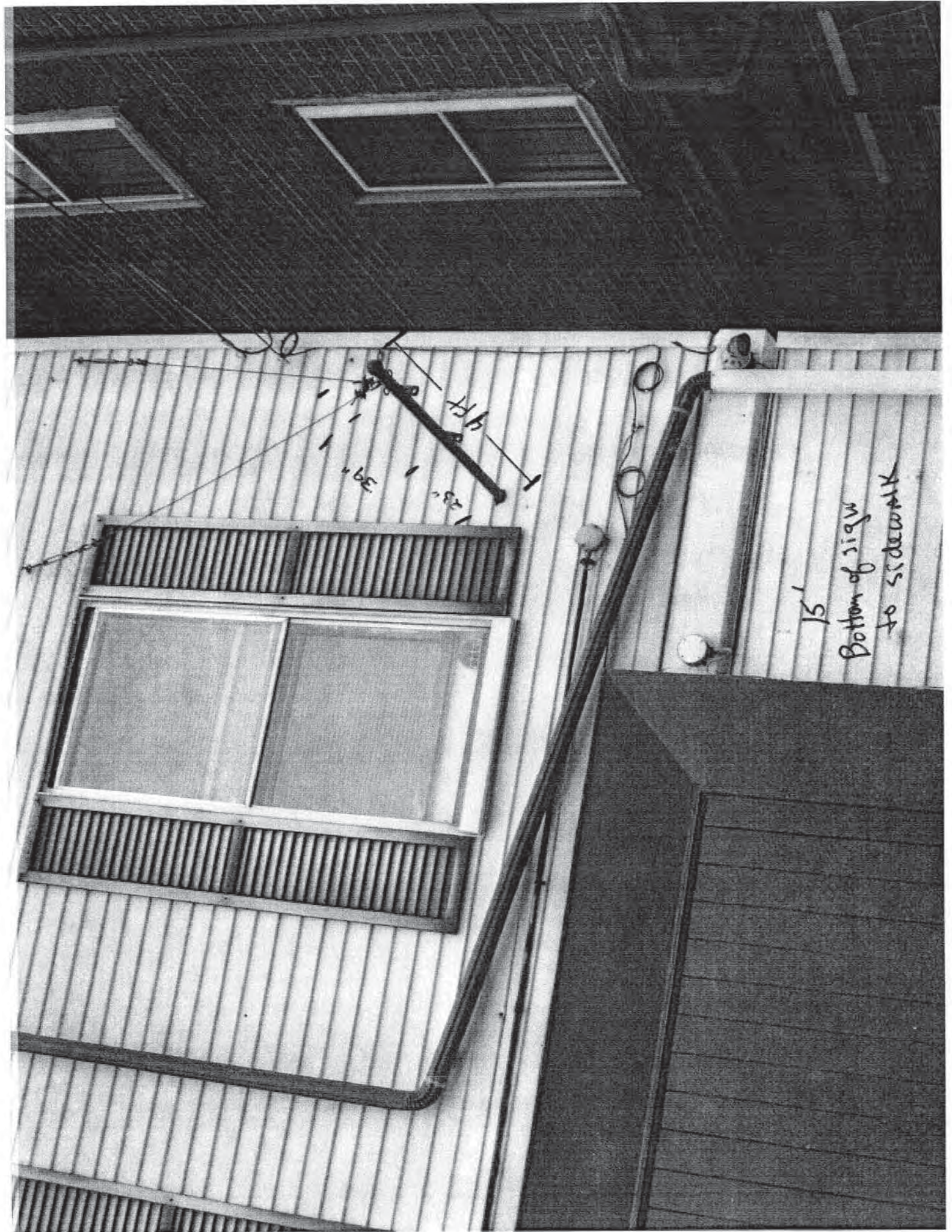
50' Store

4

AVER

15 ft





47  
38

36

15'  
Bottom of sign  
to sidewalk



84 pens out sit

Final design  
in committee

PORTSMOUTH  
BUDDHIST  
CENTRE


30"

38"

---

# MEMORANDUM

---

**TO:** John P. Bohenko, City Manager  
**FROM:** Rick Taintor, Planning Director   
**DATE:** November 17, 2014  
**RE:** City Council Referral – Projecting Sign  
Address: 47 Bow Street  
Business Name: SIX Degrees  
Business Owner: Angel Williams

---

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

Sign dimensions: 36" x 32"  
Sign area: 8.0 sq. ft.  
Height from sidewalk to bottom of sign: 12'0"

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.

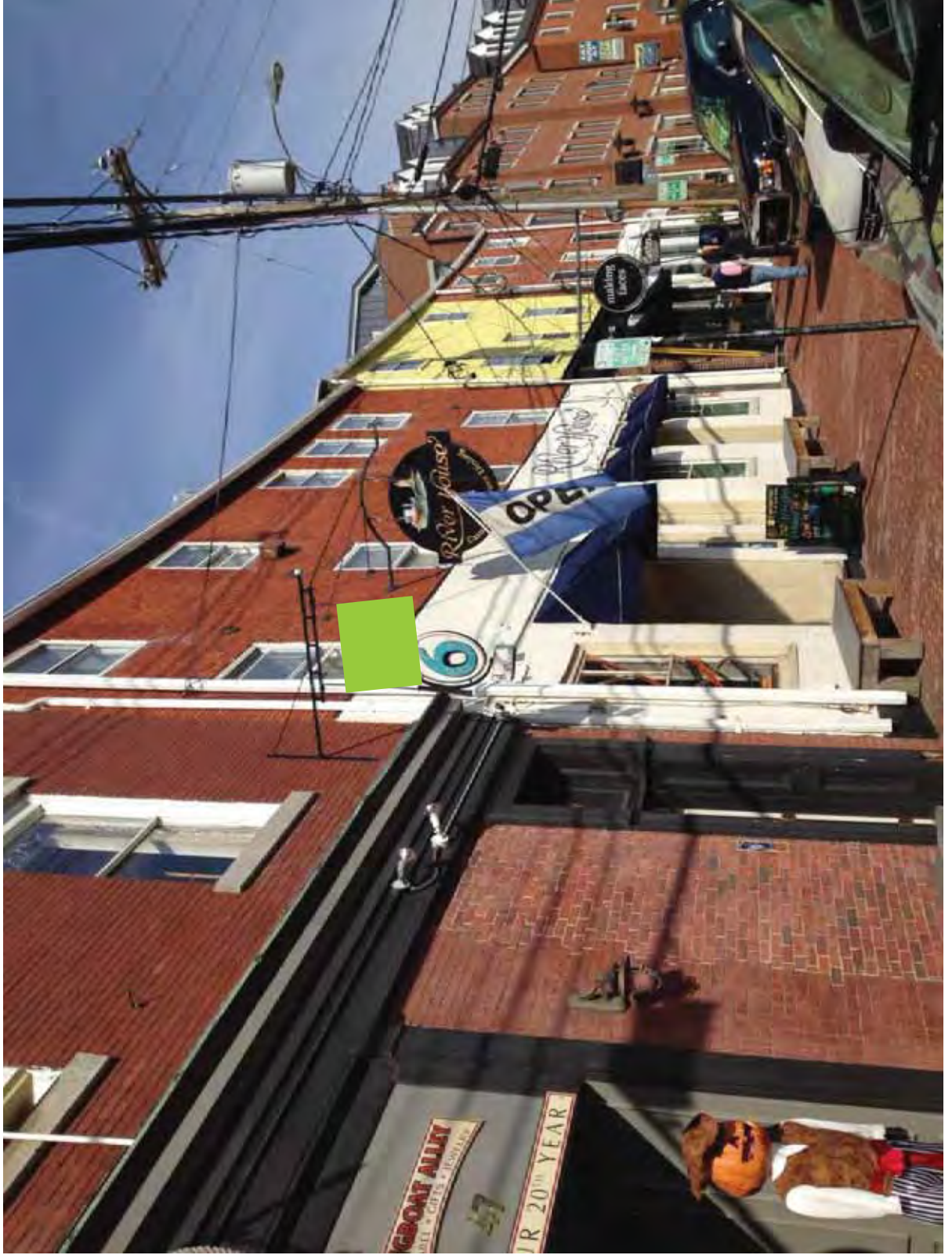


0 75 150 300 Feet

# Request for Projecting Sign License 47 Bow Street



Six Degrees  
47 Bow Street  
1 Projecting Sign







SIX  
degrees  
SALON

32"

36"

OPEN

NO PARKING  
ANYTIME

MOON-02





To: The Portsmouth City Council  
John P. Bohenko

From: Kyle Crossen-Langelier  
304 Leslie Drive

Subject: The Board of Adjustment controversial denial of carport application

Date: October 22, 2014

I am writing this letter to convey to the city council my frustrating experience to install a modest carport, the application process, three hearings and the final unfair denial on September 16<sup>th</sup> based on areas that board did not have jurisdiction.

Based on the agenda for the October 21 Board of Adjustment meeting, the minutes for the September 16<sup>th</sup> meeting were to be approved. As the minutes were not even mentioned thus not approved, I am unable to provide a copy for your review.

For your convenience I am providing you with a limited description of the Leslie Drive neighborhood, a description of the on-site drainage system, chain of events in regards to the application & Board of Adjustment hearings and my reasons why I feel that the board's decision was unlawful and unreasonable.

The Leslie Drive neighborhood consists of 43-non-conforming improved lots. Of the 43 lots, 20 have garages and 6 have carports. Besides being non-conforming, most lots do not comply with required front and side set backs. As a result any replacement repairs and expansion require a variance.

My lot is further unique in its shape so placement of a carport is limited to the front yard. I have a custom drainage system in the front of my property which I installed at an estimated cost of \$10,000 in order to control both on-site drainage and the emergency city storm water overflow from the street during heavy rains. In fact, the driveway itself is part of the drainage system as it is bermed and sloped to direct water into my catch basins. My proposed carport project was designed to incorporate the custom drainage system and to minimize impacting the drainage flow.

To prepare for the original application process for the July meeting, I reviewed the City of Portsmouth Zoning Ordinance, as amended through August 18, 2014, The Board Of Adjustment Rules and Regulations, revised July 22, 2014 and the NH Office Of Energy And Planning, Zoning Board Handbook, updated November 2013. In reviewing all three manuals I did not find any reference that the Board of Adjustment had any legal jurisdiction in regards to a project design or construction materials but could limit height. When I submitted my permit application at no time was I directed to the building department or code enforcement officer to review possible design and construction concerns. At no time was I informed that based on zoning regulations that my choice of

design and materials would not be acceptable, considered below today's standards for the city or have an influence on the Board of Adjustment's decision.

I have appeared before the board three times to get approval. The first hearing was on July 15. Based on the minutes of the meeting, Mr. Rheume indicated that we had supplied sufficient evidence to satisfy the five criteria. With no other discussion from the board members, the vote was taken and the decision of the board was a 3-3 tie vote which to our astonishment rendered a denial of my petition.

My second hearing on August 19 was a request for a rehearing. I was granted a rehearing for September 16 because those who voted against the motion did not state any reasons why they opposed it which was a procedural error.

Due to accumulating expenses, my designer/contractor Ms. Libby and myself presented at the hearing on September 16<sup>th</sup>. As we were now engaged in a guessing game on why the board voted no, we prepared for this hearing by reviewing the minutes from the first hearing of July 15 where Mr. Rheume stated although he was not a fan of carports felt we met all criteria for the five points. We restated the five points but focused on the placement of the carport as we presumed we needed to give proof of the need for the front and side setbacks. We expanded our explanation to the unique on-site drainage system, the need to incorporate the carport structure into this system without compromising it, the need for the free flow thru the carport to accommodate any emergency street overflow, provided photos of the exposed underground piping for proof that the system existed, photos of the driveway swale collecting and directing rain into the system during a rain storm, expanded on the product's custom features, warranty and durability of the galvanized steel construction for a moist environment.

Again, the Board denied my petition. I believe this decision was unjust, unlawful and unreasonable for the following reasons.

1. The board disregarded the petition supporting my project which was signed by 37 (out of 43) homeowners in my neighborhood. With the comment that "it was nice the neighbors got along", the Board disregarded it based on what appears to be a personal judgment that they know what is best for the neighborhood.
2. The Board made a comment that if my petition was passed that 20 more carports would appear in the neighborhood. This would make it a blanket ruling which is beyond the Board's powers as the Board of Adjustment was created to handle individual cases so that each case would be examined on its own merits.
3. The Board of Adjustment does not have any legal jurisdiction over the choice of materials and my choice of metal construction played a part in their decision. Although the Board was very careful not to reference the materials at the meetings, a comment was made in the Portsmouth Herald article stating that the material type of the carport was objectionable.

4. The Board has no jurisdiction to require a higher cost application in order to get approval for a variance. The fractured comments from various board members were as follows: if the project was a free standing architecturally designed wood frame garage; a garage instead of a carport would be a better application; a permanent garage attached to the house would have less impact; is it something we are willing to allow this particular homeowner to have a carport as opposed to requiring them to have a garage; suggests that if a applicant builds a higher cost application it would be approved.

My application was not for a garage but for a custom carport which is my personal choice preference. Based on the minutes from the meetings, there is the sense that the Board just did not want me to build a carport no matter what materials were used.

I would like the council to be aware of the fact it was the Portsmouth Herald who approached me. I was informed that they were going to publish an article on the "comment" with or without my input. I agreed to an interview as I felt it would be an opportunity to bring to light the flaws in the application process which need to be addressed for future applicants who are average homeowners. While I don't hold Mr. Witham's comment against him and while it has distracted focus from my application issues, I believe my request has and continues to have merit.

I spent hours reviewing all data available in regards to rules and regulations but it is very hard to play by the rules when they are changed along the way. Again, if I had been informed that my choice of design and materials would not be acceptable, I would have pursued alternative choices before expending an incredible amount of time and money for a modest carport.

I am in the process of trying to find other carport design options for sheltering my car so my elderly mother can safely get into the car during inclement weather. There is a strong possibility of having to go back to the Board so again we will be involved in another guessing game. Because of the unique conditions with the street storm water overflow and the drainage system, we probably will still be looking at metal to be part of the construction. Will I be wasting my time and money once again petitioning a Board who is prejudiced and operating outside the parameters of their jurisdiction?

The city appears to be more involved with the larger intown projects with deep pockets that they have forgotten that a residential homeowner needs guidance. I felt I was allowed to wander through the process alone, with no guidance or sense of responsibility from the departments to assist a citizen. It feels like an "us versus them" when there should be an effort made to assist applicants especially the average homeowner who doesn't have the experience or expertise to navigate the complexity of the various applications nor should they have to pay for professional services for the simpler projects when we have our public servants at our disposal.

Plus, not only has this cost me a lot of time and money, I now have to clear the snow off my car this winter.

*Kyle Targulie*



**November 3, 2014**

John Bohenko, City Manager  
Portsmouth City Hall  
1 Junkins Avenue  
Portsmouth, NH

Dear Mr. Bohenko and members of the Portsmouth City Council,

This communication is sent to address the issues on a city property, Prescott Park. Of greatest concern is the noise generated when the Prescott Park Arts Festival is in session. In addition to noise there are other areas of concern relating to the use of the park by the Festival. On the following page I have attempted to briefly outlined items that I would appreciate seeing the city review and take action on.

Additionally, you will find included in this mailing a selected section of a sound control study done for the City of Bangor, Me. While the size of crowds, land and decibel levels are vastly different there is some information I believe might be gleaned from this report and applied to Prescott Park.

We love our park and ask you bring it back to past standards that the Prescott Sisters would have intended for their gift to the City.

Thank you,

Gloria Guyette  
7 Hancock Street

**Set decibel levels.** Set maximum decibel levels to be measure at the PPAF property lines. Include these levels in the PPAF contact. Contract should allow for an adjustment to these levels if noise continues to prove invasive to the surrounding neighborhoods. Detail fines, actions if noise levels are violated. Monitor the sound levels every few minutes to allow for volume adjustments on a frequent basis if needed. Here is a section from recommendation on a noise study done by the Acentech Inc., on the waterfront concerts venue at Bangor, Me.:

...will undermine the experience of attending a rock concert. That said, reasonable limits are the most effective, most reliable, and least costly means of controlling levels to the community, and many venues (e.g. Chastain Park) operate successfully with targeted sound limits in place. With these factors in mind, we recommend below that the City institute and enforce certain limits on the sound levels created at the venue.

**Set start and stop dates for PPAF evening events/concerts.** Night events to start after Portsmouth schools are dismissed for the summer and end prior to schools opening in the fall.

**Set hours for PPAF events.** Set hours and days of operation and include this in the PPAF contract.

Desired hours to lessen impact on the neighborhood would be from 6-9 p.m., 4 days a week, with consideration for a once a month concert night not to extend past 10:00. To avoid calls to the Portsmouth Police Dept. consider placing an automatic shut off on speaker equipment to coincide with hours stipulated in the PPAF contract.

The park should not be used only for events but for quiet public enjoyment several nights a week. Currently, on PPAF nights, it is not possible to walk along the waterfront from one side of the park to the other without having to go through PPAF check points. Visitors don't understand they have the right to pass through these check points without being solicited for a donation.

**Review and insure that the proper speakers have been purchased, installed and staff trained.**

Determine if speakers purchased are directional speakers as promoted in the fund raising drive. Have the speakers been mounted correctly to lessen impact on surrounding neighborhoods?

**All performances must use the same PPAF speaker system.** No outside speakers to be brought into the park.

**Limit headcount for events held.** Book only concerts that are anticipated to draw crowds that the property can accommodate for seating and restrooms.

**If it is deemed that a sound study is necessary, the expense of that study to be the responsibility of**

**PPAF and not the taxpayers of Portsmouth.** Sound studies have been conducted by other cities and the resulting recommendations can and should be reviewed prior to embarking on any study. PPAF was asked to lower the volume and their inability to do so should result in them having to take financial responsibility for any study.

**No consumption or sale of alcohol on park grounds. No use or sale of drugs or other illegal substances.** Post signs sighting ordinance and consequences of violation. Have police monitor and prosecute offenders.

**Security.** Security has several aspects including at the venue and in the neighborhood. A clear plan for emergency access to the PPAF should be set in place with enforcement of lane openings. Events that draw larger crowds should have police presence in the park and on the streets abutting the park for pedestrian and vehicle safety. This should be at the expense of PPAF.

**Parking.** It is my understanding from the DPW that the city will soon be posting signs indicating that parking is available on Pierce Island. This availability will save drivers from searching local streets for spaces or having to pay Strawberry Banke to park. We look forward to this positive step.

### AVAILABLE TECHNOLOGIES TO CONTROL SOUND LEVELS

At your request, we have summarized below our assessment of available technologies capable of controlling sound transmission to the surrounding community.

- **Sound barriers:** Sound barriers will be of limited value acoustically, and would come at great cost, for several reasons:
  1. *Height.* To be effective, barriers would need to be tall. The top loudspeaker in a typical line-array rig may be 30 feet or higher above the stage. Many of the surrounding properties overlook the concert venue from increased elevation. To block line-of-sight to the highest loudspeakers, a barrier would need to be more than two stories tall in some places. Such a structure would preclude the use of temporary screening (particularly if the barrier is to be massive enough to be effective), and would likely be prohibitively expensive.
  2. *Blocked views.* Views from downtown Bangor to the waterfront are of great importance to the City. Any barrier – even one perpendicular to the water’s edge, but particularly one that was angled so as to block sound from Brewer – would significantly block views to the water (and vice versa) in many locations.
  3. *Marginal benefit.* A barrier would be of limited acoustical benefit, particularly at low (bass) frequencies. Barriers are effective at mid and high frequencies, but are ineffective at low frequencies. As noted above, sound in the 63-Hz octave band (low frequency) is well correlated to community response to concert venue sound.
- **Permanent roof structure:** The erection of a permanent roof over the audience area could potentially have several benefits, but at considerable cost. An overhead roof could help to mitigate the transmission of sound to the community, and could also reduce levels at the source by allowing a more distributed set of loudspeakers closer to the audience area. In this way, the loudness within the venue could remain high, but the loudness of any particular loudspeaker could be less than the current arrangement; as such the levels of sound that are transmitted to the community would be correspondingly lower as well. This arrangement, however, has many of the drawbacks of the sound barriers described above: it could block views to and from the river, it would significantly alter the appearance and character of the waterfront area (year-round), and it could be very expensive to build.
- **Directive sound amplification technologies:** As the audio industry continues to evolve, a number of technologies have emerged in recent years that work well to control the



dispersion of sound by carefully controlling loudspeaker directivity. Digitally steerable line-array technology, cardioid subwoofer systems, and other approaches allow sound engineers to “aim” sound in the audience area, while limiting the “spill” of sound outside the venue. However, today’s technologies are typically more effective at directing mid and high-frequency sound energy than they are at low frequencies.

Most of the waterfront concert venue’s performers already employ such technologies. Line array systems were utilized during most the concerts that we monitored as part of this study. Some performers take advantage of cardioid subwoofer systems which can be somewhat directional at low frequencies; others do not. The specific systems used by various performers vary significantly, and the technologies are ever evolving; as such, we do not know of a practical way to mandate the venue’s further use of such technology beyond current practice unless the facility were to invest significantly in a permanent sound system and require performers to use it, which may limit the range of performers willing to perform at the venue.

