

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, APRIL 4, 2016 TIME: 6:00 PM

AGENDA

- **6:00PM – WORK SESSION RE: DEER STREET GARAGE PROPERTY ACQUISITION, PURCHASE AND SALE AGREEMENT AND POST CLOSING OBLIGATIONS AGREEMENT**

The City Council may take one of the three following actions:

1. *The City Council could approve the Documents. In this situation, given that the documents are not complete due to the unavailability of numerous attachments, an appropriate motion might be:*

A. **MOVED:** *That the City Manager is hereby authorized to execute the Purchase and Sale Agreement and Post Closing Obligations Agreement with Deer Street Associates on behalf of the City regarding the City's acquisition of a potential site for a municipal parking garage on Deer Street (collectively, the "Documents") once the schedules of those Documents are in completed form and attached thereto. **BE IT FURTHER MOVED,** that the City Manager is authorized to negotiate and execute any amendments, exhibits or attachments to those Documents as are substantially consistent with the material terms of the Documents approved by the City Council and as he may deem appropriate.*

In the event that the foregoing Motion should pass, in order to comply with the provisions of the documents which were approved, it will be necessary for the City Council to also pass the following Motion:

B. **MOVED:** *That a public hearing be held before the City Council on May 2, 2016 pursuant to RSA 231:43 for the purpose of discontinuing any rights of the City or the public in:*

A certain triangular tract of land being located at the northwesterly corner of and within the intersection of the Deer Street and Bridge Street rights of way, and being approximately 1,717 square feet in size; and

A certain trapezoidal tract of land being located along the northerly boundary of said triangular tract of land, being approximately four (4) feet wide and being approximately 269 square feet in size,

And that at least fourteen (14) days prior to the public hearing written notice be given to all owners of property abutting the said areas.

2. *The City Council might determine to postpone consideration of the Documents. In this case an appropriate Motion might be:*

MOVED: *That the City Council postpone its decision with regard to the Purchase & Sale Agreement and Post Closing Obligations Agreement with Deer Street Associates until the Council meeting of April 18, 2016.*

If the Council should take such an action it would also be within the ability of the Council to specify whatever conditions it thought appropriate to be addressed during the postponement period. Such conditions might include:

- a. That the Documents be in complete form before they are brought back to the Council; or
- b. That the following issues be addressed:

[This is for additional issues that may be added by the City Council.]

3. The City Council could vote not to approve the documents. In such case an appropriate Motion might be:

MOVED: That the City Council **not** authorize the City Manager to execute the Purchase and Sale Agreement or the Post Closing Obligations Agreement with Deer Street Associates documents as presented.

- I. CALL TO ORDER
- II. ROLL CALL
- III. INVOCATION
- IV. PLEDGE OF ALLEGIANCE

PRESENTATION

1. Recognition of Portsmouth High School Boys 2016 New Hampshire Basketball Division 2 New Hampshire State Champions

V. ACCEPTANCE OF MINUTES – MARCH 14, 2016

VI. PUBLIC COMMENT SESSION

VII. APPROVAL OF GRANTS/DONATIONS

- A. Portsmouth Police Department Donations in support of the Explorer Cadets as follows:
 - Donation of a \$30.00 Blitz Park gift card by the Police Commission to the Portsmouth Police Trading Card initiative as a program incentive prize
 - Donation of \$300.00 from Mr. Jason C. Page to provide 2 scholarships for the 2016 Explorer Cadet Academy
 - Donation of \$400.00 from Mr. & Mrs. David Brow to provide 2 scholarships for the 2016 Explorer Cadet Academy

(Sample motion – move to accept the donations to the Portsmouth Police Department, as presented)

- B. Portsmouth Police Department Grant in the amount of \$9,926.40 from the NH Office of Highway Safety for Sustained Traffic Enforcement Patrols (STEP) ***(Sample motion – move to approve and accept the Grant to the Portsmouth Police Department, as presented)***

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Proposed Ordinance amending Chapter 11, Article II, Section 11.216 – Sewer Use Charges/Records/Hook-up ***(Sample motion – move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance as presented, at the April 18, 2016 City Council meeting)***