- **Sound level limits:** Sound levels of concerts are controlled by sound engineers at the front-of-house mix position inside the venue. Sound engineers have the ability to control the level of sound produced within practical limits. Restrictions on sound levels could limit the number of performers willing to use the venue, and excessive restrictions will undermine the experience of attending a rock concert. That said, reasonable limits are the most effective, most reliable, and least costly means of controlling levels to the community, and many venues (e.g. Chastain Park) operate successfully with targeted sound limits in place. With these factors in mind, we recommend below that the City institute and enforce certain limits on the sound levels created at the venue.

**Acentech**

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\* \* \* \* \*

Please let me know if you have any questions about the information in this report; my direct telephone number is 617.499.8006.

Sincerely,

ACENTECH INCORPORATED



Benjamin E. Markham  
Director, Architectural Acoustic

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BERNARD W. PELECH\*

JOHN J. WHOLEY  
(1922-2001)

ADMITTED NH & ME BARS

November 12, 2014

Honorable Mayor Robert Lister  
City Hall  
1 Junkins Avenue  
Portsmouth, NH 03801

HAND DELIVERED

Re: Rezoning Request - Cate Street/Route 1 Bypass area

Dear Mayor Lister and Members of the City Council:

As you know from my previous correspondence, I represent Portsmouth Land Acquisition, LLC, owners of the property located between the Route 1 Bypass, Cate Street, the railroad line, and Bartlett Street.

At its most recent meeting, the Planning Board postponed indefinitely my request that the area be rezoned to a Gateway District. Since that time, I have met with and spoken with members of the Planning Department who have advised that they will work with the Applicant in bringing forward a second rezoning request to rezone the area to the Gateway District.

It is my understanding that at the November 17<sup>th</sup> meeting, the second reading of the previous proposal brought forth by the City to rezone the area to a CD-4 District is scheduled.

On behalf of my client, I would respectfully request that the Council not pass the second reading of the ordinance rezoning the area to Character District 4 and instead schedule a first reading of an ordinance rezoning the area to Gateway District at its December 8<sup>th</sup> meeting.

Thank you for your anticipated cooperation in this matter. I look forward to working with the Council, Planning Department, and the Planning Board in bringing a much needed revitalization to this area.


Sincerely,

Bernard W. Pelech

BWP/ajs

**CITY OF PORTSMOUTH  
PORTSMOUTH, NH 03801**

**Office of the City Manager**

**Date:** November 14, 2014  
**To:** Honorable Mayor Robert J. Lister and City Council Members  
**From:** John P. Bohenko, City Manager   
**Re:** City Manager's Comments on November 17, 2014 City Council Agenda

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**5:30 p.m.**

**Anticipated “Non-Meeting” in accordance with RSA 91-A:2, I (a) Regarding Collective Bargaining**

*Immediately following the Non-Meeting with Counsel, there will be a nonpublic session.*

**Anticipated “Nonpublic” Session**

- A. Land Negotiations in accordance with RSA 91-A:3, II (d),
- B. Personnel in accordance with RSA 91-A:3, II (a)

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

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***Presentations:***

1. **Blue Ribbon Committee on Sustainable Practices.** On Monday evening, Chairman Bert Cohen and several members of the Blue Ribbon Committee on Sustainable Practices will be giving a presentation which will focus on the opportunity to continue and accelerate sustainable practices in our city. A brief history of what has been done and some possibilities to inspire us for future projects will be presented. According to Bert Cohen, the Committee is presenting now in order to be part of the context for the thinking we all will be putting into the vision for our 2015 ten-year master plan.

2. **U.S. Post Office Relocation.** As mentioned in the October 31, 2014 email to the City Council on the divestiture of the T.J. McIntyre Building in downtown Portsmouth, the GSA is proceeding with a program needs assessment of the current tenants of the building in accordance with federal divestiture guidelines. The guidelines require that the GSA complete the assessment and then find suitable locations for all McIntyre tenants except the US Post Office which is covered by a different Executive Order.

As landlord for the building, the GSA has given the Post Office written notification that its lease in the McIntyre Building will expire in 2016. This notification triggered the applicable Executive Orders which the US Post Office must follow to notify the public that the post office facility will be relocated to an alternate location in 2016.

The City Council working group established by Mayor Lister to participate in regular six week GSA updates on divestiture of the McIntyre Building expressed a strong desire to maintain a retail presence for the postal service in the Building following divestiture. In acting on this desire, the City requested, and the GSA agreed that scope of work in the Request for Proposals (RFP) for an appraisal of the Thomas J. McIntyre Federal Building include a Hypothetical Condition that the United States Post Office lease for a retail facility remain in place, however the size of the facility shall be reduced from its current size to 5,000 square feet.

Despite this action, the City has been notified by the Post Office that the GSA has “not changed their instructions to the Postal Service;” and it must still plan to vacate the premises by the end of its Occupancy Agreement with them. Therefore, the Postal Service is moving forward in accordance with required relocation notification procedures and will make a presentation on this at the November 17, 2014 City Council meeting. [Attached is a copy of the Postal Service notification that has been posted in the Daniel Street Post Office the week of November 3<sup>rd</sup>.](#)

### ***Acceptance of Grants/Donations:***

1. **Acceptance of Police Department Grant and Donations.** Attached [under Section X of the Agenda is a memorandum](#), dated October 22, 2014, from John F. Golumb, Chairman of the Portsmouth Police Commissioners, and Police Chief Stephen J. DuBois, requesting that the City Council approve the following grant and donations:
  - a) A grant in the amount of \$260,254 has been received from the Dept. of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP), for the Internet Crimes Against Children Task Force. This grant provides funding for all the New Hampshire ICAC Task Force satellites throughout the state for FY14.
  - b) A donation in the amount of \$3,000 from the Banyan Fund, under the aegis of Mr. and Mrs. Gerald W. Howe, to defray the cost of producing and airing Public Service Announcements (PSAs) regarding the department’s opiate addiction initiative.



- c) Donations as follows in support of the Police Explorer Cadets:
- A donation in the amount of \$50.00 from retired Chief Dave ‘Lou’ Ferland.
  - A donation in the amount of \$25.00 from former Commissioner Wm. Mortimer.
  - A donation in the amount of \$400.00 from the “Friends of the South End”

*I recommend that the City Council move to approve and accept the grant and donations to the Portsmouth Police Department. Action on this matter should take place under Section X of the Agenda.*

2. **Acceptance of Donation to Senior Services Program.** The City of Portsmouth has received a donation in the amount of \$813.52 from the Balance of the Margaret Tebbetts Checking Account to the Senior Services Program.

*I recommend that the City Council move to approve and accept the donation to the Senior Services Program, as presented. Action on this matter should take place under Section X of the Agenda.*

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

1. **First Reading of Proposed Resolutions and Ordinances:**

- 1.1 **Report Back and First Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.440 Table of Uses, use #15.20 and Section 10.1530 Terms of General Applicability, regarding Helipad and Heliport.** As requested by Councilor Zelita Morgan, under Section XI of the Agenda, I am reporting back and bringing back for first reading the [attached proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.440, Table of Uses, by amending use # 15.20 and Section 10.1530 Terms of General Applicability regarding helipad and heliport.](#)

*Action is required on this matter by the City Council to act on first reading and schedule a second reading and public hearing at the January 5, 2015 City Council meeting regarding the proposed Ordinance, as presented, and further refer this matter to the Planning Board for report back. Action on this item should take place under Section XI of the Agenda.*

2. **Public Hearing/Second Reading of Proposed Resolutions and Ordinances:**

2.1 **Public Hearing/Second Reading of Proposed Ordinance amending Chapter 1, Article IX, Section 1.901: Conflict of Interest of the Administrative Code.**

As a result of the October 20th City Council meeting, under Section IX of the Agenda, I am bringing back for public hearing and second reading the [attached proposed Conflict of Interest and Mandatory Financial Disclosure Ordinance](#).

If adopted this ordinance would accomplish the following:

1. Amend existing Mandatory Financial Disclosure ordinance (Section 1.901 et seq.) so that it applies to Police and Fire Commissions as well as City Council and School Board.
2. Amend existing Conflict of Mandatory Financial Disclosure so that violations of the ordinance will be treated as a violation of the City's Code of Ethics (Section 1.801 et seq.).
3. Create a new financial disclosure form modeled after state form.
4. Require that capital assets in excess of \$10,000 only and directly attributed to a business in the City of Portsmouth be disclosed.
5. Require mandatory disclosure of any sources of income whether or not connected with the City in an amount greater than \$10,000 calculated annually on a per calendar year basis.

*Action on this matter is required by the City Council and should take place under Section XI of the Agenda.*

2.2 **Report Back and Public Hearing/Second Reading of Proposed Ordinance amending that the following lots be rezoned from Industrial (I), Office Research (OR) or Municipal (M) to Character District 4 (CD4):**

- **Assessors Map 163, Lots 33, 34 and 37;**
- **Assessors Map 165, Lots 1, 2 and 14**
- **Assessors Map 172, Lots 1 and 2;**
- **Assessors Map 173, Lots 2 and 10**

**and including Cate Street between Hodgson's Brook and Bartlett Street, as shown on the attached exhibits title "Areas Proposed To Be Rezoned to Character District 4 (CD4)", and further that the Zoning Map referenced in Chapter 10, Article 4, Section 10.420 (District Location and Boundaries) of the Ordinances of the City of Portsmouth be revised accordingly (Continued from the September 22, 2014 City Council meeting).** As you will recall, at the September 22, 2014 City Council meeting, the Council voted to continue the public hearing on this proposed rezoning until the Planning Board submitted a

report on the request of Portsmouth Land Acquisition, LLC, regarding rezoning to the Gateway district. [That report is included in your packet for this meeting under the City Manager's Action Items under Section XIV A.7.](#) As a result of Attorney Pelech's request for the Council to schedule first reading on the request for rezoning to the Gateway district, it is recommended that the Council continue the public hearing on the CD4 rezoning proposal to the December 8<sup>th</sup> City Council meeting. At that time, the Council may vote to take action on the proposed rezoning to CD4 and/or the request for rezoning to the Gateway district.

*I recommend the City Council move the following motions:*

- 1) *To close the public hearing under Section IX B of the Agenda; and,*
- 2) *Table the second reading until December 8, 2014 under Section XI B of the Agenda.*

### 3. **Third and Final Reading of Proposed Ordinances.**

- 3.1 **Third and Final Reading of Proposed Ordinance amending Chapter 7, Article II, Section 7.213 – Fees and Terms for Medallions/Licenses.** As a result of the October 20<sup>th</sup> City Council meeting, under Section XI of the Agenda, I am bringing back for third and final reading the [attached proposed Ordinance amending Chapter 7, Article II, Section 7213, Fees and Terms for Medallions/Licenses](#), which has been requested by the Taxi Commission. The proposed Ordinance, which was drafted by the Taxi Commission itself appears to eliminate the fee for restoration of a taxi medallion which has been revoked and replaces it with the fee for restoration of medallions which have been suspended. However, even the suspension fee would not be due when the suspension is due to failure to meet a vehicle inspection and the vehicle is repaired within one business day after the suspension.

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

- 3.2 **Third and Final Reading of Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.202, Table of Uses – Residential Mixed Residential, Business and Industrial Districts, by Changing Use #1.30 (Townhouse) and Use #1.41 (Multifamily Dwelling, 3 or 4 Dwelling Units) from “P” (Permitted) to “S” (Special Exception) in the General Residence A and B (GRA and GRB) Districts.** As a result of the October 20<sup>th</sup> City Council meeting, under Section XI of the Agenda, I am bringing back for third and final reading the [aforementioned attached proposed Ordinance](#).

The Planning Board considered this proposed amendment to the Zoning Ordinance at its meeting on August 21, 2014, and voted unanimously to

recommend in favor of it. [Attached is a memorandum from Rick Taintor, Planning Director, outlining the intent of the Ordinance amendment.](#)

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

## **Consent Agenda:**

1. **Acceptance of Membership Dues to Art-Speak.** Art-Speak has received the following Charter Membership Dues to the Piscataqua Arts & Cultural Alliance, a program of Art-Speak:

- Portsmouth Pro Musica                      \$100.00
- New Hampshire Theatre Project        \$125.00

Art-Speak requests that the City Council accept the donations on behalf of Art-Speak.

*I would recommend that the City Council move to approve and accept the membership dues to the Piscataqua Arts & Cultural Alliance, a program of Art-Speak, as listed. Action on this item should take place under Section XII of the Agenda.*

2. **Request for License to Install Projecting Signs.** [Attached under Section XII of the Agenda](#) are requests for projecting sign licenses (see [attached memorandums from Rick Taintor, Planning Director](#)):

- Keith R. Malinowski, owner of Portsmouth Buddhist Center for property located at 84 Pleasant Street.
- Angel Williams, owner of SIX Degrees for property located at 47 Bow Street.

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

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

1. **Request for First Reading of Bonding Resolution of up to Six Hundred Thousand Dollars (\$600,000) for the Purchase of a Heavy Rescue Fire Truck.** The Fire Department is requesting a Bonding Resolution of up to Six Hundred Thousand (\$600,000) Dollars for the FY15 purchase of a Heavy Rescue Fire Truck. I am requesting that the City Council authorize the City Manager to bring back for first reading at your December 8<sup>th</sup> City Council meeting a Bonding Resolution for this expenditure. [See attached memorandum from Fire Chief Steve Achilles.](#)



As you are aware, Bonding Resolutions require a public hearing, two readings and a two-thirds vote is required of the City Council for passage.

I have also [attached a copy of the Bonding Resolution and FY15 CIP Sheet, Page 39](#) for your review.

*Therefore, I am requesting the City Council move to authorize the City Manager bring back for first reading at your December 8th City Council meeting, a Bonding Resolution appropriating the sum of up to Six Hundred Thousand (\$600,000) Dollars, for the FY15 purchase of a Heavy Rescue Fire Truck, as presented.*

2. **Easement Deed for Public Service Company of New Hampshire for Transformer Pad in Prescott Park.** [Attached is an Easement Deed from the City to Public Service Company of New Hampshire \(PSNH\) with an attached diagram showing the easement area.](#) The purpose of this easement is to provide sufficient utility service to the docks for the South Floating Docks project at Prescott Park. The Trustees of the Trust Funds and PSNH have reviewed and approved the Easement Deed. The City's Legal Department has reviewed and approved the form of the Easement Deed.

*I recommend the City Council move to authorize the City Manager to execute an easement to Public Service Company of New Hampshire across property owned by the City of Portsmouth in Prescott Park for the purpose of providing utility service to the soon to be renovated docks for the South Floating Docks project.*

3. **Establish a Mayor's Blue Ribbon Committee Re: City-Owned Sagamore Creek Land – Capital Improvement Plan Project.** As you know, in recent years, the City's Capital Improvement Plan (CIP) has included funding for a master plan and its implementation for a parcel of City-owned land along Sagamore Creek and Jones Avenue. A total of \$50,000 has been previously set aside for this project through the CIP. At the request of Mayor Lister, I have worked with City staff to develop a process for moving forward on this project.

The approximately 66-acre parcel is bordered to the north and east by residential properties, to the south by tidal flats abutting the Sagamore Creek and to the west by residential properties and Portsmouth High School athletic fields. The site is currently used for informal passive recreation and has a number of important natural resource values. A series of cross country paths utilized by the High School are located on the parcel, which also serve as nature trails for general public use. A closed and capped landfill makes up approximately 8 acres of the parcel, which is fenced and maintained and monitored by the City in coordination with the New Hampshire Department of Environmental Services (NHDES). I have [attached visual of the property](#) for your reference.

In the past, the City has successfully used a master planning process to guide the development of the 27-acre city-owned Peirce Island into a well-utilized public outdoor space. The master plan for Peirce Island resulted in the creation of a conceptual use map

and identified future capital investments that over time and - as funds became available - resulted in the creation of a network of high-quality amenities that function together. The Sagamore Creek land located off of Jones Avenue presents a similar opportunity for the City.

At this time, I am recommending that a Mayor's Blue Ribbon Committee be established to include representatives from key City Boards and Commissions to work with City staff and advise the City Council on this project going forward. I would suggest that representatives from the City Council, Recreation Board, Conservation Commission, and School Board be assembled for this purpose. Once initiated, I will recommend the appointment of at least two staff representatives to work with the group and move this project forward.

*I recommend the City Council move to authorize the City Manager to work with the Mayor to establish a Mayor's Blue Ribbon Committee, as described in the above referenced comment.*

4. **Report Back and Request for First Reading regarding a Proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.1110- Off-street Parking for Conference Centers.** As you will recall, at the January 13, 2014 City Council meeting, the Council voted to refer the following zoning amendment, proposed by Councilor Morgan, to the Planning Board for a report back:

Add a new line item to table 10.1112.30 Off-Street Parking Requirements so as to require conference centers, convention centers, and event centers to provide one (off-street) space per 2 persons of rated capacity.

Attached is a report back from Rick Taintor, Planning Director, regarding this matter. After extensive discussion regarding this issue over three meetings, the Planning Board voted on October 16, 2014, to report as follows:

- 1) The existing parking standards for conference centers outside the Downtown Overlay District are appropriate and do not need to be revised;
- 2) The Downtown Overlay District should be exempted from the maximum number of allowed parking spaces in Sec. 10.1112.50 of the Ordinance; and
- 3) Before making a recommendation on conference center parking standards in the Downtown Overlay District, the Board needs more information from the City Council regarding parking policy for the downtown, including whether additional public parking is going to be provided.

Also, attached is a proposed Ordinance amending Chapter 10 – Zoning Ordinance, Section 10.1110 – Off-street Parking for Conference Centers.

If the City Council chooses, a first reading of the proposed Ordinance may be scheduled for the December 8, 2014 City Council meeting.

*Therefore, I recommend the City Council move to authorize the City Manager to bring back for first reading the proposed Ordinance as recommended by the Planning Board at the December 8, 2014 City Council meeting, as presented.*

5. **Request for Special Nonpublic Session with counsel regarding discussions on Parking Garage Negotiations.** I am requesting that the City Council meet in a nonpublic session on Monday, December 15, 2014 to discuss the negotiations for the purchase of land for a new parking garage at 165 Deer Street.

*I recommend the City Council move to hold a nonpublic session to discuss a parking garage at 165 Deer Street.*

6. **Holiday Free Parking.** As the December holidays approach, it is time to reconsider a Portsmouth tradition - free holiday parking in the downtown. In past years, the City Council has approved roughly three weeks of free parking beginning in mid-December and running through January 2nd (the day after New Years). During this time, parking enforcement officers would check for time-limit violations only and inserts would be placed in all single-space and pay & display parking meters, stating, "Seasons Greetings, 3 Hours Free Parking" or "4 Hours Free Parking", as appropriate.

This year, I am requesting that the City Council approve holiday free parking commencing on Monday, December 15, 2014 through Friday, January 2, 2015 with meter enforcement restarting on Saturday, January 3, 2015. The cost for the 19-day period would be roughly \$126,000 in meter revenue and parking violation fees.

*I recommend the City Council move to approve Holiday Free Parking commencing on Monday, December 15, 2014 through Friday, January 2, 2015.*

7. **Report Back and Request for First Reading Re: Rezone Cate Street Area to Gateway.** Portsmouth Land Acquisition, LLC, has requested that the following lots be rezoned from Industrial (I), Office Research (OR) or Municipal (M) to Gateway (GW):

- Assessors Map 163, Lots 33, 34 and 37,
- Assessors Map 165, Lots 1, 2 and 14,
- Assessors Map 172, Lots 1 and 2,
- Assessors Map 173, Lots 2 and 10,

and including Cate Street between Hodgson's Brook and Bartlett Street, and that the Zoning Map be revised accordingly; and further that the Zoning Ordinance, Article 7, Section 10.730 – Gateway Planned Development, be amended by inserting a new Section 10.734.40 as follows:

10.734.40 Workforce Housing Incentives

If a GPD with a Residential Component contains 10% or greater Workforce Housing Units, the following shall apply:

- 10.734.41 The minimum lot area per dwelling unit shall be 1,000 square feet.
- 10.734.42 The maximum building length set forth in Article 5, Section 10.522 shall be increased to 350 feet.
- 10.734.43 Required off-street parking may be located in a required front yard or between a principal building and a street.

The City Council received this request at its meeting on September 22, 2014, and voted to refer it to the Planning Board for a report. At the same time, the Council voted to continue its second reading and public hearing on the proposed rezoning to CD4 until after the Planning Board has submitted its report.

The Planning Board held a public hearing on the requested amendments to the Zoning Map and Zoning Ordinance at its meeting on October 16, 2014. Following the public hearing, the Board voted as follows:

Voted to report to the City Council that the Planning Board does not support re-zoning these parcels at this time and would recommend moving forward including them in the Charrette process currently scheduled for February.

It was noted that the Planning Board's action did not imply any specific outcome of the charrette process, and that in fact the result of the visioning and planning process could be to recommend rezoning these parcels to the Gateway district rather than to a Character district.

On November 12, 2014, Attorney Bernard Pelech, representing Portsmouth Land Acquisition, LLC, submitted a letter requesting that first reading on the requested zoning amendments be scheduled for the City Council meeting on December 8, 2014 ([see attached letter under Section XIII of the Agenda](#)). If the Council votes to proceed as requested by Attorney Pelech, the Planning Department will draft the additional ordinance revisions that are necessary to address the building height/setback and workforce housing issues described in the Planning Director's memorandum ([see attached](#)). At first reading the Council may vote to schedule a public hearing and second reading for its meeting on January 20, 2015, which would allow the requested amendments to be considered in parallel with the charrette process currently anticipated for late February 2015.

*I recommend the City Council move to authorize the City Manager to bring back for first reading the proposed Ordinance, as presented, at the December 8<sup>th</sup> City Council meeting.*



8. **Request for Approval Re: Isles of Shoals Employee Parking Agreement.** Building off of last year's successful pilot effort with the Isles of Shoals Steamship Company, Inc. and the Pease Development Authority, Division of Ports and Harbors, the City's Parking Division would like to offer a seasonal permit parking program for downtown employees at the company's parking lot (hereinafter "Lot"). The program will use 51 parking spaces at the Isles of Shoals Steamship Company Lot, and charged permit holders \$25 per month per space.

Passes for permit holders will be sold at the Parking Clerk's office and permit revenues will be used to offset the Department of Public Work's set-up, maintenance, and management costs. Funds over and above those costs will to be remitted to the Isles of Shoals Steamship Company, Inc.

Last year's results for the first three months of the program showed 50-70% of the spaces were permitted. The last two months of the program experienced 100% sales, with a waiting list. Feedback from permit holders was uniformly positive.

The [attached Employee Parking Agreement](#) formalizes the agreement for this year and gives the City Manager the authority to renegotiate the terms of future agreements without further action of the City Council.

*I recommend the City Council move to authorize the City Manager to negotiate and enter into an Agreement with Pease Development Authority, Division of Ports and Harbors and the Isles of Shoals Steamship Company, Inc., to allow employees of the downtown area to purchase City permits to park in the Lot. This Motion gives the Manager the authority to renegotiate the terms of this agreement in the future without further action of the City Council.*

9. **Request for Approval Re: Strawberry Banke Snow Ban Parking Agreement.** Historically Strawberry Banke Museum has allowed City residents to park in its parking lot during snow bans at no charge. The [attached Parking Agreement](#) formalizes this agreement for a ten-year term.

*I recommend the City Council move to authorize the City Manager to negotiate and enter into an Agreement with Strawberry Banke Museum to allow residents to park in its parking lot during snow bans.*

### **Informational Items:**

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on October 20, 2014. In addition, this can be found on the City's website.

2. **Planning Board Presentation and Public Hearing Re: Capital Improvement Plan.** On Thursday, December 18, 2014, the Planning Board will hold the Capital Improvement Plan (CIP) Presentation and Public Hearing. This will be the only PowerPoint presentation regarding the entire FY16 CIP. As discussed at the City Council Retreat, the Council is invited to attend this meeting or view the presentation on the City Website.
3. **Senior Activity Center Update.** [Attached for your information is a memorandum from Brinn Chute, Senior Services Coordinator,](#) regarding an update on the Senior Activity Center.
4. **Parking Shuttle Report.** [Attached is a memorandum from Juliet Walker, Transportation Planner,](#) regarding Parking Shuttle ridership, costs, and operations. The information in the report is current as of the weekend of service ending Sunday, November 2, 2014 and also refers to the bridge agreement with Connect Community Church for the parking lot use.
5. **Meeting with Federal Aviation Administration in Burlington, Massachusetts.** For your information, the Federal Aviation Administration (FAA) has offered to meet with Portsmouth City Officials at their office in Burlington on Thursday, November 20, 2014. The number of participants is limited to five. Mayor Lister, Councilor Morgan (by telephone), Councilor Thorsen, Deputy City Manager David Allen and Airport Manager William Hopper from the Pease Development Authority (PDA) will participate in this meeting. The Deputy City Manager will attend in my place as I will be attending the PDA Board meeting.
6. **Final Bicycle and Pedestrian Plan.** I am forwarding for the City Council's information the final Bicycle and Pedestrian Plan for the City of Portsmouth ([a hard copy of the final report is on the inside cover of your packet](#)). This Plan, which was prepared by the Planning Department and its consultants, Toole Design Group, identifies desired bicycle and pedestrian route networks in the City, and recommends actions to improve the safety, connectivity, and quality of facilities for biking and walking in the City. The preparation of a City-wide bicycle and pedestrian plan was recommended in the 2005 Master Plan.

The preparation of the Bicycle and Pedestrian Plan included broad involvement by City staff and by the community at large:

- A Steering Committee representing the Planning, Public Works, Police, Fire, School and Senior Services departments met with the consultants four times.
- An Advisory Committee, consisting of 10 local residents with interests related to biking and walking, also met four times to provide input into the planning process.
- Two public meetings (February 6 and June 5, 2014) each attracted more than 50 interested residents.

- An online mapping tool (the "WikiMap") provided opportunities for individuals to identify important biking and walking routes and to suggest improvements at specific locations.

Through text, maps, tables and illustrations, the Plan presents:

- An analysis of existing conditions for bicycling and walking;
- A vision statement and goals and objectives;
- A proposed bicycle and pedestrian network designed to enhance safety, connectivity and equity for pedestrians and bicyclists throughout the City;
- A "Facility Toolkit" illustrating the types of pedestrian and bicycle facilities proposed in the plan;
- A detailed and prioritized list of recommended infrastructure improvements to form an interconnected network of bicycle and pedestrian facilities throughout the City; and
- A prioritized list of recommended non-infrastructure actions to support and promote walking and biking in the City.

The Bicycle and Pedestrian Plan is a stand-alone document to guide planning, capital improvements and programming related to biking and walking. It will also be incorporated into the Transportation chapter of the City's Master Plan.

After a work session and a public hearing, the Planning Board voted on August 21 to adopt the Bicycle and Pedestrian Plan. The Plan is posted on the City's website at <http://www.planportsmouth.com/bike-pedestrian-masterplan2014.html>.

7. **Annual Update on Complete Streets Policy Implementation.** As you are aware, the City Council adopted a Complete Streets Policy in October 2013, which commits the City to “approach every transportation improvement and project phase as an opportunity to create safe, more accessible streets for all users,” and to use the best and latest design standards available. A copy of the policy can be viewed online at [http://www.planportsmouth.com/completestreet\\_policy.pdf](http://www.planportsmouth.com/completestreet_policy.pdf). The Policy requires that the Planning Department provide an annual update to the City Council on the City’s progress towards implementation of the Complete Streets Policy. For your information, [attached is the annual update on complete streets policy implementation from Juliet Walker, Transportation Planner.](#)
8. **Update Re: Red Pine Scale.** [Attached is a memorandum from Peter Rice, Public Works Director, regarding Red Pine Scale,](#) which the State of New Hampshire Division of Forest and Lands has identified as a new exotic insect. This insect infests red pine trees

and causes a rapid decline in the trees' health. The Public Works Director's memorandum explains how the City is addressing this issue. Also, attached are a brief fact sheet and also a figure showing the Red Pine areas identified in the City along with figures showing a zoomed in view of each location.

9. **Airbnb and Similar Online Property Rental Arrangements.** For your information, attached is a memorandum from City Attorney Robert Sullivan, regarding Airbnb and similar online property rental arrangements.
  
10. **Update Re: Commercial Alley Lighting.** A Commercial Alley stakeholder meeting was held in Conference Room A on October 28, 2014 to discuss the request and potential opportunities for additional historic lighting in the Alley. Staff provided an overview to the business and property owners in attendance of existing lighting and received feedback on a plan to install additional wall-mounted period lights on the Market Street end and to upgrade the lighting and maintain the seating area and trees at the Penhallow Street end of the Alley. Going forward, Public Works representatives will be reaching out to PSNH to repair the utility pole-mounted light in the Alley and to develop agreements with property owners where required.





# Portsmouth Fire Department

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## *Administration*

**To:** City Manager John Bohenko

**From:** Fire Chief Steven Achilles

**Date:** 9/25/2014

**Re:** **Heavy Rescue Fire Truck Bonding Resolution Request**

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The following is a description of a proposed resolution for the FY 15 purchase of a Heavy Rescue Fire Truck:

***Resolution for a bond authorization of up to \$600,000.00 for the purchase of a Heavy Rescue fire truck.***

This project was identified in the FY15 Capital Improvement Program as VE-FD-02: Vehicle Replacement- Heavy Rescue Unit 1. This project is to replace the department's current Rescue which is a 1986 Chevrolet medium duty truck and cargo chassis. The new Heavy Rescue will carry equipment and supplies necessary in performing technical rescues, complex vehicle extrications, and support operations. Included in this project is specialized and appropriate equipment, radios, and vehicle lettering and striping.

The department will be bidding and selecting a manufacturer based on price, required features, and build time. We will also consider demonstrator models that meet the specifications. The current unit will be taken out of service upon delivery of the new Heavy Rescue.

*Department Memorandum*

**THE CITY OF PORTSMOUTH  
TWO THOUSAND FOURTEEN  
PORTSMOUTH, NH**

**RESOLUTION #**

**A RESOLUTION APPROPRIATING THE SUM OF SIX HUNDRED THOUSAND (\$600,000) DOLLARS AND AUTHORIZING THE BORROWING OF SIX HUNDRED THOUSAND (\$600,000) DOLLARS THROUGH THE ISSUE OF BONDS AND NOTES OR THE EXECUTION OF LEASE PURCHASE AGREEMENTS FOR THE ACQUISITION OF ONE FIRE APPARATUS.**

**BE IT RESOLVED:**

**THAT** the sum of **Six Hundred Thousand (\$600,000) Dollars** be and is hereby appropriated for the acquisition of one Fire Apparatus.

**THAT** in order to meet said appropriation the City Treasurer, with approval of the City Manager, is authorized to borrow, on a competitive or negotiated basis, up to **Six Hundred Thousand (\$600,000) Dollars** through the issue of bonds and/or notes of the City under the Municipal Finance Act and/or the execution of lease purchase agreements.

**THAT** the expected useful life of the fire apparatus is determined to be at least 10 years.

**THAT** this resolution shall take effect upon its passage.

**APPROVED BY:**

\_\_\_\_\_  
**ROBERT J. LISTER, MAYOR**

**ADOPTED BY CITY COUNCIL**

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

**VE-FD-02: VEHICLE REPLACEMENT-HEAVY RESCUE UNIT 1**

This allocation is to replace Rescue 1, a 1986 Chevrolet with manual transmission. The new heavy rescue unit will carry equipment needed to perform technical rescues, heavy vehicle extrication, below grades/collapse and support services. This allocation includes equipment, radios, lettering and striping, etc.



		FY 15	FY 16	FY 17	FY 18	FY 19	FY 20	Totals 15-20	6 PY's Funding	Totals
GF	0%							\$0	\$0	\$0
Fed/State	0%							\$0	\$0	\$0
Bond/Lease	100%	\$600,000						\$600,000	\$0	\$600,000
Other	0%							\$0	\$0	\$0
Revenues	0%							\$0	\$0	\$0
PPP	0%							\$0	\$0	\$0
	<b>Totals</b>	<b>\$600,000</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$600,000</b>	<b>\$0</b>	<b>\$600,000</b>
Commence FY: 2015		Quarter: 1st		Priority: I		Impact On Operating Budget: Negligible				

Public Service of NH  
Attn: Pauline Boire  
PO Box 330  
Manchester, NH 03105  
EBA- \_\_\_\_\_  
STORMS# 1824249/2355089  
Town: 389 Portsmouth  
Tax Parcel ID:

## EASEMENT DEED

KNOW ALL MEN BY THESE PRESENTS that the **CITY OF PORTSMOUTH**, a municipal corporation having an address of 1 Junkins Avenue, Portsmouth, New Hampshire 03801, (hereinafter called the Grantor(s)), for consideration paid, grant(s) to **PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE (PSNH)**, a corporation duly established by law, with a mailing address of P.O. Box 330, in Manchester, in the County of Hillsborough, in the State of New Hampshire, 03105, (hereinafter called the Grantee), and its successors, with QUITCLAIM covenants, the non-exclusive RIGHT and EASEMENT to lay, install, construct, reconstruct, operate, maintain, repair, replace, patrol and remove underground lines which may consist of wires, cables, pipes, ducts, conduits, manholes, and such testing terminals, transformers and foundations and enclosures for the same, vaults, pedestals, repeaters, markers, and other equipment, for transmitting electric current and/or communications and intelligence, and to do the necessary cutting and trimming of trees and brush, over, under and across land owned by the Grantor(s) in Prescott Park in Portsmouth, County of Rockingham, State of New Hampshire, more fully described in deed of Charles M. Dale and Edwin H. Buck, Trustees under the will of Josie F. Prescott to City of Portsmouth dated January 5, 1954 and recorded in the Rockingham County Registry of Deeds, Book 1308, Page 251.

Said easement will be located within the following described limits:

Beginning at an existing pad-mounted transformer (59/4T1) located in Prescott Park (east of Marcy Street) and continuing N 37 ° 21' 32" W a distance of ten (10) feet to a pad-mount transformer to be numbered 59/4T2, thence turning and running N 53 ° 39' 28" E a distance of one hundred seventy-seven (177) feet, more or less, to junction box to be numbered 59/T2J1, thence continuing in same directions one hundred twenty (120) feet, more or less, to point of attachment.

Said easement shall be 10 feet wide centering the utility line as constructed. This easement grants the right to lay, install, construct, reconstruct, operate, maintain, repair, replace and remove any service cables and related equipment extending to any buildings or structures on said land in order to provide electric or telephone service and/or communications and intelligence thereto. This conveyance shall include the right of access from other land of the Grantor(s) for all purposes in connection with the exercise of the within granted easement; the right to excavate, trench, and backfill by men or machines and temporarily to place excavated earth and other material on adjacent land, provided that work on adjacent land is coordinated with the Grantor; that Grantee



obtain any required permits; and Grantee restore the land to substantially the condition in which it was immediately prior to such excavation, trenching, and backfilling; the right to go upon adjoining land when working on said lines and associated equipment; and the right to install temporary aboveground lines after coordination with Grantor for temporary periods over and across said land of the Grantor(s) to provide continuity of service thereon when only underground line rights are requested.

The Grantor retains the right to freely use and enjoy its interest in the easement area, insofar as the exercise thereof does not endanger or interfere with the purpose of this instrument. The Grantor(s) for itself and its heirs, executors, administrators, successors and assigns, covenant(s) and agree(s) that it will not erect or maintain, or permit to be erected or maintained, any buildings or structures of any kind or nature upon the land over said easement and that it will not plant or permit to be planted any trees over said easement.

The Grantee agrees to indemnify, defend and save harmless Grantor from and against any and all loss, cost, damage, expense and claims, and against any and all claims, actions or proceedings for property damage, personal injury or death arising out of the use of the right granted herein and not resulting from acts or omissions of Grantor or its agents or subcontractors.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

**City of Portsmouth**

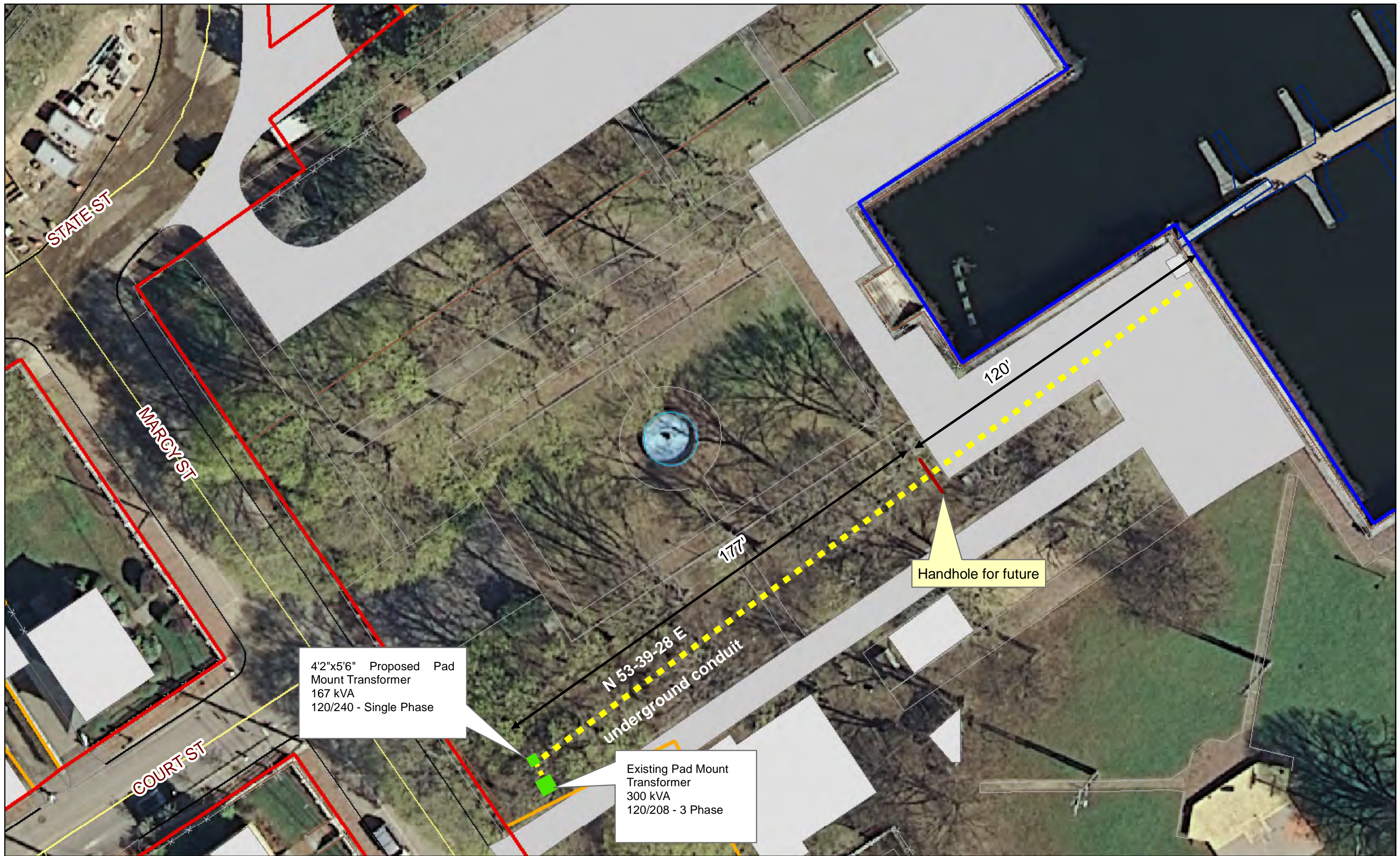
BY: \_\_\_\_\_  
John P. Bohenko, City Manager  
Pursuant to vote of the City Council on \_\_\_\_\_

State of New Hampshire  
County of Rockingham

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014, by John P. Bohenko, Manager of the City of Portsmouth, New Hampshire.

\_\_\_\_\_  
Notary Public/Justice of the Peace  
My Commission expires:





4'2"x5'6" Proposed Pad  
 Mount Transformer  
 167 kVA  
 120/240 - Single Phase

Existing Pad Mount  
 Transformer  
 300 kVA  
 120/208 - 3 Phase

Handhole for future

N 53-39-28 E  
 underground conduit

120'

STATE ST

MARGY ST

COURT ST

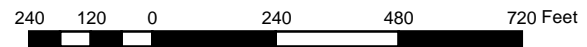






# Sagamore Creek - Jones Avenue City-owned Parcel

Map created by the Community Development Department, October 2014





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# MEMORANDUM

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**TO:** John P. Bohenko, City Manager  
**FROM:** Rick Taintor, Planning Director *RT.*  
**DATE:** November 5, 2014  
**RE:** City Council Referral –  
Off-Street Parking Requirements for Conference/Convention/Event Centers

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On January 13, 2014, the City Council voted to refer the following zoning amendment, proposed by Councilor Morgan, to the Planning Board for a report back:

Add a new line item to Table 10.1112.30 Off-Street Parking Requirements so as to require conference centers, convention centers, and event centers to provide one (off-street) space per 2 persons of rated capacity.

This proposed zoning amendment was considered by the Planning Board at its meetings on April 3, July 17 and October 16, 2014.

## Background

Prior to 2010, the Zoning Ordinance included the following off-street parking requirements for “Meeting/Function Rooms”:

Fixed Seating	1 space per 4 seats based on max. occupancy
Unfixed Seating	1 space per 2 seats based on max. occupancy

At that time, there was no separate requirement for specific facilities such as “conference center,” “convention center” or “event center.” Therefore, a small meeting room or large function facility were subject to the same requirements as listed above.

The 2007-2009 Zoning Ordinance revision project included a careful review of off-street parking standards, and the current Ordinance attempts to avoid prescribing too much parking in an effort to reduce the large expanses of impervious surface, particularly in the commercial strips along Lafayette Road and Woodbury Avenue. With relevance to the proposed amendment, the Ordinance now contains two standards:

- A “place of assembly” is required to provide one parking space per 4 persons of rated capacity. The Ordinance defines “place of assembly” as “A building used in whole or in part for the gathering together of persons for such purposes as deliberation, entertainment, amusement, or religious services, or for awaiting transportation.”
- A “conference center” is required to provide one parking space per 100 sq. ft. of gross floor area. “Conference center” is not defined, but may be considered as a particular



type of “place of assembly.” Because there a separate parking requirement is established for conference centers, that requirement is interpreted as superseding the general requirement for places of assembly.

In considering these two different ways of establishing parking requirements, it should be noted that there is no direct comparison between the gross floor area of a place of assembly (including all the non-public spaces in the facility) and its rated capacity. The Building Code establishes capacity based on net floor area for various types of assembly space as follows:

Standing	5 sq. ft. per person
Auditorium seating	7 sq. ft. per person
Tables and chairs	15 sq. ft. per person

Based on other studies, Portsmouth’s existing standard of 1 space per 100 sq. ft. GFA appears to be approximately equivalent to between 1 space per 1.9 persons and 1 space per 3.7 persons for facilities without fixed seating, and is therefore close to the proposed standard of 1 space per 2 persons rated occupancy. In other words, changing the standard as in the proposed ordinance would have little impact on the amount of parking required for a conference center or other place of assembly. Given this, the Planning Department prefers a standard that is based on floor area to one that is based on capacity, because it is more easily determined at the time of site plan review.