IX. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Requests for License to Install Projecting Sign:
 - Danielle Short, owner of Siren Salon, for property located at 49 Market Street ***(Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreements for this request)***
- B. 2016 Omnibus Sidewalk Obstruction Renewals – See Attached Listings ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Holly Tennent and Melissa Mikulski, Bottomline Technologies, requesting permission to hold annual 5K event to benefit Families First on September 17, 2016. ***(Anticipated action – move to refer to the City Manager with power)***
- D. Letter from Donna Hepp, Seacoast Century Co-coordinator, Granite State Wheelmen, Inc., requesting permission to hold 2016 Seacoast Century Ride on September 24-25, 2016. ***(Anticipated action – move to refer to the City Manager with power)***

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Ronald N. Cogliano, President, Merit Construction Alliance (mca) regarding proposed Union-only Project Labor Agreement on City of Portsmouth's Sewer Treatment Plant
- B. Letter from Edward Miller regarding opposition to Maplewood Ridge, LLC request to rezone property located at 678 Maplewood Avenue from Single Residence B to Business

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action:

- 1. Deer Street Garage Property Acquisition, Purchase and Sale Agreement and Post Closing Obligations Agreement Options as result of Work Session:

The City Council may take one of the three following actions:

- 1. *The City Council could approve the Documents. In this situation, given that the documents are not complete due to the unavailability of numerous attachments, an appropriate motion might be:*

A. **MOVED:** That the City Manager is hereby authorized to execute the Purchase and Sale Agreement and Post Closing Obligations Agreement with Deer Street Associates on behalf of the City regarding the City's acquisition of a potential site for a municipal parking garage on Deer Street (collectively, the "Documents") once the schedules of those Documents are in completed form and attached thereto. **BE IT FURTHER MOVED,** that the City Manager is authorized to negotiate and execute any amendments, exhibits or attachments to those Documents as are substantially consistent with the material terms of the Documents approved by the City Council and as he may deem appropriate.

In the event that the foregoing Motion should pass, in order to comply with the provisions of the documents which were approved, it will be necessary for the City Council to also pass the following Motion:

B. **MOVED:** That a public hearing be held before the City Council on May 2, 2016 pursuant to RSA 231:43 for the purpose of discontinuing any rights of the City or the public in:

A certain triangular tract of land being located at the northwesterly corner of and within the intersection of the Deer Street and Bridge Street rights of way, and being approximately 1,717 square feet in size; and

A certain trapezoidal tract of land being located along the northerly boundary of said triangular tract of land, being approximately four (4) feet wide and being approximately 269 square feet in size,

And that at least fourteen (14) days prior to the public hearing written notice be given to all owners of property abutting the said areas.

2. The City Council might determine to postpone consideration of the Documents. In this case an appropriate Motion might be:

MOVED: That the City Council postpone its decision with regard to the Purchase & Sale Agreement and Post Closing Obligations Agreement with Deer Street Associates until the Council meeting of April 18, 2016.

If the Council should take such an action it would also be within the ability of the Council to specify whatever conditions it thought appropriate to be addressed during the postponement period. Such conditions might include:

- a. *That the Documents be in complete form before they are brought back to the Council; or*
- b. *That the following issues be addressed:*

[This is for additional issues that may be added by the City Council.]

3. The City Council could vote not to approve the documents. In such case an appropriate Motion might be:

MOVED: That the City Council **not** authorize the City Manager to execute the Purchase and Sale Agreement or the Post Closing Obligations Agreement with Deer Street Associates documents as presented.

2. Applications for Sidewalk Cafes providing Alcohol Service
 - a. State Street Saloon
 - b. Popovers on the Square
 - c. Ri Ra
 - d. The District
3. Applications for Sidewalk Cafes providing Alcohol Service – private sidewalk
 - a. British Beer Company
 - b. The BRGR Bar
4. Annual Renewal of Boarding House Permits
 - a. 278 Cabot Street
 - b. 350-352 Hanover Street
5. Request from Wright Avenue, LLC for Second Amendment to License for 57, 73 and 77 State Street
6. Downtown Parking Shuttle Recommendation for 2016
7. Greenleaf Recreation Center Lease Extension
8. Request to Establish a Public Hearing Re: Proposed Bonding of up to Five Million Dollars (\$5,000,000.00) for Little Harbour School Improvements