### Analysis

The Planning Department and Planning Board member Elizabeth Moreau researched the off-street parking standards in a number of comparable municipalities in the Northeast. Specific communities whose ordinances were reviewed included Concord and Nashua, NH; Burlington, VT; Kennebunkport, ME; Newburyport and Northampton, MA; Newport and East Greenwich, RI; and Saratoga Springs, NY. The standards from these communities vary widely, as follows:

<u>Based on gross floor area (GFA):</u>	<u>Based on occupancy:</u>
1 space per 40 s.f. GFA	1 space per 3 seats
1 space per 100 s.f. GFA	1 space per 4 seats
1 space per 400 s.f. GFA plus 1 space per 3 employees	1 space per 5 seats
1 space per 500 s.f. GFA	1 space per 6 seats
1 space per 1,000 s.f. GFA	

Based on this review, Portsmouth’s current standards of 1 space per 4 occupants (place of assembly) and 1 space per 100 s.f. GFA (conference center) are at the high end of requirements compared to similar-sized communities. Thus, Portsmouth’s existing off-street parking standards for conference centers appear to be reasonable. In fact, it may be that Portsmouth’s current requirements are more stringent than necessary to manage parking demand.

### Downtown Overlay District

The City Council referral addressed the City-wide off-street parking requirements for conference, convention and event centers. However, these requirements are not applicable within the Downtown Overlay District, which encompasses most of the area currently zoned

Central Business A and B and Character Districts CD4 and CD5. A key question to be considered, therefore, is to what extent off-street parking standards for large places of public assembly in the downtown should be the same as or different from the standards that apply in other parts of the City. The section of the Zoning Ordinance in which such standards would be addressed is Section 10.1115.20, rather than Section 10.1112.30 which applies to uses outside the Downtown Overlay District.

The special off-street parking standards in the Downtown Overlay District create challenges in two respects. First, individual large users – including but not limited to conference centers – have distinct parking demands that may not be appropriate to be met through public off-street parking facilities. Second, the maximum off-street parking standards in Section 10.1112.50 of the Zoning Ordinance did not anticipate the subsequent reductions in parking requirements in the DOD, with the result that a low ceiling on the number of allowed parking spaces will prevent some nonresidential uses from providing their own parking in the very area of the City where additional off-street parking is most needed.

To address these issues, the Planning Department proposed two changes to the off-street parking requirements in the Downtown Overlay District:

- (1) Require that conference centers, places of assembly and large retail uses provide off-street parking as follows:

Use	Required Parking Spaces
Conference center or place of assembly	1 space per 200 sq. ft. GFA
Retail use	1 space per 350 sq. ft. in excess of 20,000 sq. ft. GFA

- (2) Exempt properties in the Downtown Overlay District from the maximum number of allowed parking spaces.

At its October meeting, the Planning Board voted to support the second part of this recommendation, i.e., to eliminate the cap on the number of off-street parking spaces that can be provided for a use in the Downtown Overlay District. However, the Board did not feel that it could make a recommendation regarding changes to the minimum off-street parking standards while the future of the public parking supply in the downtown is still in question. Specifically, Board members felt that the recommendation regarding parking requirements for private properties would depend on how many additional public parking spaces will be created, for example, through the construction of a second downtown parking garage.

### **Planning Board Report and Recommendation**

After extensive discussion of this issue over three meetings, the Planning Board voted on October 16, 2014, to report as follows:

- (1) The existing parking standards for conference centers outside the Downtown Overlay District are appropriate and do not need to be revised;
- (2) The Downtown Overlay District should be exempted from the maximum number of allowed parking spaces in Sec. 10.1112.50 of the Ordinance; and

- (3) Before making a recommendation regarding parking standards in the Downtown Overlay District, the Board needs more information from the City Council regarding parking policy for the downtown, including whether additional public parking is going to be provided.

In furtherance of item 2 in the Board's report, I have prepared the attached proposed amendment to the Zoning Ordinance to exempt the Downtown Overlay District from the cap on the allowed number of off-street parking spaces.

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 – Zoning Ordinance, Section 10.1110 – Off-Street Parking, be amended by inserting a new paragraph 10.1115.24 as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

**10.1115.24 The provisions of Section 10.1112.50 – Maximum Number of Parking Spaces, shall not apply to buildings and uses within the Downtown Overlay District.**

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

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

This ordinance shall take effect upon its passage.

APPROVED:

\_\_\_\_\_  
Robert Lister, Mayor

ADOPTED BY COUNCIL:

\_\_\_\_\_  
Kelli L. Barnaby, City Clerk



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# MEMORANDUM

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**TO:** John P. Bohenko, City Manager  
**FROM:** Rick Taintor, Planning Director *RT.*  
**DATE:** November 4, 2014  
**RE:** City Council Referral –  
Request to Rezone Land on Cate St., Bartlett St. and Route 1 Bypass to the Gateway District, and to amend the Zoning Ordinance by providing for Workforce Housing Incentives in Gateway Planned Developments

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**Portsmouth Land Acquisition, LLC**, has requested that the following lots be rezoned from Industrial (I), Office Research (OR) or Municipal (M) to Gateway (GW):

- Assessors Map 163, Lots 33, 34 and 37,
- Assessors Map 165, Lots 1, 2 and 14,
- Assessors Map 172, Lots 1 and 2,
- Assessors Map 173, Lots 2 and 10,

and including Cate Street between Hodgson's Brook and Bartlett Street, and that the Zoning Map be revised accordingly; and further that the Zoning Ordinance, Article 7, Section 10.730 – Gateway Planned Development, be amended by inserting a new Section 10.734.40 as follows:

## **10.734.40 Workforce Housing Incentives**

If a GPD with a Residential Component contains 10% or greater Workforce Housing Units, the following shall apply:

- 10.734.41 The minimum lot area per dwelling unit shall be 1,000 square feet.  
10.734.42 The maximum building length set forth in Article 5, Section 10.522 shall be increased to 350 feet.  
10.734.43 Required off-street parking may be located in a required front yard or between a principal building and a street.

The City Council received this request at its meeting on September 22, 2014, and voted to refer it to the Planning Board for a report. At the same time, the Council voted to continue its second reading and public hearing on the proposed rezoning to CD4 until after the Planning Board has submitted its report. The Planning Board held a public hearing on the requested amendments to the Zoning Map and Zoning Ordinance at its meeting on October 16, 2014.

## **Background**

At its meeting on June 2, 2014, the City Council voted to request the Planning Board to consider rezoning the land on the east side of the Route 1 Bypass between the Islington Street bridge and the Traffic Circle. The Planning Department has also been considering zoning options for a portion of this study area, between the railroad line and Hodgson's Brook; and the

City has long been interested in establishing a new road connection from the Bypass to Bartlett Street, which would open this area up for redevelopment. Parcels within this latter area are currently constrained by being in the Industrial zoning district, which has restrictive use and dimensional standards and may not represent the best use of the land from the City's or the owners' perspectives.

The City Council has authorized a study for expanding Character-Based Zoning to include the area bounded by Bartlett Street, the railroad line, the Route 1 Bypass and Hodgson's Brook (the design charrette is currently planned to take place in February 2015). Therefore, the Planning Department proposed that the City consider as an interim measure the rezoning of this area to Character District 4 (CD4). On July 14, the City Council voted to pass first reading on this proposed rezoning, to schedule a public hearing and second reading for September 22, and to refer the proposal to the Planning Board for a report and recommendation.

The Planning Board held a public hearing on the proposed rezoning at its August meeting and voted "to report back to the City Council that this area should be rezoned from the existing Industrial and Office Research zoning, but that the proposed rezoning to Character District 4 (CD4) is not appropriate at this time. The Board recommends that further study is needed to determine the best zoning approach for these parcels."

On September 15, 2014, Attorney Bernard W. Pelech (representing Portsmouth Land Acquisition, LLC, owner of a majority of the subject parcels) submitted a request that the area previously proposed for rezoning to CD4 be instead rezoned to the Gateway district, along with modifications to several other zoning standards for Gateway Planned Development projects in which Workforce Housing constitutes at least 10% of the total dwelling units. The City Council considered this request at its meeting on September 22, 2014, and voted to refer it to the Planning Board for a report. At the same time, the Council voted to continue its second reading and public hearing on the proposed rezoning to CD4 until after the Planning Board has responded to Attorney Pelech's letter. Subsequently, Attorney Pelech submitted a letter to the Planning Board regarding this matter.

### **Effect of the Requested Amendments to the Zoning Map and the Zoning Ordinance**

The request by Portsmouth Land Acquisition, LLC, has two components: an amendment to the Zoning Map to change the zoning for several parcels from their existing designations (Industrial, Office Research, and Municipal) to the Gateway district, and an amendment to the Zoning Ordinance to allow increased residential density and building size, and to relax off-street parking requirements, for Gateway Planned Development projects that include workforce housing.

#### *Requested Zoning Map Amendment*

The area proposed to be rezoned is shown on the two maps at the end of this memorandum. Note that these are the same maps originally proposed for rezoning to the CD4 district and therefore the map titles still refer to the CD4 district. Although Portsmouth Land Acquisition is now requesting a rezoning to Gateway, the proposed zoning boundaries are unchanged from the previous proposal.

Rezoning to the Gateway district would allow the following uses that are not permitted by the existing Industrial zoning (partial listing):

<b>Use Group</b>	<b>Use</b>
<i>Residential Uses:</i>	Townhouse
<i>Institutional Residence or Care Facilities:</i>	Assisted living center Residential care facility (S)
<i>Educational, Religious, Charitable, Cultural and Public Uses:</i>	Place of assembly (S) School Museum Performance facility
<i>Medical Services and Health Care:</i>	Medical offices and clinics (outpatient only) Clinics with inpatient care (S) Ambulatory surgical center (S)
<i>Services, Other Than Health Care:</i>	Group day care facility Personal services Consumer services Laundry and dry cleaning establishments – drop-off/pick-up or self-service
<i>Retail Trade:</i>	Convenience goods Retail sales Shopping center
<i>Eating and Drinking Places:</i>	Nightclub or bar Restaurant
<i>Lodging Establishments:</i>	Boarding house (S) Hotel or motel (S) Conference center
<i>Motor Vehicle Related Uses:</i>	Sales, renting or leasing of passenger cars, light trucks, motorcycles, etc. Motor vehicle service station (S) Sales, renting or leasing of trucks (S)

(S) = requires special exception from Zoning Board of Adjustment

Several industrial uses that are permitted in the Industrial district are prohibited in the Gateway district.

In addition to the basic use, dimensional and intensity standards, properties in the Gateway district are eligible to be considered for a Conditional Use Permit from the Planning Board to allow a “Gateway Planned Development” (GPD), the regulations for which are set forth in Section 10.730 of the Zoning Ordinance. The GPD option allows multifamily dwellings to be included in a mixed-use development, provided that residential uses comprise at least 30 percent and not more than 70 percent of the gross floor area of the development. The GPD also allows taller buildings (up to 60 feet, compared with a 40-foot limit in the Gateway district without a conditional use permit, increased building coverage (75% vs. 30%), reduced off-street parking requirements, and other changes designed to increase flexibility while encouraging a higher standard of design.

would be located beside or behind buildings, in order to enhance the streetscape and encourage more pedestrian-friendly development.

The requested amendment would exempt a Gateway Planned Development with at least 10% workforce housing units from this City-wide provision, allowing off-street parking spaces to be (a) in front of a principal building and (b) closer to the street than the 30-foot front yard required in the Gateway District.

### **Additional Issues Not Addressed by the Requested Zoning Amendment**

The requested amendments to the Zoning Map and Zoning Ordinance raise at least two additional sets of issues that will need to be addressed at the same time. These are (1) standards for maximum building height, and for minimum and maximum building setbacks from streets; and (2) definitions of “workforce housing” and mechanisms for administering the workforce housing requirements and ensuring long-term affordability.

#### *Building Setbacks and Height*

Because the Gateway Planned Development section was created specifically for the Lafayette Road corridor, it includes two dimensional standards that reference setbacks from Lafayette Road:

- Sec. 10.734.20 establishes the front yard as between 70 and 90 feet from the centerline of Lafayette Rd.
- Sec. 10.734.33 establishes the maximum building height in relation to the building setback from the centerline of Lafayette Rd.

These are two distinct provisions: the first supersedes the 30-foot front yard requirement in Article 5, but the second is a constraint on the 60-foot height limit in Sec. 10.734.31. In order to minimize ambiguity, Section 10.734.20 should be amended to define the front yard requirement for properties that do not front on Lafayette Road, and this may be different for parcels fronting on the Route 1 Bypass vs. those that front on another road (such as the new road to be constructed between the Bypass and Bartlett Street as part of a GPD project by Portsmouth Land Acquisition). Consideration should also be given to modifying Section 10.734.33 as regards maximum building height in relation to setback from the Route 1 Bypass.

#### *Workforce Housing Definition and Price/Occupancy Controls*

The requested amendment to the Zoning Ordinance uses the term “workforce housing” but does not define it. RSA 674:58, IV defines “workforce housing” separately for ownership and rental housing units, as follows:

**Ownership Housing:** “Housing which is intended for sale and which is affordable to a household with an income of no more than 100 percent of the median income for a 4-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development.”



*Proposed Zoning Ordinance Amendments*

In addition to the proposed rezoning to the Gateway district, Portsmouth Land Acquisition is also requesting changes to three zoning provisions for Gateway Planned Development projects in which at least 10% of the dwelling units qualify as “workforce housing”:

1. Reduce the minimum lot area per dwelling unit to 1,000 sq. ft.

A Gateway Planned Development currently requires a minimum of 2,500 sq. ft. of lot area per dwelling unit. This is equal to the requirement in the Business (B) district, and permits a higher residential density than any other area of the City except for the downtown (Central Business A and B and Character Districts 4 and 5), in which there is no residential density limit.

The proposed amendment would increase the allowable residential density from 17.4 units per acre to 43.6 units per acre, representing a potential 150% increase in density in exchange for designating 10% of the total dwelling units as workforce housing.

2. Increase the maximum building length to 350 feet.

Section 10.522 of the Zoning Ordinance states that “The maximum building length of a multifamily dwelling shall not exceed 160 feet.” This provision was added to the Ordinance in October 2010, partially in response to issues raised by a proposed multifamily development on Lang Road and Longmeadow Road. At that time, the following estimated building dimensions of were provided to the Planning Board for comparison:

Heritage Hill	90' x 33'
Riverbrook (Middle Rd.)	120' x 28'
Osprey Landing	145' x 30'
Cedars (1)	155' x 50'
Cedars (2)	180' x 50'
Beechstone	280' x 38'
Lang & Longmeadow (proposed)	160' x 90'

The zoning amendment by Portsmouth Land Acquisition would allow buildings with substantially greater length than any of the existing multifamily dwellings in the City. On the other hand, the historic Button Factory complex on Islington Street, which consists of a group of connected industrial buildings that have been converted to mixed residential-nonresidential use, extends approximately 1,100 feet from end to end.

3. Allow required off-street parking to be located in a required front yard or between a principal building and a street.

Section 10.1113.20 of the Zoning Ordinance provides, “Required off-street parking shall not be located in any required front yard, or between a principal building and a street (including on a corner lot).” This provision applies in all zoning districts and was added as part of the 2009 comprehensive revision of the Ordinance so that parking areas

**Rental Housing:** “Rental housing which is affordable to a household with an income of no more than 60 percent of the median income for a 3-person household for the metropolitan area or county in which the housing is located as published annually by the United States Department of Housing and Urban Development.”

The statute further defines “affordable” as follows:

“Housing with combined rental and utility costs or combined mortgage loan debt services, property taxes, and required insurance that do not exceed 30 percent of a household’s gross annual income.”

For the Portsmouth area, these definitions mean that a workforce housing unit must have a purchase price not exceeding **\$284,000** or a monthly rent (including utilities) not exceeding **\$1,140**. (The maximum purchase price is an estimate and would need to be confirmed based on actual mortgage terms and insurance costs, and the current property tax rate.)

In addition, the statute provides that a specified percentage of a housing development must be available for occupancy by families in order to qualify as “workforce housing”:

“Housing developments that exclude minor children from more than 20 percent of the units, or in which more than 50 percent of the dwelling units have fewer than two bedrooms, shall not constitute workforce housing ....”

If the Zoning Ordinance is to be amended to include the proposed “workforce housing incentives”, the amendment should also incorporate the above definitions and restrictions. In addition, the Ordinance (or regulations adopted by the Planning Board to implement the incentives) should include mechanisms for administering and enforcing the workforce housing provisions and for ensuring long-term affordability and compliance with the statutory definitions.

### **Planning Board Report and Recommendation**

The Planning Board considered the requested zoning amendments at its meeting on October 16, 2014, and voted as follows:

Voted to report to the City Council that the Planning Board does not support re-zoning these parcels at this time and would recommend moving forward including them in the Charrette process currently scheduled for February.

It was noted that the Planning Board’s action did not imply any specific outcome of the charrette process, and that in fact the result of the visioning and planning process could be to recommend rezoning these parcels to the Gateway district rather than to a Character district.

If the City Council wishes to proceed with consideration of the requested amendments to the Zoning Map and Zoning Ordinance, this can be done in parallel with the charrette process currently anticipated for late February 2015. Specifically, the Council may schedule first reading on the amendments for its December 8, 2014, meeting. In preparation for that meeting, the Planning Department can draft a revised ordinance incorporating the additional provisions necessary to address the building height/setback and workforce housing issues described above. At first reading the Council may vote to schedule a public hearing and second reading

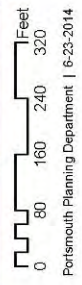
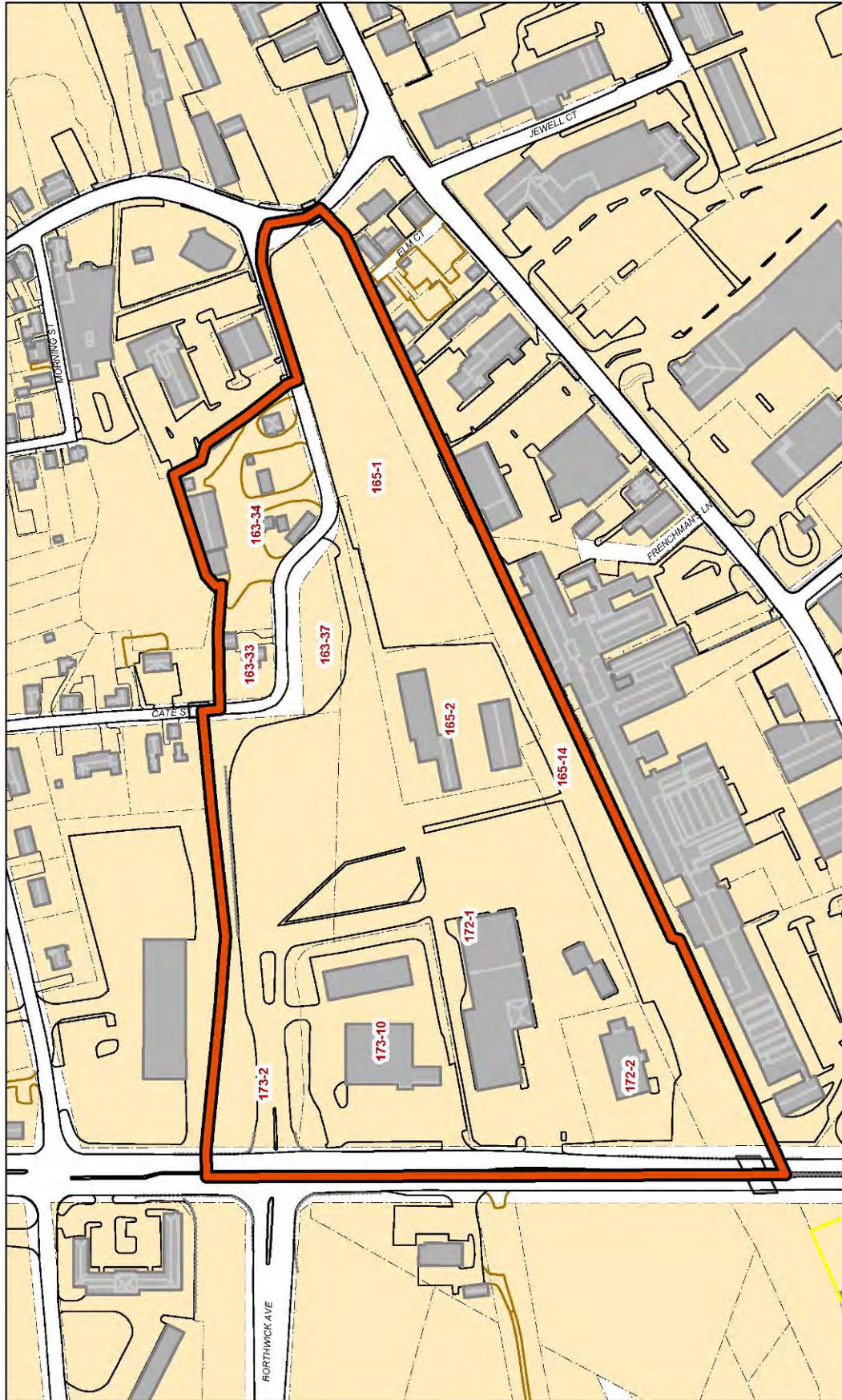
for a meeting in January 2015, which would allow the requested amendments to be considered in parallel with the charrette process.

### **Public Hearing Requirements**

Effective July 10, 2014, RSA 675:7 now requires that municipalities send individual notices of proposed zoning amendments to owners of affected properties in certain cases:

If a proposed amendment to a zoning ordinance would change a boundary of a zoning district and the change would affect 100 or fewer properties, notice of a public hearing on the amendment shall be sent by first class mail to the owners of each affected property. If a proposed amendment to a zoning ordinance would change the minimum lot sizes or the permitted uses in a zoning district that includes 100 or fewer properties, notice of a public hearing on the amendment shall be sent by first class mail to the owner of each property in the district. Notice by mail shall be sent to the address used for mailing local property tax bills, provided that a good faith effort and substantial compliance shall satisfy the notice by mail requirements of this paragraph.

As the requested amendment to the Zoning Map would affect fewer than 100 properties, notice of a public hearing on the amendment must be sent to all affected property owners in addition to the normal posting.



Area Proposed To Be Rezoned to Character District 4 (CD4)  
Proposed CD4 District







Area Proposed To Be Rezoned to Character District 4 (CD4)

Proposed CD4 District



## **PARKING LOT USAGE/MAINTENANCE AGREEMENT**

Pease Development Authority, Division of Ports and Harbors, (“Lessor” or “Owner”), a state agency created by RSA 12-G:43, I, is the owner of a parking lot located at 315 Market Street, City of Portsmouth, New Hampshire, (Map 119, Lot 5) (hereinafter “Lot”). The Isles of Shoals Steamship Company, Inc., (“Lessee”), Lessee of 315 Market Street, hereby enters into this agreement with the City of Portsmouth, a municipal corporation with an address of 1 Junkins Avenue, Portsmouth, New Hampshire (hereinafter “City” or “Sublessor”) with respect to certain parking spaces located in the parking lot located at 315 Market Street (hereinafter “Parking Lot”). Lessee and the City are entering into this parking agreement (“Agreement”) for the purposes and under the terms and conditions contained herein.

1. This Agreement shall commence on December 1, 2014 and continue in effect until March 31, 2015.
2. During the period in which this Agreement is in effect, the Fifty-One (51) parking spaces in the Parking Lot shown on the attached plan shall be available at the direction of the City for the purpose of allowing employees of the downtown area who have purchased a parking permit for the Parking Lot (hereinafter “Employees”). (See plan attached and incorporated hereto as Exhibit A).
3. The City agrees and represents that the parking permits issued by the City will allow Employees to park in the Parking Lot from Monday through Sunday but will prohibit overnight parking.
4. The City shall post and maintain signage in a manner to be approved by the Owner and Lessee to designate the Fifty-One (51) parking spaces for Employee parking. The signs shall include a prohibition against overnight parking and information about days Employees are permitted to park in the Parking Lot.
5. The City shall have the authority to provide regular and consistent enforcement of its rules and regulations governing the use of these parking spaces during the times stated to ensure that the parking spaces are only being used by authorized permit holders.
6. The City shall plow snow, apply salt and sand, and remove snow as necessary from the Parking Lot in accordance with its normal practices for City parking lots.
7. Except as described in this Agreement, the use of the Parking Lot shall be under the control of the Owner and Lessee.
8. The City shall defend and indemnify the Owner and Lessee for claims caused solely by the City's negligence, and which are within the scope of the City's



liability insurance to the extent and under the terms and conditions under which the City itself is entitled to contractual indemnification coverage from the New Hampshire Public Risk Management Exchange, under the terms of its liability coverage document as it may be in effect from time to time.

9. The Parties agree that any compensation paid by the City to Lessee will be determined at the end of the parking trial and will be the net parking permit revenues, the difference between gross parking permit revenues less expenses incurred by the City for the following; snow removal operations, parking permit production and administration and parking enforcement. The net parking permit revenues will be paid to Lessee within 45 days after the end of the trial period. The Parties anticipate that these payments shall not exceed \$1,000 per month.
  
10. This Agreement may be terminated with cause by either Party in the event that either Party fails to maintain its obligations under this Agreement, after being given written notice of such failure and a Thirty (30) day period to cure it. This Agreement may be terminated without cause by either Party with Forty-Five (45) days written notice to the other Party.
  
11. This Agreement may be renewed annually by agreement of the parties.

**For the City of Portsmouth**

**For Lessee**

Isles of Shoals Steamship Company, Inc

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

\_\_\_\_\_  
By:

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

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

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

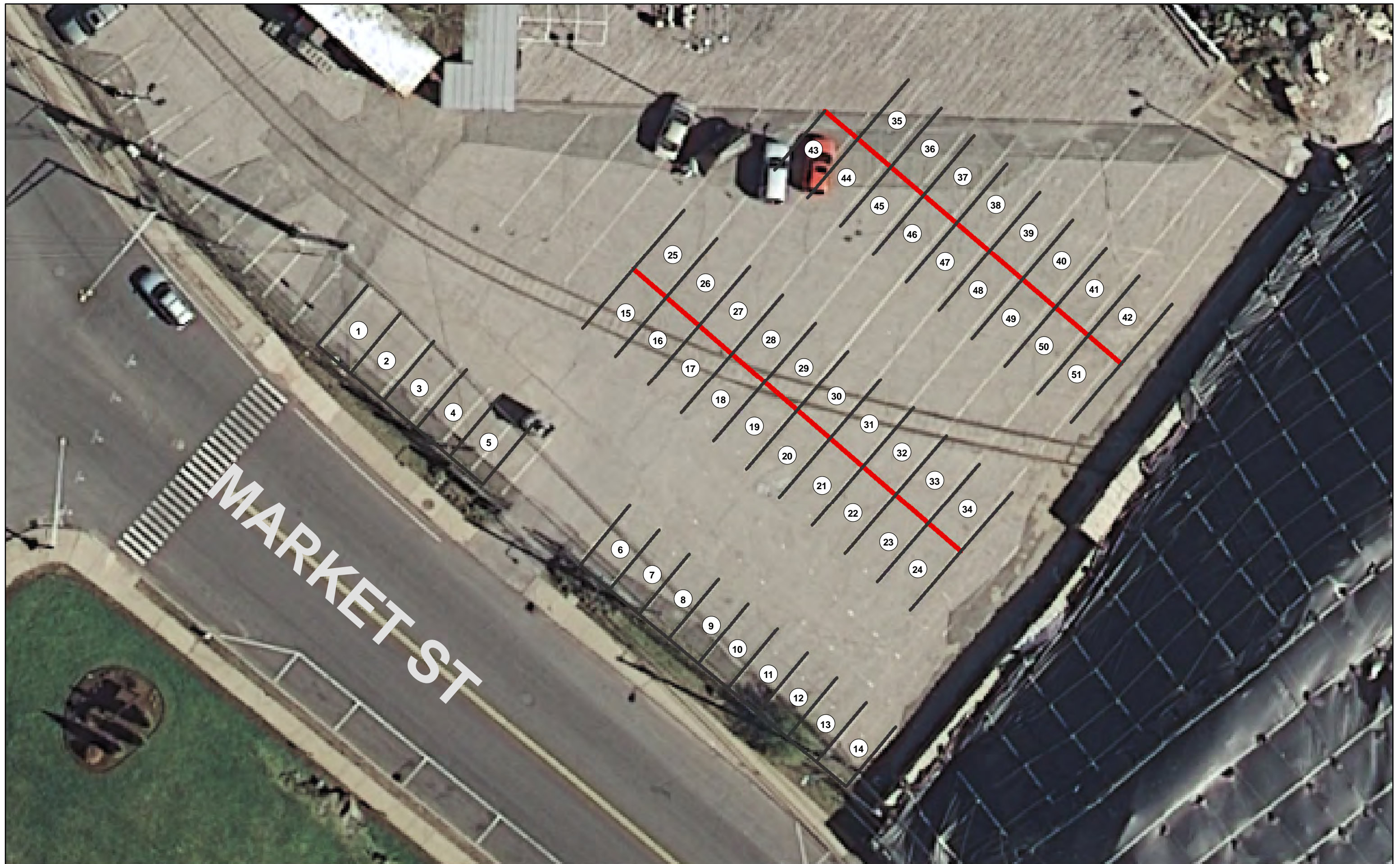
Pease Development Authority consents to this Parking Lot Usage / Maintenance Agreement entered into between the Lessee and the City.

Pease Development Authority

\_\_\_\_\_  
David R. Mullen, Executive Director

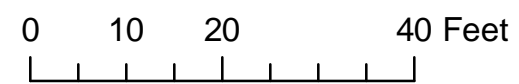
Dated: \_\_\_\_\_





**ISSC Downtown Employee Parking Lot**

U:\Projects\0217 Downtown Parking Update\ISSC Downtown Employee Parking Lot\ISSC Downtown Employee Parking Lot.pdf  
Map prepared by Portsmouth Department of Public Works





## **PARKING AGREEMENT**

Strawbery Banke Museum, a Museum with a principal place of business at 17 Hancock Street, Portsmouth, New Hampshire (hereinafter "Strawbery Banke"), and the City of Portsmouth, a municipal corporation with an address of 1 Junkins Avenue, Portsmouth, New Hampshire, (hereinafter "City"), hereby enter into this agreement with respect a parking lot on Hanover Street owned by Strawbery Banke in the City of Portsmouth at Tax Map 103, Lot 088 (hereinafter "Parking Lot") for the purposes and under the terms and conditions contained herein.

1. This Agreement shall be for the public's use of the Parking Lot located at Hancock Street in Portsmouth, New Hampshire for Snow Emergencies Parking Bans as defined in the Ordinances of the City of Portsmouth, Chapter 7, Article III, Section 7.321, A-G for a term of ten (10) years from the date of execution.
2. During the period in which Snow Emergency Parking Bans are in effect, this Agreement is in effect, and the Parking Lot shown on the attached plan attached and incorporated as Exhibit A shall be available at the direction of the City for the purpose of allowing members of the public to park. The parking spaces will be available to the public on a first come, first serve basis and the public is not required to have any type of parking permit in order to use the Parking Lot during Snow Emergency Parking Bans. The City of Portsmouth will be responsible for plowing the Parking Lot only during Snow Emergency Parking Bans.
3. Except as described in this Agreement, all other uses of and maintenance for the Parking Lot shall be under the control of Strawbery Banke, including all responsibility for providing sufficient lighting for the Parking Lot.
4. All signage notifying members of the public that they can park in the Parking Lot during Snow Emergency Parking Bans shall be the responsibility of the City. The City is responsible to manage the parking activity at the Parking Lot during the Snow Emergency Parking Bans.
5. The City shall defend and indemnify Strawbery Banke Museum for claims caused solely by the City's negligence, and which are within the scope of the City's liability insurance to the extent and under the terms and conditions under which the City itself is entitled to contractual indemnification coverage from the New Hampshire Public Risk Management Exchange, under the terms of its liability coverage document as it may be in effect from time to time.

**City of Portsmouth**

**Strawbery Banke Museum.**

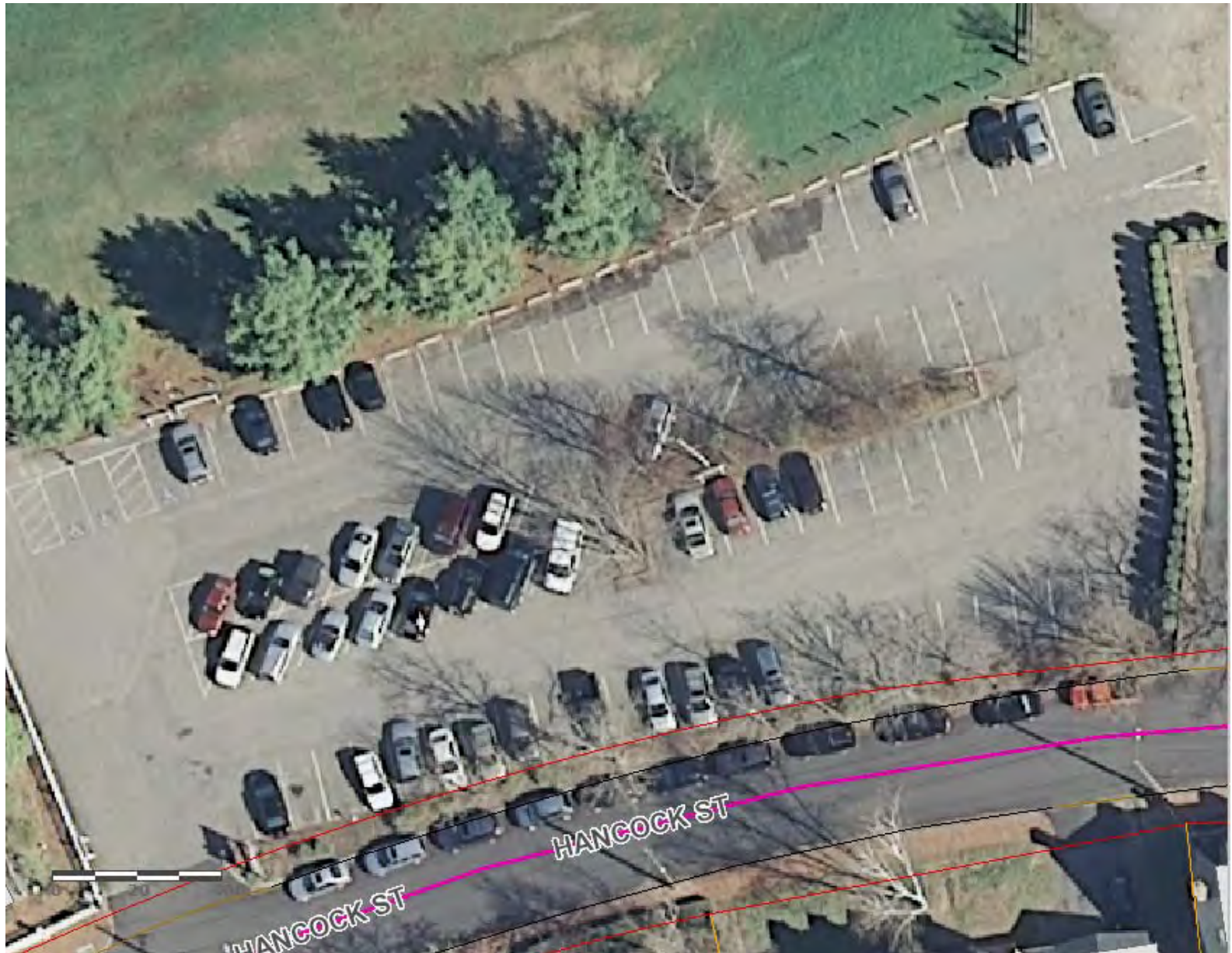
\_\_\_\_\_  
John P. Bohenko, City Manager

\_\_\_\_\_  
Lawrence J. Yerdon, President

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

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

Strawbery Banke Parking Lot



## Event Listing by Date

Starting Date: 10/20/2014

Ending Date: 8/31/2015

Start End	Type Description	Location	Requestor	Vote Date
10/25/2014 10/25/2014	WALK This event begins at Prescott Park Public Forum area and will continue onto the Memorial Bridge and back.	Prescott Park - Public Forum	Seacoast Rotary Club	/ /
11/ 9/2014 11/ 9/2014	ROAD RACE Jay Diener, Co-race Director is the contact for this event. 603-758-1177 This race begins at Wallis Sands State Park and finishes at Portsmouth High School.	Wallis Sands State Park	Seacoast Half Marathon	9/22/2014
11/27/2014 11/27/2014	ROAD RACE Contact: Matt Junkin		Seacoast Rotary Club	11/18/2013
12/13/2014 12/13/2014	ROAD RACE This event begins and ends at Little Harbour School. Time: Registration 9:00 a.m. Race: 10:00 a.m.	Little Harbour School	The Arthritis Foundation	7/14/2014
12/31/2014 12/31/2014	FESTIVAL Barbara Massar is the contact for this event. This event begins at 4:00 p.m. until Midnight throughout downtown	Market Square	Pro Portsmouth, Inc. - First N	9/22/2014
2/15/2015 2/15/2015	FESTIVAL Caitlyn Hassett, Chair, Events Committee Portsmouth Gas Light 969-8657	Hanover Street/Market Street Parking Lot	Chamber of Commerce - Fire & I	9/22/2014
4/18/2015 4/18/2015	WALK Emily Christian is the contact for this event. Telephone: 781-693-5154 This event begins at 10:00 a.m. to 2:00 p.m., start and finish at Little Harbour School.	Little Harbour School - start and finish	National Multiple Sclerosis So	10/20/2014
5/ 3/2015 5/ 3/2015	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 Stree to ISSCo. entrance.	Downtown	Pro Portsmouth, Inc. - Childre	9/22/2014
5/ 9/2015 5/ 9/2015	ROAD RACE Carolyn Ostrom, Community Relations Specialist (603) 610-5530 Cell: (617) 501-2728 costrom@vtnhkomen.org This race begins on the Peirce Island Bridge and finishes at Strawberry Banke - Hancock Lot	Strawbery Banke	Susan G. Komen New Hampshire R	9/22/2014
6/13/2015 6/13/2015	FAIR Barbara Massar is the contact for this event. This event begins at 9:00 a.m. to 4:00 p.m. throughout downtown	Downtown	38th Market Square Day - Pro P	9/22/2014
6/13/2015 6/13/2015	ROAD RACE Barbara Massar is the contact for this event. This event begins at 9:00 a.m. with roving closures for race course	Market Square	38th 10K Road Race - Pro Ports	9/22/2014

Run: 11/13/14  
1:32PM

## Event Listing by Date

Page: 2

Starting Date: 10/20/2014

Ending Date: 8/31/2015

Start End	Type Description	Location	Requestor	Vote Date
6/20/2015 6/20/2015	FUND Alyssa Salmon is the contact of this event. Contact No. 430-1140 x14.	Pleasant Street	Big Brothers Big Sisters of th	8/ 4/2014
6/27/2015 6/27/2015	MUSIC Barbara Massar is the contact for this event. This event begins at 5:00 p.m. to 9:30 p.m.	Market Square - Pleasant Street	Summer in the Street Music Ser	9/22/2014
7/ 4/2015 7/ 4/2015	MUSIC Barbara Massar is the contact for this event. This event begins at 5:00 p.m. to 9:30 p.m.	Market Square - Pleasant Street	Summer in the Streets Music Se	9/22/2014
7/11/2015 7/11/2015	MUSIC Barbara Massar is the contact for this event. This event begins at 5:00 p.m. to 9:30 p.m.	Market Square - Pleasant Street	Summer in the Street Music Ser	9/22/2014
7/18/2015 7/18/2015	MUSIC Barbara Massar is the contact for this event. This event begins at 5:00 p.m. to 9:30 p.m.	Market Square - Pleasant Street	Summer in the Street Music Ser	9/22/2014
7/25/2015 7/25/2015	MUSIC Barbara Massar is the contact for this event. The event begins at 5:00 p.,m. to 9:30 p.m.	Market Square - Pleasant Street	Summer in the Street Music Ser	9/22/2014
8/ 1/2015 8/ 1/2015	MUSIC Barbara Massar is the contact for this event. This event begins at 5:00 p.m. to 9:30 p.m.	Market Square - Pleasant Street	Summer in the Streets Music Se	9/22/2014



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# M E M O R A N D U M

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**TO:** John Bohenko, City Manager  
**FROM:** Brinn Chute, Senior Services  
**DATE:** October 31, 2014  
**RE:** Senior Activity Center update

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On July 10, 2014 the Senior Activity Center celebrated its grand opening. Over 100 people were in attendance. A provider open house was offered the evening before with 45 people in attendance.

**Since the opening many activities have been offered:**

Free Activities:

- Daily drop in lounge: Monday-Friday 9:00am-3:00pm
- 5 fitness activities weekly: chair yoga, strength & balance, tai chi, line dancing, and walking group
- Social Activities: drop in art, scrabble club, knitting group, rhythm drumming circle, monthly movie, Friday café
- Wellness Activities: Flu shot clinics by Cornerstone VNA (Medicare billed), Alzheimer's Café, Passport Information Day, On-site Sign ups for Fuel & Electric Assistance
- Computer help weekly

Fee-based Activities:

- Fitness activities weekly: Gentle Yoga, Strength and Cardio, Live Long and Strong (summer-only)
- Senior Luncheons (twice monthly), "Lunch Bunch" – dining out social group (monthly)
- Intro to Sketch-book Drawing (summer)
- Foot Care Clinic by Cornerstone VNA (monthly)
- Special Event: Gundalow Trip

Special Events:

- Senior Provider Breakfast – September: 45 attendees
- Alzheimer's disease lecture in partnership with Extended Family and Portsmouth Library– September: 122 attendees
- Celebration of National Senior Center month with dessert reception – September: 60 attendees

- Senior Healthy Living Expo at Community Campus in partnership with Portsmouth Hospital, Foundation for Seacoast Health, Families First, Mark Wentworth Home– October: 400-500 attendees
- Senior Craft Fair – October: 80 attendees; 16 vendor tables
- Acquisition of 30 senior transportation passes via Rockingham Community Action funding.
- So Much for Seniors TV show on Portsmouth Public Media TV (PPMTV). Innovative project by an all volunteer crew. They are currently working on the 5<sup>th</sup> show.
- Daycare kids come to watch their “senior friends” perform their monthly line dancing show. Daycare came to trick-or-treat on Halloween.