Informational items

1. Events Listing
2. Firm Selection for Prescott Park Master Plan
3. Report Back Re: Assistant Mayor Splaine's Request – Project Labor Agreement for the Peirce Island Wastewater Treatment Facility Upgrade
4. Water Country Traffic Study

B. MAYOR BLALOCK

1. Appointments to be Considered:
 - Reappointment of Amy Burns to Cable Television and Communications Commission
 - Reappointment of Robert Capone to Cable Television and Communications Commission
 - Reappointment of Cliff Lazenby to Citywide Neighborhood Steering Committee
 - Reappointment of Samantha Wright as alternate to the Conservation Commission
 - Reappointment of Kory Sirmaian to the Recreation Board

C. ASSISTANT MAYOR SPLAINE

1. Policy On Travel To North Carolina Re: That State's LGBTQ Discrimination Law

D. COUNCILOR DENTON

1. Commercial Property Assessed Clean Energy (C-PACE) (***Motion: move to have the City Manager or designee meet with the Jordan Institute to discuss administering a Commercial Property Assessed Clean Energy (C-PACE) energy efficiency and clean energy district in Portsmouth and then make a presentation back the City Council on how administering such districts in Portsmouth could work***)

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

XIV. ADJOURNMENT

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

**Indicates Verbal Report*


INFORMATIONAL ITEMS:

1. Notification that the approved minutes of the February 18, 2016 Planning Board meeting are now available on the City's 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.

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: March 31, 2016
To: Honorable Mayor Jack Blalock and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on April 4, 2016 City Council Agenda

Work Session:

6:00 p.m.

1. **Deer Street Garage Property Acquisition, Purchase and Sale Agreement and Post Closing Obligations Agreement.** On Monday evening at 6:00 p.m., I am requesting that the City Council meet in a Work Session to discuss the [attached memorandum from City Attorney Robert Sullivan and Deputy City Manager Dave Allen](#) regarding Deer Street Garage Property Acquisition, Purchase and Sale Agreement and Post Closing Obligations Agreement. Further, under my name on the Agenda, I would ask the City Council to take one of the three following actions:
 1. *The City Council could approve the Documents. In this situation, given that the documents are not complete due to the unavailability of numerous attachments, an appropriate motion might be:*
 - A. **MOVED:** *That the City Manager is hereby authorized to execute the Purchase and Sale Agreement and Post Closing Obligations Agreement with Deer Street Associates on behalf of the City regarding the City's acquisition of a potential site for a municipal parking garage on Deer Street (collectively, the "Documents") once the schedules of those Documents are in completed form and attached thereto. **BE IT FURTHER MOVED,** that the City Manager is authorized to negotiate and execute any amendments, exhibits or attachments to those Documents as are substantially consistent with the material terms of the Documents approved by the City Council and as he may deem appropriate.*

In the event that the foregoing Motion should pass, in order to comply with the provisions of the documents which were approved, it will be necessary for the City Council to also pass the following Motion:

- B. *MOVED:*** *That a public hearing be held before the City Council on May 2, 2016 pursuant to RSA 231:43 for the purpose of discontinuing any rights of the City or the public in:*

A certain triangular tract of land being located at the northwesterly corner of and within the intersection of the Deer Street and Bridge Street rights of way, and being approximately 1,717 square feet in size; and

A certain trapezoidal tract of land being located along the northerly boundary of said triangular tract of land, being approximately four (4) feet wide and being approximately 269 square feet in size,

and that at least fourteen (14) days prior to the public hearing written notice be given to all owners of property abutting the said areas.

2. *The City Council might determine to postpone consideration of the Documents. In this case an appropriate Motion might be:*

MOVED: *That the City Council postpone its decision with regard to the Purchase & Sale Agreement and Post Closing Obligations Agreement with Deer Street Associates until the Council meeting of April 18, 2016.*

If the Council should take such an action it would also be within the ability of the Council to specify whatever conditions it thought appropriate to be addressed during the postponement period. Such conditions might include:

- a. *That the Documents be in complete form before they are brought back to the Council; or*
- b. *That the following issues be addressed:*

[This is for additional issues that may be added by the City Council.]

3. *The City Council could vote not to approve the documents. In such case an appropriate Motion might be:*

MOVED: *That the City Council **not** authorize the City Manager to execute the Purchase and Sale Agreement or the Post Closing Obligations Agreement with Deer Street Associates documents as presented.*

Presentation:

1. **Recognition of Portsmouth High School 2016 Division 2 Boys Basketball New Hampshire State Champions.** On Monday evening, Mayor Jack Blalock will recognize the Portsmouth High School 2016 Division 2 Boys Basketball New Hampshire State Champions.

Approval of Grants/Donations:

1. **Acceptance of Police Department Grant & Donations.** [Attached under Section VII of the Agenda is a memorandum](#), dated March 22, 2016 from Brenna Cavanaugh, Chair of the Portsmouth Police Commissioners, and Police Chief David J. Mara, requesting that the City Council approve the following grant and donations:
 - a) Donations in support of the Explorer Cadets as follows:
 - Donation of a \$30.00 blitz Park gift card by the Police Commission to the Portsmouth Police Trading Card initiative as a program incentive prize.
 - \$300.00 from Mr. Jason C. Page, to provide 2 scholarships for the 2016 Explorer Cadet Academy.
 - \$400.00 from Mr. and Mrs. David Brown to provide 2 scholarships for the 2016 Explorer Cadet Academy.
 - b) Grant:
 - A Grant in the amount of \$9,926.40 from the NH Office of Highway Safety for Sustained Traffic Enforcement Patrols (STEP).

The Portsmouth Police Commission submits the information to the City Council pursuant to City Policy Memorandum #94.36, for the City Council's consideration and approval at their next meeting.

I recommend 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 VII of the Agenda.

Items Which Require Action Under Other Sections of the Agenda:

1. First Reading of Proposed Ordinance Amendments:

- 1.1 **First Reading of Proposed Ordinance amending Chapter 11, Article II, Section 11.216 – Sewer User Charges/Records/Hook-up.** As a result of the March 21, 2016 City Council meeting, under Section VIII of the Agenda, I am bringing back for first reading the [attached proposed Ordinance](#) amending Chapter 11, Article II, Section 11.216 – Sewer User Charges/Records/Hook-up, which expands the allowance of irrigation meters to all customer classes.

Through research with our Water/Sewer rate consultant, we have determined that the current practice in New England and throughout the rest of the country is to allow for irrigation meters for all customers. [Attached is a memorandum from Brian Goetz, Deputy Director of Public Works](#), that provides more detail regarding this matter.

Also at the meeting of March 21, 2016, there was a request by the City Council to bring back a copy of the proposed Ordinance that would eliminate the use of irrigation meters for all customers. I have [attached](#) a copy under Section VIII of the Agenda.

Brian Goetz will be making a short presentation prior to the vote on first reading.

I recommend the City Council move to pass first reading and schedule a public hearing and second reading on the proposed Ordinance, as presented, at the April 18, 2016 City Council meeting. Action on this item should take place under Section VIII of the Agenda.

Consent Agenda:

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

- Danielle Short, owner of Siren Salon for property located at 49 Market Street

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

City Manager's Items Which Require Action:

1. **Deer Street Garage Property Acquisition, Purchase and Sale Agreement and Post Closing Obligations Agreement.** As a result of this evening's Work Session, I am asking the City Council to take action on one of the following three options regarding the Deer Street Garage Property Acquisition, Purchase and Sale Agreement and Post Closing Obligations Agreement:

1. *The City Council could approve the Documents. In this situation, given that the documents are not complete due to the unavailability of numerous attachments, an appropriate motion might be:*

- A. ***MOVED:*** *That the City Manager is hereby authorized to execute the Purchase and Sale Agreement and Post Closing Obligations Agreement with Deer Street Associates on behalf of the City regarding the City's acquisition of a potential site for a municipal parking garage on Deer Street (collectively, the "Documents") once the schedules of those Documents are in completed form and attached thereto. **BE IT FURTHER MOVED,** that the City Manager is authorized to negotiate and execute any amendments, exhibits or attachments to those Documents as are substantially consistent with the material terms of the Documents approved by the City Council and as he may deem appropriate.*

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and that at least fourteen (14) days prior to the public hearing written notice be given to all owners of property abutting the said areas.