Attendance:

June            255 Total participants (64 ppl/wk)

July            403 people total (80 ppl/week) \*5 week month

August        376 Total Participants (94 ppl/wk)

\*Attendance went down due to a couple classes on vaca in Aug.

September   450 people total (113 ppl/wk)

○ Ave 23 people per day

○ Tues & Thurs busiest days

New Programs in the works:

- Cooking class
- Brown bag lunch lecture series
- Local excursions
- Discussion with Meals on Wheels on offering meals, if needed, to people at the center
- Monarch Butterfly way-station in conjunction with the daycare

## Senior Activity Center - Current Schedule – Fall 2014

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### **Mondays:**

Drop in Hours: 9:00am-3:00pm  
Senior Strength & Cardio Every Monday at 10:00am. \$3 per class.  
Scrabble Every Monday 1:00-3:00pm  
Toe nail cutting clinic 2<sup>nd</sup> Monday of the month at 10:00am \$25  
Alzheimer's Café 4<sup>th</sup> Monday of the month from 2:00-3:30pm

### **Tuesdays:**

Drop in Hours 9:00am-3:00pm  
Walking Group Every Tuesday 9:00-9:30am  
Strength & Balance 10:00-11:00am  
Computer Help 10:00-11:00am  
Rhythm Drumming 3<sup>rd</sup> Tues of the month 11:15am-12:00pm  
Chair Yoga 1:00-2:00pm  
Senior Luncheon 2<sup>nd</sup> Tuesday of the month at 12pm; \$5 pp

### **Wednesdays:**

Drop in Hours 9:00am-3:00pm  
Gentle Yoga 10:00-11:00am; \$5 per class.  
Drop in Art 12:00-1:00pm  
Senior Movie 4<sup>th</sup> Wed of the month at 11:30am

### **Thursdays:**

Drop in Hours 9:00am-3:00pm  
Line Dancing 9:00-10:30am  
Computer Help 10:00-11:00am  
Yarn Works Knitting 12:30-2:30pm  
Senior Luncheon 4<sup>th</sup> Thursday of the month at 12pm; \$5

### **Fridays:**

Drop in Hours 9:00am-3:00pm  
Friday Café 9:30-11:30am (Keurig coffee)  
Tai Chi 10:00-11am

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**MEMORANDUM**

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**TO:** JOHN P. BOHENKO, CITY MANAGER  
**FROM:** JULIET WALKER, TRANSPORTATION PLANNER *JW*  
**SUBJECT:** DOWNTOWN PARKING SHUTTLE REPORT AND RECOMMENDATION  
**DATE:** 11/03/2014

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Over 18,686 one-way riders have used the Downtown Parking Shuttle, which has been in operation for 27 weeks. The total cost per one-way rider for the Portsmouth Downtown Parking Shuttle is \$5.66. Included in this memorandum are total costs for this service, an analysis of daily and weekly ridership, a summary of public outreach and feedback, and staff recommendations for extension of the pilot service.

**Current Operations**

The City contracted with TransAction Corporate Shuttles to operate the Downtown Parking Shuttle which runs between the Connect Community Church (CCC) parking lot on Market Street to the Hanover Parking Garage. From May 2<sup>nd</sup> to August 3<sup>rd</sup> the service operated on Fridays from 4pm to 1:30am, Saturdays from 12pm to 1:30am, and Sundays from 12pm to 10pm for a weekly cost of \$1,892. Beginning August 7<sup>th</sup>, the service hours were expanded to include Thursdays from 4pm to 1:30am and additional hours on Friday starting at 12pm for a weekly cost of \$2,839. The current contract ended on November 2. To date, the City has expended \$63,400 this year for the contract with TransAction to operate this service.

In addition, the City will have expended a total of \$27,998 for marketing of this service, with the majority of those costs expended in the first 4 months. The City contracted with Darci Creative, LLC for the marketing effort. Total on-site security costs at the CCC lot during shuttle operation are \$14,368. Therefore, the total shuttle costs after 27 weeks of operation is \$105,765.

**Parking Shuttle Costs**

Service Period	Service Hours	Total Weekly Service Hours	Weekly Cost
5/2 – 8/3/2014 (14 weeks)	Friday 4pm-1:30am (9.5 hrs) Saturday 12pm-1:30am (13.5 hrs) Sunday 12pm-10pm (10 hrs)	33 hours	\$1,892
8/7 – 11/2/2014 (13 weeks)	Thursday 4pm – 1:30am (9.5 hrs) Friday 12pm-1:30am (13.5 hrs) Saturday 12pm-1:30am (13.5 hrs) Sunday 12pm-10pm (10 hrs)	46.5 hours	\$2,839
<b>Total TransAction Cost</b>			<b>\$63,400</b>
<b>Total Marketing Costs</b>			<b>\$27,998</b>
<b>Total Security Costs</b>			<b>\$14,368</b>
<b>Total Parking Lot Lease<sup>1</sup></b>			<b>\$0</b>
<b>Total Parking Shuttle Costs</b>			<b>\$105,765</b>

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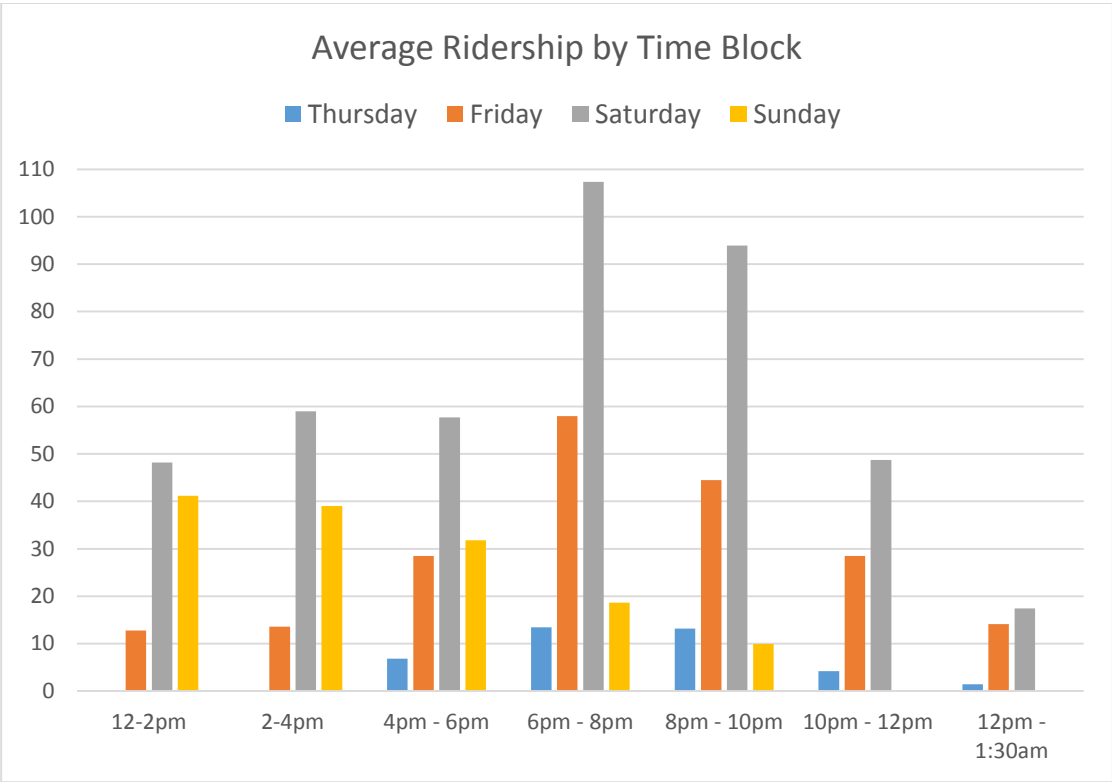
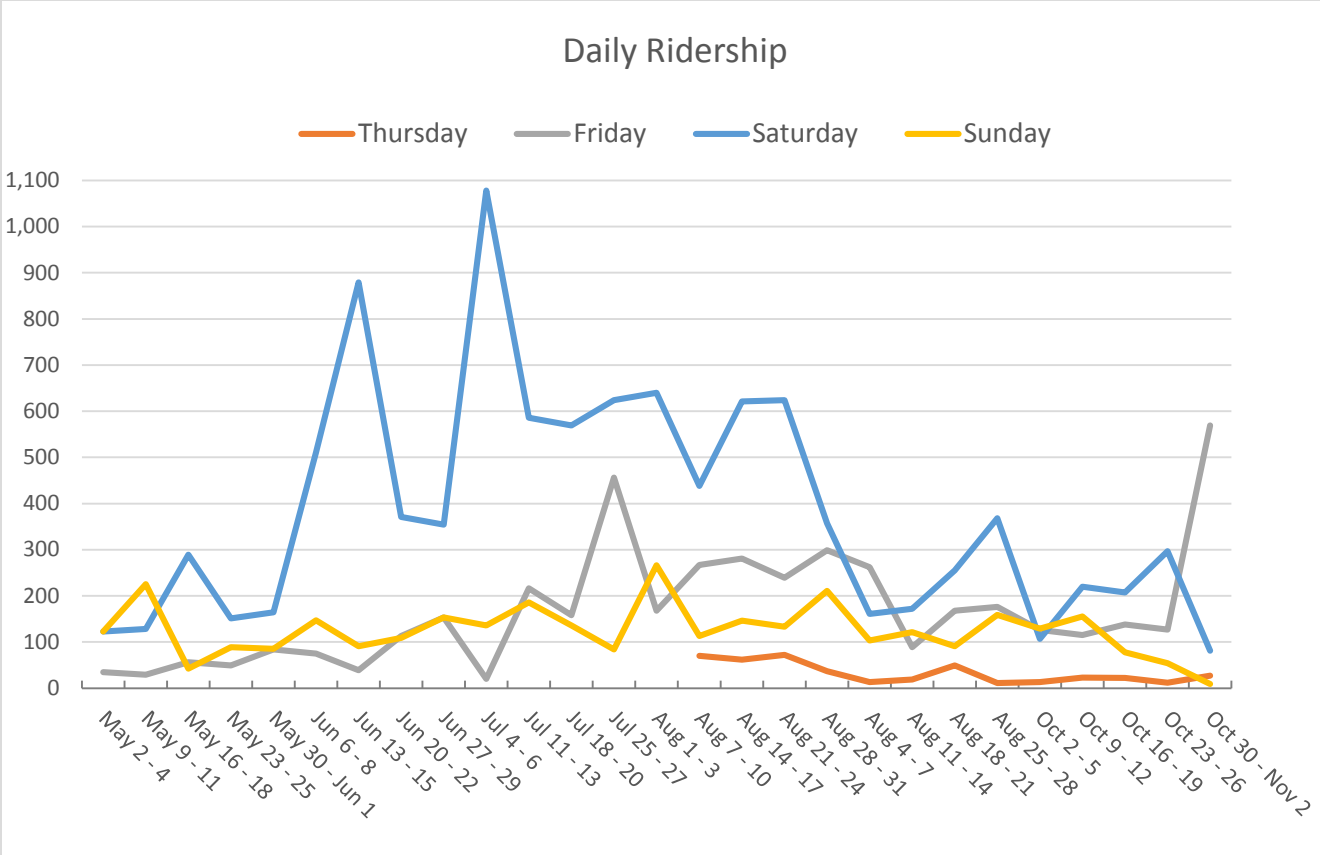
<sup>1</sup> The parking lot usage agreement with the Connect Community Church stipulates that in exchange for public use of 93 parking spaces the City would conduct pavement repair and crack sealing of the lot, which was completed in 2009. At the request of the Church, the City is currently reviewing the terms of this agreement.



To date, the shuttle has transported approximately 18,686 total one-way riders. The average weekly ridership is 692 one-way riders, ranging from a low of 281 for the 1<sup>st</sup> week to 1,234 for Market Square Day Weekend. This results in a total cost per one-way rider of \$5.66.

### Daily and Weekly Ridership

	Dates	Thursday	Friday	Saturday	Sunday	Weekly Total	Weekly Average
Week 1	May 2 - 4		35	123	123	281	281.0
Week 2	May 9 - 11		29	128	225	382	331.5
Week 3	May 16 - 18		56	289	42	387	350.0
Week 4	May 23 - 25		49	151	89	289	334.8
Week 5	May 30 - Jun 1		84	164	85	333	334.4
Week 6	Jun 6 - 8		75	511	147	733	400.8
Week 7	Jun 13 - 15		39	879	91	1,009	487.7
Week 8	Jun 20 - 22		113	371	109	593	500.9
Week 9	Jun 27 - 29		153	354	153	660	518.6
Week 10	Jul 4 - 6		20	1078	136	1,234	590.1
Week 11	Jul 11 - 13		216	586	186	988	626.3
Week 12	Jul 18 - 20		158	569	136	863	646.0
Week 13	Jul 25 - 27		456	624	84	1,164	685.8
Week 14	Aug 1 - 3		168	640	266	1,074	713.6
Week 15	Aug 7 - 10	70	267	438	113	888	725.2
Week 16	Aug 14 - 17	62	281	621	146	1,110	749.3
Week 17	Aug 21 - 24	72	239	624	133	1,068	768.0
Week 18	Aug 28 - 31	37	299	357	211	904	775.6
Week 19	Aug 4 - 7	13	262	161	103	539	763.1
Week 20	Aug 11 - 14	19	89	172	121	401	745.0
Week 21	Aug 18 - 21	49	168	255	91	563	736.3
Week 22	Aug 25 - 28	11	176	368	159	714	735.3
Week 23	Oct 2 - 5	13	126	107	129	375	719.7
Week 24	Oct 9 - 12	23	115	220	155	513	711.0
Week 25	Oct 16 - 19	22	138	207	78	445	700.4
Week 26	Oct 23 - 26	12	127	297	54	490	692.3
Week 27	Oct 30 - Nov 2	27	569	81	9	686	692.1
<b>Total</b>		<b>430</b>	<b>4,507</b>	<b>10,375</b>	<b>3,374</b>	<b>18,686</b>	



### **Business and Ridership Feedback**

As part of the shuttle marketing effort, the City's marketing consultant, Darci Creative, LLC, reached out directly to 55 businesses in the downtown. A list of the businesses contacted through this effort is attached to this memorandum. The Chamber of Commerce was also consulted during this process and assisted with marketing the shuttle service to visitors and Chamber members.

The addition of service on Thursdays and extension of the Friday hours were a direct response to feedback received from the downtown businesses.

City staff has received feedback about the service via e-mail as well as the Twitter feed. Overall, the feedback staff has received from both ridership and downtown businesses has been positive. In addition, we are currently undertaking a survey of riders to learn more about how often they are using the service and why.

### **Recommendation for Extension of Service**

In late October, the Connect Community Church requested that the City re-negotiate the terms of the parking lot usage and maintenance agreement to include financial compensation. Per the terms of the existing agreement, the City conducted pavement repair and crack sealing of the lot in 2009 in exchange for public use of 93 spaces until 2019. The Church has agreed to a temporary bridge agreement for 3-months that would enable to City to evaluate an appropriate fee for ongoing public use of the lot. The City has agreed to pay the Church \$9,000 for this 3-month period.

City staff has recommended that the pilot downtown shuttle service be extended to the end of January 2015. The terms of the extension are as follows:

- 1) Provide service Friday and Saturday 12 to 1:30am and Sunday 12 to 10pm (\$2,467.26 per week)
- 2) Eliminate Thursday service due to low existing demand
- 3) Budget \$1,500 for additional marketing during the holiday shopping season
- 4) Pay Connect Community Church for parking lot use (\$3,000 per month)
- 5) Provide night-time security details for CCC lot (\$700 per week)

The total cost for this extension of service is \$51,674.

### **Projected Annual Costs for Downtown Parking Shuttle**

The attached memorandum, dated October 2, 2014, provides a summary of projected annual operating costs if the City continued the service next year. As explained in the memorandum, the projected annual cost for *shuttle operation alone* is \$168,433 for 4 days of service and \$281,867 for 7 days of service.

Marketing, security, and lease costs were not included in these projections. If the City operates the shuttle in 2015, staff recommends considering an annual budget of \$12,000 for marketing and \$40,000 to \$70,000 for night-time security services at the CCC lot (dependent on how many evenings a week the shuttle is running). In addition, pending negotiation of a new use agreement with the Connect Community Church, starting in February 2015 there will be an additional annual cost to the City for ongoing public use of the lot.

## Businesses Contacted Directly for Marketing / Outreach Effort

5 Thai Bistro  
Alex and Ani  
Blue Mermaid Island Grill  
Book & Bar  
Bull moose  
Cava  
Ceres Bakery  
Club Boutique/City Shoes  
Cure  
Diversions games  
Dos Amigos  
Flatbread Pizza  
G. Willikers!  
Ganesh Imports  
Healthfood Store  
Hilton Garden Inn  
IOS  
Izzy's Frozen Yogurt  
Joes NY Pizza  
Kilwins  
Library Restaurant  
Life is Good  
Massimo  
Newburyport Savings Bank  
Orange Leaf  
People's United Bank  
Piscataqua Savings Bank  
Poco's Bow Street Cantina

Popovers on the Square  
Portsmouth Flatbread  
Portsmouth Gas Light Co.  
Portsmouth Provisions  
Pretty Little Things  
Provident Bank  
Ri Ra Irish Pub  
River House  
Runners Alley  
Samba Salon  
Serendipity  
Soupery  
State Street Saloon  
Stonewall Kitchen  
Summer Sessions  
Surf Portsmouth/ Surf Sushi Bar  
Td bank  
Ten thousand Villages  
The Dolphin Striker  
The Fresh Press  
The Juicery  
The Loft  
The Music Hall  
The Rosa  
The Seacoast Rep  
The Wellington Room  
Thirsty Moose



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MEMORANDUM

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**TO:** JOHN P. BOHENKO, CITY MANAGER

**FROM:** JULIET WALKER, TRANSPORTATION PLANNER *JW*

**SUBJECT:** ESTIMATED ANNUALIZED OPERATING COSTS FOR DOWNTOWN PARKING SHUTTLE

**DATE:** 10/2/2014

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The Downtown Parking Shuttle currently provides free services from the CCC Lot on Market St to the Hanover Parking Garage Thursday through Sunday for a total weekly cost of \$2,839.11.

Currently, the shuttle runs 9.5 hours on Thursday (4pm to 1:30am), 13.5 hours on Friday and Saturday (12pm to 1:30am), and 10 hours on Sunday (12pm to 10pm) for a total of 46.5 hours per week.

The hourly rate for the existing services (provided by TransAction Corporate Shuttles) varies depending on whether the total daily hours and associated labor requirements necessitate that there be two shifts of drivers. The average hourly rate is \$66.10.

The following table summarizes daily and annual projected costs for operation of the shuttle seven days a week. *The possible hours of service are included as an example only, actual hours of service are flexible and do not impact projected hourly rate or daily cost.*

**Projected Weekly and Annual Operating Costs (Monday-Sunday service)**

	Total Service Hours	Daily Cost	Possible Hours of Service
Monday	11	727.14	12pm to 11pm
Tuesday	11	727.14	12pm to 11pm
Wednesday	11	727.14	12pm to 11pm
Thursday	11	727.14	12pm to 11pm
Friday	13.5	892.40	12pm to 1:30am
Saturday	13.5	892.40	12pm to 1:30am
Sunday	11	727.14	12pm to 11pm
<b>Weekly Total</b>	<b>82</b>	<b>\$5,420.53</b>	
<b>Annual Total</b>	<b>4,264</b>	<b>\$281,867.46</b>	

**Projected Weekly and Annual Operating Costs (Thursday-Sunday service only)**

	Total Service Hours	Daily Cost
Thursday	11	\$727.14
Friday	13.5	\$892.40
Saturday	13.5	\$892.40
Sunday	11	\$727.14
<b>Weekly Total</b>	<b>49</b>	<b>\$3,239.10</b>
<b>Annual Total</b>	<b>2,548</b>	<b>\$168,432.99</b>

**City Manager's Informational Items:**

6. **Final Bicycle and Pedestrian Plan.** Due to the voluminous size of the document, the Final Bicycle and Pedestrian Plan may be viewed on the City's Website at:

<http://www.planportsmouth.com/bike-pedestrian-masterplan2014.html>.

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**MEMORANDUM**

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**TO:** JOHN P. BOHENKO, CITY MANAGER

**FROM:** JULIET WALKER, TRANSPORTATION PLANNER *JW*

**SUBJECT:** ANNUAL UPDATE ON COMPLETE STREETS POLICY IMPLEMENTATION

**DATE:** 11/7/2014

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In October 2013, the City Council adopted a Complete Streets Policy, which commits the City to “approach every transportation improvement and project phase as an opportunity to create safer, more accessible streets for all users,” and to use the best and latest design standards available. A copy of the policy can be viewed online at [www.planportsmouth.com/completestreet\\_policy.pdf](http://www.planportsmouth.com/completestreet_policy.pdf).

The Policy requires that the Planning Department provide this annual update to the City Council on the City’s progress towards implementation of the Complete Streets Policy. Included below is a list of each of the implementation items identified in the Policy and related initiatives that have been adopted or implemented by the City over the past year. Following this list, is an overview of current and scheduled City projects that demonstrate implementation of Complete Streets principles.