2. *The City Council might determine to postpone consideration of the Documents. In this case an appropriate Motion might be:*

MOVED: *That the City Council postpone its decision with regard to the Purchase & Sale Agreement and Post Closing Obligations Agreement with Deer Street Associates until the Council meeting of April 18, 2016.*

If the Council should take such an action it would also be within the ability of the Council to specify whatever conditions it thought appropriate to be addressed during the postponement period. Such conditions might include:

- a. *That the Documents be in complete form before they are brought back to the Council; or*
- b. *That the following issues be addressed:*

[This is for additional issues that may be added by the City Council.]

3. *The City Council could vote not to approve the documents. In such case an appropriate Motion might be:*

MOVED: *That the City Council **not** authorize the City Manager to execute the Purchase and Sale Agreement or the Post Closing Obligations Agreement with Deer Street Associates documents as presented.*

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

Last year, four Area Service Agreements were issued for public Sidewalk occupancy. To date we have received applications for State Street Saloon, Popovers, Ri Ra and The District. City staff representatives from Police, Fire, Public Works, Building Inspection, Health, and Code Enforcement have reviewed those applications of and found the applications complete and recommend issuance of the Area Service Agreements in accordance with City Council Policy 2012-02.

The fee for the use of the public “Area” subject to the Area Service Agreement is \$10.00 per square foot, with a minimum season’s fee of \$2,000 and no proration of the fee. The Agreements may be suspended at the sole discretion of the City on an administrative basis and revoked in their entirety by vote of the City Council. Hours of operation are until 10:30

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

The table below includes applications received to date along with the areas and associated fees:

Establishment	Location	Area	Fee
State Street Saloon	268 State Street	340	\$3,400
Popovers	8 Congress St	570	\$5,700
Ri Ra Portsmouth	22 Market Square	447	\$4,470
The District	103 Congress	467	\$4,670

- a) **Application for Sidewalk Café providing Alcohol Service from State Street Saloon.** I am bringing forward for City Council action the [attached](#) Area Service Agreement for State Street Saloon for the 2016 season. City staff has reviewed State Street Saloon’s application and are recommending its approval as presented. Please note that the “Area” to be used by State Street, along with a table-chair layout, is included as an attachment to the Agreement. The particulars of this application are as follows:

5 4-top tables
 20 chairs
 Area: 340 square feet
 Area Service Fee: \$3,400

I recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with State Street Saloon for outdoor Alcohol service on City land for the 2016 season subject to City Council Policy No. 2012-02 regarding use of City property for sidewalk cafes providing alcohol service.

- b) **Application for Sidewalk Café providing Alcohol Service from Popovers on the Square.** I am bringing forward for City Council action the [attached](#) Area Service Agreement for Popovers on the Square for the 2016 season. City staff has reviewed Popovers’ application and are recommending its approval as presented. Please note that the “Area” to be used by Popovers, along with a table-chair layout, is included as an attachment to the Agreement. The particulars of this application are as follows:

10 4-top tables
1 outside container full enclosed for garbage and recycling
38 chairs
Area: 570 square feet
Area Service Fee: \$5,700

I recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with Popovers on the Square for outdoor Alcohol service on City land for the 2016 season subject to City Council Policy No. 2012-02 regarding use of City property for sidewalk cafes providing alcohol service.

- c) **Application for Sidewalk Café providing Alcohol Service from Ri Ra.** I am bringing forward for City Council action the [attached](#) Area Service Agreement for Ri Ra for the 2016 season. City staff have reviewed Ri Ra’s application and are recommending its approval as presented. Please note that the “Area” to be used by Ri Ra, along with a table-chair layout, is included as an attachment to the Agreement. The particulars of this application are as follows:

5 4-top tables
4 2-top tables
28 chairs
Area: 447 square feet
Area Service Fee: \$4,470

I recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with Ri Ra for outdoor Alcohol service on City land for the 2016 season subject to City Council Policy No. 2012-02 regarding use of City property for sidewalk cafes providing alcohol service.