**POLICY IMPLEMENTATION STEPS**

<b>Policy Implementation Step</b>	<b>Progress To Date</b>
The Planning Department, Department of Public Works, and other relevant departments, agencies or committees shall incorporate Complete Streets principles into the City’s Master Plan and other appropriate plans, manuals, checklists, decision trees, rules, regulations, and programs as appropriate.	<ul style="list-style-type: none"><li>• In August, the Planning Board adopted the Bicycle and Pedestrian Plan, which incorporates Complete Streets principles and lays out improvements to develop a complete bicycle and pedestrian network throughout the City.</li><li>• All Request for Proposals and Bids released by the City for road construction and improvement projects now include a statement regarding Complete Streets principles.</li></ul>

<b>Policy Implementation Step</b>	<b>Progress To Date</b>
<p>When available, the City shall encourage staff professional development and training on non-motorized transportation issues through attending conferences, classes, seminars, and workshops.</p>	<ul style="list-style-type: none"> <li>• The City was selected to receive free technical assistance from Smart Growth America to conduct a Complete Streets training workshop in collaboration with the National Complete Streets. The workshop, which occurred on June 13, 2014 included City staff from a number of City departments, members of the Parking Traffic &amp; Safety Committee, land use board members, as well as NHDOT and Rockingham Planning Commission staff who are involved in the implementation of the Complete Streets policy in Portsmouth. National experts Paul Zykofsky and Roger Henderson facilitated this interactive workshop.</li> <li>• Prior to the workshop, on the evening of June 12, Paul Zykofsky led a public presentation and discussion about Complete Streets.</li> <li>• Planning Department staff prepared a list of action items identified by workshop participants.</li> <li>• The City's Transportation Planner attended the Pro Walk Pro Bike Pro Place National Conference in Pittsburg, PA in September.</li> </ul>
<p>City staff shall identify current and potential future sources of funding for street improvements and recommend improvements to the project selection criteria to support Complete Streets projects.</p>	<ul style="list-style-type: none"> <li>• As the Capital Improvement Plan process progresses, transportation projects will be evaluated to ensure compatibility with the Complete Streets Policy and the recently adopted Bicycle and Pedestrian Plan.</li> <li>• The City recently submitted two applications for the NHDOT Transportation Alternatives Program funding, which funds transportation improvement projects that support multi-modal connections.</li> </ul>



<b>Policy Implementation Step</b>	<b>Progress To Date</b>
<p>The City shall promote project coordination among City departments and agencies with an interest in the activities that occur within the public right-of-way in order to better use fiscal resources.</p>	<ul style="list-style-type: none"> <li>• The City's Transportation staff continues to meet on a regular basis. The Transportation Planner coordinates the agenda and regular participants include the Planning Director, Public Works Director, and Parking Division staff. Where relevant, other City staff who are involved in specific transportation projects participate, as well.</li> <li>• City staff from Public Works, Planning, Police, and Fire coordinate on related transportation projects and activities through the monthly meetings of the Parking and Traffic Safety Committee and Site Plan Review Technical Advisory Committee.</li> <li>• The City's Planning staff also coordinates with other agencies by representing the City on the Rockingham Planning Commission Technical Advisory Committee (which provides guidance on transportation policy and funding), the COAST Board of Directors, and the NHDOT Bicycle and Pedestrian Technical Advisory Committee.</li> </ul>
<p>The Planning Department and Department of Public Works shall review current design standards, including subdivision and site plan review regulations, to ensure that they reflect the best available design guidelines, and effectively implement Complete Streets.</p>	<ul style="list-style-type: none"> <li>• The City's recently adopted Bicycle Pedestrian Plan includes a Facility Toolkit that provides design guidance for bicycle and pedestrian facilities (bike lanes, sidewalks, signals, etc).</li> <li>• In the absence of city-specific street design standards, City staff reference the NACTO Urban Street Design Guide and the Urban Bikeway Design Guide, which are endorsed by the Federal Highway Administration as well as cities and state DOTs around the country.</li> </ul>

## COMPLETE STREETS PROJECTS

### ***Bicycle and Pedestrian Planning***

A separate memorandum provided by the City's Planning Director provides an overview of the Bicycle and Pedestrian Plan.

Planning staff is working toward designation as a nationally recognized Bicycle Friendly Community (BFC) and Walking Friendly Community (WFC). About 260 communities have achieved BFC designation and about 40 communities have achieved WFC designation. There is an application process and a set of criteria that must be satisfied. Planning staff is working toward achieving BFC and WFC designations by the end of 2015.

### ***Wayfinding System***

Last year the City began planning and design of a city-wide public wayfinding system. The goal is to help visitors navigate efficiently to major destinations throughout the City. The system is designed to assist pedestrians, bicyclists and transit users, as well as motorists.

The first step was to develop a Wayfinding Plan that identified appropriate wayfinding types, messaging, locations, and a uniform and recognizable design menu that is unique to the City. The final Plan, completed in April 2014, consists of two parts – a Wayfinding Analysis and a Design Menu. City staff has begun a phased implementation of the Wayfinding Plan. The signs and improvements included in the first phase are for the public parking locations in the downtown core. This includes approximately 25 trailblazing signs, 14 parking lot signs, updated signs for the Parking Garage exterior, and an electronic variable message sign for Market Street. The signs are currently in fabrication and installation is expected to begin in mid-November.

The next phase of implementation will focus on vehicular and pedestrian signs to destinations as well as web-based tools. City staff anticipate beginning the next phase of implementation beginning early next spring.

### ***Infrastructure Projects***

Summarized below are current or pending infrastructure projects that demonstrate the principles of Complete Streets supported by the City's Complete Street Policy.

The Pease Bicycle Path which parallels Grafton Road and Route 133 opened this fall, and provides a critical safe off-road connection for bicycles and pedestrians accessing the Pease International Tradeport from the south and west.

Sagamore Avenue is currently under construction with improvements that will provide for easier vehicular, pedestrian and bicycle use going back and forth from Portsmouth and points south. The redesign includes new concrete sidewalks, bike lanes, and an upgraded intersection with Little Harbor Road. The water, sewer, and drainage systems will be upgraded as well as a part of this project.

The City has received a Safe Routes to School grant from NHDOT to construct an on-road bicycle route along Middle Street / Lafayette Road between the High School and Downtown. The design

process will consider all possible options for this route within the existing right-of-way and determine the most effective way to create a dedicated on-road bike route that is safe and usable for bicyclists of all ages. This project will also evaluate pedestrian crossings at the intersections along this corridor to consider where improvements might be necessary to improve safety and accessibility. A public information-gathering meeting for this project is scheduled for November 19<sup>th</sup>.

Building off a conceptual plan and study completed in 2008, the next phase of the Market Street Gateway Project will result in a final design and preliminary construction plan that will: cohesively connect and enhance this critical transportation corridor; accommodate all travelers in compliance with the City's recently adopted Complete Streets Policy, Walk Friendly Communities Policy, and Bike Friendly Communities Policy; and create an attractive and inviting gateway to our City's waterfront and historic downtown. Since last fall, the City's transportation staff has been working with the consulting team of RSG and Richardson & Associates on this project, which included a public meeting last December and public input via an online interactive map of the project area. The final design plans are expected to be complete by this December and a phased construction of the streetscape and roadway improvements, to be coordinated with the Sarah Mildred Long Bridge replacement, is expected to begin in April 2015.

The Islington Street project will implement the streetscape improvements identified in the 2009 Islington Street Improvement Action Plan with the goal of enhancing the comfort, appeal, and safety of this approximately 1-mile corridor stretching between the bridge over the Route 1 Bypass and Maplewood Ave. This project will include enhancements to the streetscape and public realm, traffic calming measures, and sidewalk and crosswalk improvements. A request for proposals for design services will be issued in November.

Design and engineering of the Peverly Hill Rd improvements is expected to begin next spring, pending authorization from NHDOT. This project received some state and federal funding and will include addition of sidewalks as well as bike lanes along the entire corridor.

Improvements for Maplewood Avenue will be implemented in two phases – one focusing on the section between the Route 1 By-Pass and Woodbury Ave and the other focusing on the approximately ¼ mile corridor between Congress Street and Vaughan Street. North of the By-Pass, the improvements will be coordinated with a water line replacement project, and the goals will be to reduce travel speeds, improve pedestrian and bicycle safety, and reduce through truck travel. The section between Congress and Vaughan will focus on improvements to enhance the comfort, appeal, and safety for all travelers and may include sidewalk widening, addition of bike lanes, crosswalk improvements, travel lane reductions, and other traffic calming measures as well as related underground utility work. The City has applied for funding from the NHDOT Transportation Alternatives Program for this project and the City has a legal commitment from Portwalk HI, LLC to fund a fair share of the sidewalk improvements.

# City of Portsmouth

*Department of Public Works*



## MEMORANDUM

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**TO:** John Bohenko, City Manager

**FROM:** Peter Rice, Public Works Director

**DATE:** October 29, 2014

**SUBJECT:** Red Pine Scale

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The State of New Hampshire Division of Forests and Lands has identified a new exotic insect called Red Pine Scale (*Matsucoccus Resinosae*). This insect infests red pine trees and causes a rapid decline in the trees' health. Attached please find a brief fact sheet prepared by the Division of Forests and Lands. At this time the State indicates there is not an effective treatment for the Red Pine Scale. State aid is limited to technical assistance.

The Public Works Department, using its geographic information system (GIS) has reviewed our street tree data base to identify red pine tree locations around the City that are within the City's right of way. This data base is for City trees only and would not be identify Red Pines located on private property. Residents who have questions about their trees may contact the DPW at 427-1530 for assistance. Attached is a figure showing the Red Pine areas identified in the City along with figures showing a zoomed in view of each location. These include 259 Grant Avenue, the lower parking lot at City Hall adjacent to South Street, the intersection of Portsmouth Boulevard and Commerce Way, and a stand of red pine approximately a third of an acre on Peirce Island in close proximity to the outdoor pool.

In addition, Staff has identified a stand of red pine at the Pease International Trade Port on property the City maintains. This stand is located on Grafton Drive on the property that is the site of the Harrison Water Well. Red pine trees occupied approximately one acre of this site and abut the Panaway Neighborhood.

The Department of Public Work's staff is working with the City's Tree and Greenery Committee, and the State's Division of Forests and Lands to address the infestation and its impact on City trees. City trees will be monitored for infestation of red pine scale. If the trees die they will be removed and new trees replanted funding allows.





## PEST ALERT

State of New Hampshire  
Department of Resources and Economic Development  
Division of Forests and Lands  
Forest Protection Bureau—Forest Health Section

# Red Pine Scale

## *Matsucoccus resinosa*

**Host:** Red Pine (*Pinus resinosa*) in the US

**Distribution:** Throughout southern New England, New York, New Jersey and eastern Pennsylvania. First reported in Connecticut in 1946 and New Hampshire in 2012. Most likely it was introduced to the US on exotic pines planted at the NY World's Fair in 1939.

**Identifying symptoms:** Foliage color changes slowly from light green to yellow to red appearing first on individual branches on the lower part of the crown then gradually over the entire crown. Masses of cottony white filaments become visible on the branches when infestations are heavy. Weekend trees may also be attacked by bark beetles causing rapid tree mortality.

**Life History:** The red pine scale has two generations per year. Adult females are brownish red and wingless. Preadult males resemble females but are smaller and soon after emergence become true winged adults inside a waxy cocoon. Although adult males are winged they do not fly. The summer generation lay their eggs in early spring and these mature in early August to lay the Fall generation. First stage larvae resemble adult females but are smaller and transform into an intermediate legless stage. The fall generation overwinters as first stage crawlers under bark scales and become adults the following Spring.



Intermediate stage nymphs

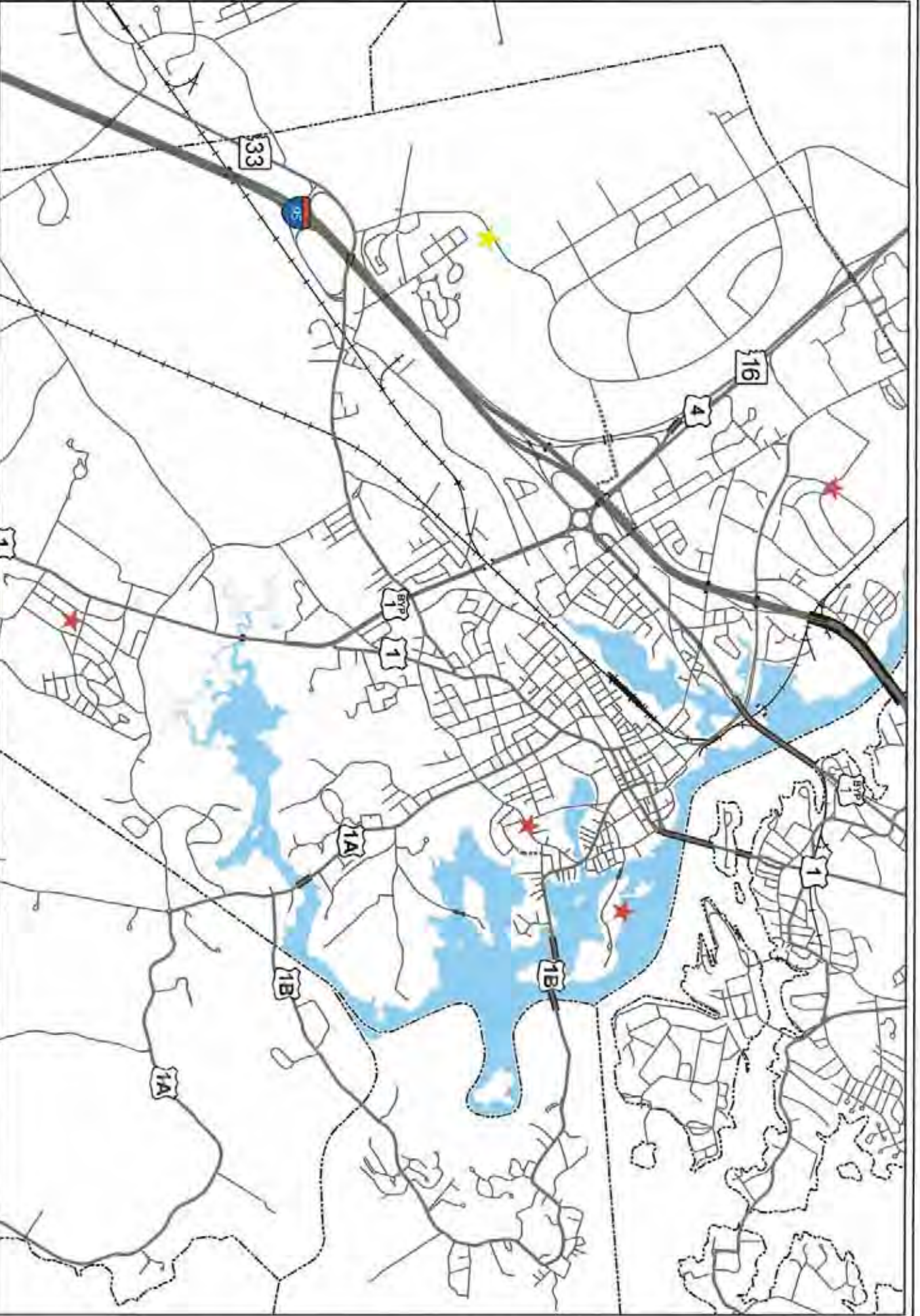


Symptomatic pines at Bear Brook State Park


**Control:** Several species of native predators attack red pine scale but are not abundant enough for effective control. Trials in Connecticut of introduced predators have also been ineffective. There are no effective chemical controls for plantations. Maintaining tree vigor may aid in slowing tree mortality and attack by bark beetles but avoid fertilizing as this only favors the scale. Harvesting during winter months will prevent spread of the scale.


**Other Notable Pests:** There are two other known piercing and sucking insects on red pine in the northeast. Both are adelgids and one is exotic and believed to have arrived with the red pine scale. *Pineus coloradensis* is native and feeds on the needles. *Pineus boernerii* is exotic and feeds on the needles as well as the branches and may be confused with the red pine scale. Damage has not been noted by either of these insects.





The City of Portland provides these Geographic Information System maps and data as a public information service. Every reasonable effort has been made to assure the accuracy of these maps and associated data. The maps and data being provided herein are intended for informational purposes only. No guarantee is made as to the accuracy of the maps and data and they should not be relied upon for any purpose other than general information.

 Red Pine  
 Red Pine (PDA)

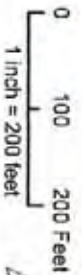
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 1 Inch = 3,000 Feet  






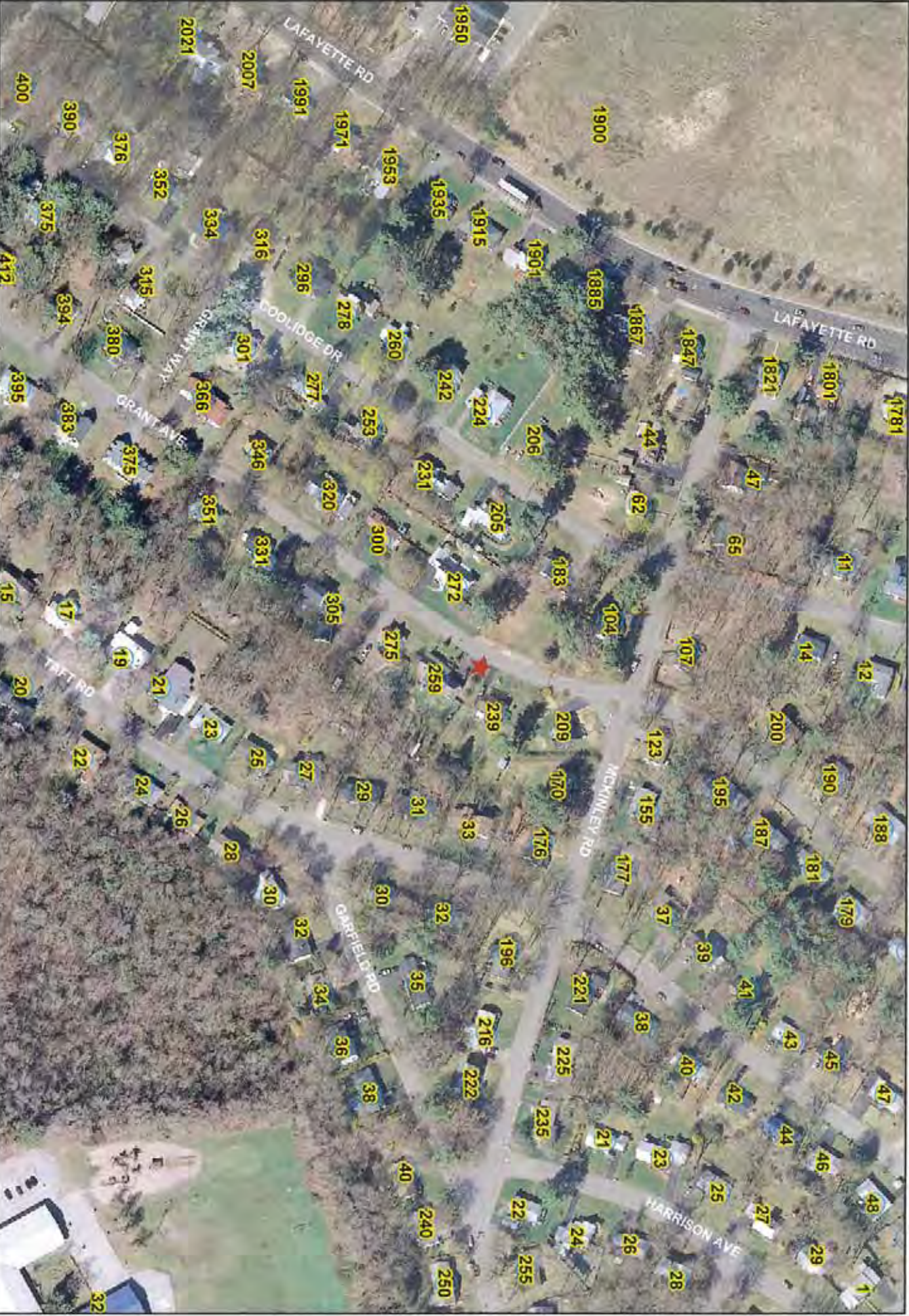
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★ Red Pine Stand  
 Red Pine Stand



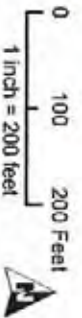
Map prepared by Portsmouth Department of Public Works  
 Printed: Oct. 22, 2014





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★ Red Pine Stand  
 Red Pine Stand

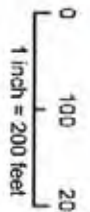






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- ★ Red Pine Stand
- Red Pine Stand

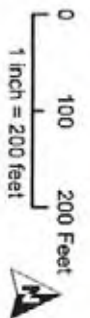






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★ Red Pine Stand  
Red Pine Stand





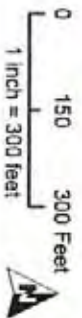
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 Red Pine Stand  
 Red Pine Stand






**CITY OF PORTSMOUTH**

**LEGAL DEPARTMENT**

**MEMORANDUM**

DATE: November 6, 2014  
TO: JOHN P. BOHENKO, CITY MANAGER  
FROM: ROBERT P. SULLIVAN, CITY ATTORNEY  
RE: AIRBNB AND SIMILAR ONLINE PROPERTY RENTAL ARRANGEMENTS



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This will advise that in response to citizens' complaints the City has begun to issue Cease and Desist Orders against property owners who utilize Air BNB and similar online sites to arrange for short term rentals of residential properties. One perceived problem is that such rentals disrupt residential neighborhoods because the properties which are rented on a short term basis are used for non-residential type activities such as wedding parties, large gatherings and the like. Therefore, residential neighborhoods are affected by parking issues, excess noise and late night activities.

The first cease and desist order was issued on October 24, 2014 and was addressed to a property owner on Pleasant Point. It is anticipated that in the near future several other such cease and desist orders will be issued for different locations in the City. The theory under which each order is issued is that the use of single family residential properties for short-term rentals is inconsistent with single family residential zoning.

The City's anticipated remedy in the event that the any Cease and Desist Order is violated would be to seek injunctive relief from the Superior Court.

cc: Rick Taintor, Planning Director





Board of Police Commissioners  
of the  
City of Portsmouth, N.H.

29 October, 2014

The scope of the investigation, as the commission designed, was created to encompass a broad latitude for the investigatory team to go wherever the facts and evidence may lead them.

Chairman Golumb will communicate with Judge Roberts to reiterate the sentence within the original charges to the investigatory panel, which reads:

“ items of concern include but not limited to...”

A handwritten signature in black ink, appearing to read 'John F. Golumb', is written over a horizontal line.

John F. Golumb, Chair

Portsmouth Police Commission



## GOOGLE DESIGNATES PORTSMOUTH AS NEW HAMPSHIRE'S 2014 eCITY

FOR IMMEDIATE RELEASE

CONTACT: Emma Ogiemwany

October 16, 2014

[press@google.com](mailto:press@google.com)

Mountain View, CA: Google has named Portsmouth as the 2014 eCity for the State of New Hampshire. The eCity Awards recognize the strongest online business communities in all fifty states. The businesses in these communities are embracing the web to find new customers, connect with existing clients and fuel their local economies. Portsmouth joins the ranks of America's leading cities in the digital economy.

"Portsmouth serves as a prime example of how innovation and growth in e-commerce can successfully contribute to bolstering economic progress and competitiveness," said Emma Ogiemwanye, a representative from Google. "Google is proud to recognize Portsmouth's accomplishment, and the role it plays in creating New Hampshire jobs."

"The City of Portsmouth is proud to receive the Google eCity Award for New Hampshire," said City Manager John P. Bohenko. "Portsmouth has worked hard to be attractive to innovative technology companies. This sector of the economy has greatly contributed to the City's economic prosperity and vitality and has been a draw for knowledge-based companies."

### BACKGROUND:

Ninety-seven percent of Internet users look online for local products and services. Businesses need to be where their customers are and in 2014, that is online. The impact of being online is significant—businesses that are online grow twice as fast and are twice as likely to create jobs as their offline counterparts.

Google and independent research firm, Ipsos, analyzed the online strength of local small businesses across all fifty states. They weighed a variety of factors to determine the leading cities and towns across the US, including the likelihood of small businesses to have a website, use a blog, promote themselves on a social network, sell goods directly from their webpages and whether they had a mobile-friendly website. The winning cities exhibited strong engagement and potential for growth within the digital economy. This is the second year Google has announced a list of eCities for the United States. For more information visit [www.google.com/ecities](http://www.google.com/ecities).

MEDIA CONTACTS: Emma Ogiemwanye [press@google.com](mailto:press@google.com) --- Chris Maloney [cmaloney@blackrockgrp.com](mailto:cmaloney@blackrockgrp.com)



October 10, 2014

Dear Mayor Lister,

It gives me great pleasure to inform you that the City of Portsmouth has been named the 2014 eCity of New Hampshire. The eCity Award recognizes the strongest online business community in each state—the digital capitals of America.

The Internet plays a critical role in growing our local businesses and our local economies. With 97% of American Internet users looking online for local goods and services, businesses that make use of the web are growing twice as fast and creating twice as many jobs. Given the importance of the web in driving growth, Google partnered with research firm Ipsos to identify the strongest online communities in each state - cities whose businesses are embracing the power of the web to find new customers, connect with existing clients, and fuel their local economies.

Portsmouth, as the 2014 eCity Award winner for New Hampshire, joins the ranks of America's leading cities in the digital economy.

For more information on the eCity initiative visit our website at [www.google.com/ecities](http://www.google.com/ecities). If you have any questions, please don't hesitate to reach out to us at [ecities@google.com](mailto:ecities@google.com).

Congratulations, Portsmouth!

Sincerely,

Susan Molinari  
Vice President of Public Policy and Government Relations  
Google

*Google is committed to the highest standards of ethical conduct and does not intend to offer an inappropriate gift or create even the appearance of impropriety. By accepting these promotional materials, your municipality certifies that it is able to do so in compliance with applicable laws. Google will accept payment for the promotional materials to facilitate compliance with any applicable government ethics requirements. Please contact [eventcompliance@google.com](mailto:eventcompliance@google.com) with any questions or concerns.*





# CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

## APPOINTMENT APPLICATION

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



Committee: Economic Dev Commission

Name: EVANOT EATON Telephone: 430-3508

Could you be contacted at work?  YES  NO - If so, telephone# \_\_\_\_\_

Street address: 155 Portsmouth Rd.

Mailing address (if different): Same

Email address (for clerk's office communication): EVANOT.EATON@TD.COM

How long have you been a resident of Portsmouth? 29 years

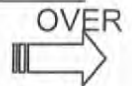
Occupational background:

VP Comm Lending - TD Bank

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

Reasons for wishing to continue serving: \_\_\_\_\_

Strong Economy Supports ~~the~~ Lower Tax Rates





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

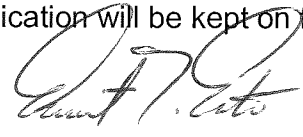
Prescott Park  
Romney Club  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

- 1) JOHN BOSEN 427-5500  
Name, address, telephone number
- 2) MIKE MCKENNA 436-1344  
Name, address, telephone number

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

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

Signature:  Date: 11/7/14

CITY CLERK INFORMATION ONLY:

New Term Expiration Date: 10-1-2018  
Annual Number of Meetings: 11 Number of Meetings Absent: 0  
2013  
Date of Original Appointment: 7/16/2001

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

# FIRE DEPARTMENT STUDY COMMITTEE RECOMMENDATION TO THE CITY COUNCIL

Monday, September 22, 2014

## **Establishment and Membership:**

In July 2013 the City Council established the Fire Study Committee. The Committee held seven meetings over the last year and was comprised of the following individuals: Councilor Brad Lown, Chair, Councilor M. Christine Dwyer, Norm Olsen, Peter Somssich, Eric Gregg, Fire Commissioner Paul T. Wentworth, and Fire Chief Steve Achilles (ex-officio). Adam Cannon, Special Projects Manager and Tracy Freeman, Executive Assistant provided staff support to the Committee. Fire Commissioner Richard Gamester replaced Paul T. Wentworth as the Fire Commission representative following his departure.

## **Committee Charge:**

The purpose of the Committee is to choose an independent consultant to perform an independent study of the Portsmouth Fire Department for the purpose of recommending to the City Council and Fire Commission changes to the practices and organizational structure of the Department in order to reduce costs and/or improve service without materially affecting public safety.

## **Background:**

The Committee received permission of the City Council in January to authorize the City Manager to work with the Fire Department to put out a RFQ to solicit firms to conduct an independent study of the Fire Department. The Committee received eleven responses from firms and of those firms, five were selected to receive a RFP.

These five firms included (in order of cost proposed):

- Public Safety Strategies Group (PSSG) - \$38,522
- Matrix Consulting Group - \$39,900
- Public Safety Solutions, Inc. - \$48,850
- MGT of America, Inc. - \$49,573
- MMA Consulting Group, Inc. – No Number

The Committee considered all five submissions in detail and ranked each of the firms based on their qualifications, experience, personnel, innovation potential, thoughtfulness in crafting actionable recommendations, total bid cost, number of staff hours for the audit and other factors.

## **Recommendation:**

Of the firms, PSSG received the highest ranking and the Committee is unanimously recommending that PSSG be awarded the Operational Audit in accordance with their proposal for the following reasons:

- Prior quality work and familiarity with the City
- Number of staff hours dedicated to the audit
- Staff qualifications
- Focus placed on the Committee's charge and goals

Should the City Council want to move forward with this recommendation, a motion would need to be made to move to direct the City Manager to work with the Fire Department to enter contract negotiations with Public Safety Strategies Group and that the funding come from contingency.

**ACTION SHEET**  
**PARKING AND TRAFFIC SAFETY COMMITTEE**

TO: JOHN P. BOHENKO, CITY MANAGER

FROM: CYNTHIA HUYGHUE-FANCY, SECRETARY TO THE COMMITTEE

RE: ACTIONS TAKEN BY THE PORTSMOUTH PARKING AND TRAFFIC SAFETY COMMITTEE MEETING HELD ON THURSDAY SEPTEMBER 11, 2014, AT EILEEN DONDERO FOLEY COUNCIL CHAMBERS, MUNICIPAL COMPLEX, ONE JUNKINS AVENUE, PORTSMOUTH, NEW HAMPSHIRE.

PRESENT: COUNCILOR LOWN, DEPUTY CITY MANAGER ALLEN, DEPUTY FIRE CHIEF HEINZ, POLICE CAPTAIN WARCHOL, PUBLIC WORKS DIRECTOR RICE, AND MEMBERS: CYPHER, GRAY, WHITEHOUSE, AND ALTERNATE MEMBER: MCELWAIN.

ABSENT: MEMBER: SHARI DONNERMEYER

- 
- [1] **Acceptance of Minutes – August 14, 2014** – No minutes available.
- [2] **Acceptance of Financial Report - August 2014 - Voted** to accept the August 2014 Financial Report.
- [3] **Action Item: Business request for enhanced crosswalk warnings on Borthwick Ave** – **Voted** to have Public Works staff cut back impeding vegetation, and speak with Liberty Mutual regarding the cost to put in beacons or rumble strips at cross walk areas. Reach out to Liberty Mutual and encourage them to remind their employees to use caution when entering the cross walk.
- [4] **Action Item: Citizen request for “No Parking” on Wentworth Street** – **Voted** to have Public Works staff report back after looking into the intent of the site plan approved by the Planning Department as it relates to the location for loading and unloading of residents at the Wentworth Street entrance.
- [5] **Action Item: Citizen request for crosswalk warning signs on New Castle Avenue** – **Voted** to consider placing Weebles (also known as short poles) in the middle of the road to slow speeding down, as well as report back options for adding flashing lights at cross walk.
- [6] **Action Item: Bike Corrals for Market Square** – **Voted** to review locating a bike corral in a Market Square parking space and have Public Works report back options for appropriate bike corral location. *Deputy City Manager Allen, Councilor Lown, Deputy Chief Heinz, Captain Warchol, Director DPW Rice, and Members Gray and McElwain voted in favor. Members Cypher and Whitehouse voted opposed.*
- [7] **Action Item: Request for Driveway Permit – 274 New Castle Avenue** – The committee saw no issues and **voted** to have Public Works determine if a driveway permit should be

approved based on plans. However, it was noted that final approval was based on Board of Adjustment granting a waiver for a second driveway on the lot.

- [8] **Action Item: Request for Driveway Permit – 5 Echo Drive** - The committee saw no issues and **voted** to have Public Works determine if a driveway permit should be approved based on plans. However, it was noted that final approval was based on Board of Adjustment granting a waiver for a second driveway on the lot.
- [9] **Discussion Item: Franklin Drive and Woodbury intersection update** - DPW will determine what is needed based upon Master Plan and will assess the best option to address the concern. DPW will proceed with the study and report back findings, as well as meet with School Department to determine if there are any short term actions available to improve the situation.
- [10] **Discussion Item: Scooter Parking Regulation** - No action required at this time.

**Adjournment** – At 9:25 AM, **Voted** to adjourn.

Respectfully submitted by:

Cynthia Huyghue-Fancy  
Secretary to the Committee



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

8:00 A.M. – Thursday, September 11, 2014  
City Hall – Eileen Dondero Foley Council Chambers

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I. CALL TO ORDER:

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

II. ROLL CALL:

**Members Present:**

Councilor Brad Lown  
David Allen, Deputy City Manager (*For City Manager*)  
James Heinz, Deputy Fire Chief  
Captain Frank Warchol, Police  
Peter Rice, Public Works Director  
Ronald Cypher, Member  
Ted Gray, Member  
Harold Whitehouse, Member  
Mary Lou McElwain, Alternate\*  
*\*(Alternate votes in place of Members when absent)*

**Members Absent:**

Shari Donnermeyer

**Staff Advisors Present:**

Mark Nelson, Parking Division Director  
Andrew Purgiel, Deputy Finance Director

III. ACCEPTANCE OF THE MINUTES:

**No minutes available**

IV. FINANCIAL REPORT:

**Moved to accept the August 2014 Financial Report and place on file.  
Motion passed.**

V. NEW BUSINESS:

A. Action Item: Business request for enhanced crosswalk warnings on Borthwick Ave -  
**On a unanimous roll call 9-0, voted to have Public Works staff cut back impeding vegetation, and speak with Liberty Mutual regarding the cost to put in beacons or rumble strips at cross walk areas. Reach out to Liberty Mutual and encourage them to remind their employees to use caution when entering the cross walk.**

B. Action Item: Citizen request for “No Parking” on Wentworth Street –  
Davia Scherer lives at 69 Wentworth Street and expressed her concern about the Wentworth Home using the side entrance on Wentworth Street as its pick up and drop off zone. The Home should be using the main entrance located on Melcher Street as their loading zone. **On a unanimous roll call 9-0, voted to have Public Works staff report back after looking**

into the intent of the approved site plan presented to the Planning Department as it relates to the location for loading and unloading of residents from the Wentworth Street entrance.

C. Action Item: Citizen request for crosswalk warning signs on New Castle Avenue – Tracy Kozak lives at 28 Walden Street, she spoke about the need for additional signage or a blinking light to be placed before you approach the blind curb on New Castle Avenue to alert drivers to be cautious of pedestrians at the cross walk.

**On a unanimous roll call 9-0, voted to consider placing weebles (also known as short poles) in the middle of the road to slow down drivers, as well as report back options for using flashing lights.**

D. Action Item: Bike Corrals for Market Square - **On a roll call 7-2, voted to review locating a bike corral in a Market Square parking space and have Public Works report back options for the appropriate bike corral location.** Deputy City Manager Allen, Councilor Lown, Deputy Chief Heinz, Captain Warchol, Director DPW Rice, and Members Gray and McElwain voted in favor. Members Cypher and Whitehouse voted opposed.

E. Action Item: Request for Driveway Permit – 274 New Castle Avenue – John Chagnon an Engineer from Ambit Engineering, Inc. presented the details of this project and the objective of the homeowner.

**On a unanimous roll call 9-0, the committee saw no issues and voted to have Public Works determine if driveway permit should be approved based on plans.**

F. Action Item: Request for Driveway Permit – 5 Echo Drive - **On a unanimous roll call 9-0, the committee saw no issues and voted have Public Works determine if a driveway permit should be approved based on plans.**

## VI. OLD BUSINESS:

### A. Discussion Item: Franklin Drive and Woodbury intersection update -

DPW will determine what is needed based upon Master Plan and will assess the best option to address the concern. DPW will proceed with study and report back findings, as well as meet with School Department to discuss if there are any short term actions available to improve the situation.

### B. Discussion Item: Scooter Parking Regulation -

No action required at this time.

## VII. PUBLIC COMMENT

## VIII. INFORMATIONAL: **None**

## IX. ADJOURNMENT - At 9:25 a.m., voted to adjourn.

ORDINANCE #  
THE CITY OF PORTSMOUTH ORDAINS

That Chapter 1, Article IX, Section 1.901: - CONFLICT OF INTEREST of the ADMINISTRATIVE CODE of the Ordinances of the City of Portsmouth be amended to read as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

ARTICLE IX CONFLICT OF INTEREST/ MANDATORY FINANCIAL DISCLOSURE

Section 1.901: CITY COUNCIL AND SCHOOL BOARD DISCLOSURES

- A. Preliminary: This ordinance is adopted by the City of Portsmouth in compliance with the mandate contained in the Charter Amendment entitled "CONFLICT OF INTEREST" which was adopted by referendum vote of the City of Portsmouth on November 3, 1987. This ordinance may be referred to as the Mandatory Disclosure Ordinance.
- B. Definition: For purposes of this Article only, the following terms shall be defined in the following manner:

Municipal Official: For the purpose of mandatory financial disclosure, the term "Municipal Official" shall be defined to include members of the City Council, School Board Police Commission, and Fire Commission.

Income: The term "income" shall be defined as a gain of recurrent benefit usually measured in money that derives from capital, labor, or investment.

Capital Assets: The term "capital assets" shall be defined to include all corporate stocks or bonds or any other business interest in directly attributable to any business entity which maintains a business location in the City of Portsmouth, owns property in the City of Portsmouth, transacts substantial business in the City of Portsmouth, or transacts business with the City of Portsmouth. The term "capital assets" shall also be defined to include all real estate holdings and interest in real estate located in the City of Portsmouth.

Financial Disclosure Statement: The term "financial disclosure statement" shall mean a written statement, given under oath:

- A. Listing an individual's primary source of annual income and capital assets. However, in no instance shall disclosure be mandated of any capital asset whose value at the time of disclosure is below Ten Thousand (\$10,000) dollars nor shall the value of any source of income or the value of any capital asset be required for disclosure.

- B. Listing any sources of income, whether or not connected with the City of Portsmouth which produce income in an amount greater than \$10,000 calculated annually and per calendar year basis.
- C. Obligation of All Municipal Officials: All municipal officials will maintain an updated financial disclosure statement in the Office of the City Clerk. The Financial Disclosure Statement shall be updated annually as of June 30th. Forms shall be based on the form used by the State to implement RSA 15-A (attached) prepared by the City Clerk for approval by the City Council and made available to all municipal officials for this purpose.
- D. Determining Violations: For violation and enforcement purposes, complaints alleging violation of the mandatory disclosure ordinances shall be administered in accordance with the process under the Municipal code of Ethics, Reference Chapter I, Article VIII.
- E. Public Records: Financial Disclosure Statements shall be public records. (Amended 6/4/2007)
- F. Return of Records: Financial Disclosure Statements shall be returned to the public official six (6) months after leaving office. (Adopted In Its Entirety 3/21/88, Amended 3/28/88)
- G. Penalties: Any violation of this article shall be subject to the penalties prescribed for violation of the City Code of Ethics, Sec. 1.801 et seq.

Section 1.902: ELECTION CANDIDATE FINANCIAL DISCLOSURE

- A. Required Disclosure: Any candidate running for City Council, School Board, Police or Fire Commissions receiving a monetary contribution from any one person or entity in the amount of a cumulative total of \$100.00 or more in any calendar year must report the name of the individual, address, amount, and date of contribution. The report must be filed, or updated as appropriate, with the Office of the City Clerk seven (7) days prior to any election at which that person is a candidate for any of the foregoing offices. Any contributions which would otherwise require reporting under this ordinance received within the seven days prior to the election must be submitted in a final report to the Office of the City Clerk no later than two weeks following the election.
- B. Violations: For violation and enforcement purposes, complaints alleging violation of the mandatory disclosure ordinance shall be administered in accordance with the process and penalties available under the Municipal Code of Ethics, Reference Chapter 1, Article VIII.
- C. Public Records: All election candidate financial disclosures shall be public records.



(Adopted Section 1.902 In Its Entirety 6/4/2007)

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 passage with respect to the City Council and the School Board. It will take effect with respect to Police and Fire Commission as of January 1, 2016.

**No person in office or municipal employment on the date of adoption of this amendment shall not be subject to its terms until that person shall commence a subsequent term of office.**

APPROVED:

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Robert J. Lister, Mayor

ADOPTED BY COUNCIL:

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Kelli L. Barnaby, City Clerk

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Income: The term "income" shall be defined as a gain of recurrent benefit usually measured in money that derives from capital, labor, or investment.

Capital Assets: The term "capital assets" shall be defined to include all corporate stocks or bonds or any other business interest in directly attributable to any business entity which maintains a business location in the City of Portsmouth, owns property in the City of Portsmouth, transacts substantial business in the City of Portsmouth, or transacts business with the City of Portsmouth. The term "capital assets" shall also be defined to include all real estate holdings and interest in real estate located in the City of Portsmouth.

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Section 1.902: ELECTION CANDIDATE FINANCIAL DISCLOSURE

- A. Required Disclosure: Any candidate running for City Council, School Board, Police or Fire Commissions receiving a monetary contribution from any one person or entity in the amount of a cumulative total of \$100.00 or more in any calendar year must report the name of the individual, address, amount, and date of contribution. The report must be filed, or updated as appropriate, with the Office of the City Clerk seven (7) days prior to any election at which that person is a candidate for any of the foregoing offices. Any contributions which would otherwise require reporting under this ordinance received within the seven days prior to the election must be submitted in a final report to the Office of the City Clerk no later than two weeks following the election.
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(Adopted Section 1.902 In Its Entirety 6/4/2007)

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This ordinance shall take effect upon passage with respect to the City Council and the School Board. It will take effect with respect to Police and Fire Commission as of January 1, 2016.

APPROVED:

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Robert J. Lister, Mayor

ADOPTED BY COUNCIL:

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Kelli L. Barnaby, City Clerk



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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 passage with respect to the City Council and the School Board. It will take effect with respect to Police and Fire Commission as of January 1, 2016.

APPROVED:

\_\_\_\_\_  
Robert J. Lister, Mayor

ADOPTED BY COUNCIL:

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Kelli L. Barnaby, City Clerk