- d) **Application for Sidewalk Café providing Alcohol Service from The District.** I am bringing forward for City Council action the [attached](#) Area Service Agreement for The District located at 103 Daniel Street for the 2016 season. City staff has reviewed The District’s application and are recommending its approval as presented. Please note that the “Area” to be used by District, along with a table-chair layout, is included as an attachment to the Agreement. The particulars of this application are as follows:

17 top tables
34 chairs
Area: 467 square feet
Area Service Fee: \$4,670

I recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with The District for outdoor Alcohol service on City land for the 2016 season subject to City Council Policy No. 2012-02 regarding use of City property for sidewalk cafes providing alcohol service.

3. **Applications for Sidewalk Cafés providing Alcohol Service-private sidewalk.** The City has received two applications for sidewalk cafés that are proposed for private sidewalk that runs along Portwalk Way. While these proposed locations are completely contained on private property, they are adjacent to the sidewalk area that the City has an easement over. The operation of these areas requires review for health and life-safety compliance and it was therefore determined that the City should review and issue a license for the operation. Because the operation occurs on private property and not on City property, as the other Sidewalk Café licenses, there is no associated fee with this action.

- a) **Application for Sidewalk Café providing Alcohol Service from British Beer Company.** I am bringing forward for City Council action the [attached](#) Area Service Agreement for British Beer Company located at Portwalk Place for the 2016 season. City staff has reviewed British Beer Company’s application and are recommending its approval as presented. Please note that the “Area” to be used by British Beer Company, along with a table-chair layout, is included as an attachment to the Agreement. The particulars of this application are as follows:

3 4-top tables
6 2-top tables
24 chairs
Area: 882 square feet

I recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with British Beer Company for outdoor Alcohol service for the 2016 season subject to City operating conditions contained in Council Policy No. 2012-02.

b) **Application for Sidewalk Café providing Alcohol Service from The BRGR Bar.**

I am bringing forward for City Council action the [attached](#) Area Service Agreement for The BRGR Bar located at 34 Portwalk Place for the 2016 season. City staff has reviewed The BRGR Bar application and are recommending its approval as presented. Please note that the “Area” to be used by BRGR, along with a table-chair layout, is included as an attachment to the Agreement. The particulars of this application are as follows:

8 4 top tables
4 2 top tables
40 chairs
Area: 440 square feet

I recommend the City Council Authorize the City Manager to enter into an Area Service Agreement with The BRGR Bar Company for outdoor Alcohol service for the 2016 season subject to City operating conditions contained in Council Policy No. 2012-02.

4. **Annual Renewal of Boarding House Permits.** As you are aware, annually, the City Council considers and takes action on the renewal of Boarding House Permits. The City currently has two active Boarding Houses, one at 278 Cabot Street and another at 350-352 Hanover Street. A third Boarding House located at 21 Brewster Street has been closed since August 2015.

a) **278 Cabot Street.** Pursuant to Article VIII: Boarding Houses, Section 9.804: Permit Renewal, I have [attached a draft Permit](#) for the boarding house located at 278 Cabot Street. This facility was inspected on March 18, 2016 by the Code Enforcement Officer and Health Officer and recommended for the reissue of the permit.

I recommend that the City Council move to approve the Boarding House permit for 278 Cabot Street for a one year permit to expire April 5, 2017.

b) **350-352 Hanover Street.** Pursuant to Article VIII: Boarding Houses, Section 9.804: Permit Renewal, I have [attached a draft Permit](#) for the boarding house located at 350-352 Hanover Street. This facility was inspected on March 18, 2016 by the Code Enforcement Officer and Health Officer and recommended for reissue of the permit.

I recommend that the City Council move to approve the Boarding House permit for 350-352 Hanover Street for a one year permit to expire April 5, 2017.

5. **Request from Wright Avenue, LLC for Second Amendment to License for 67, 73 and 77 State Street.** On January 7, 2016, Wright Avenue, LLC (“Owner”) requested a Second Amendment to the License Agreement for Wright Avenue, LLC dated March 11, 2014 and approved by vote of the City Council on February 18, 2014. This request for a Second Amendment extends the term of the license for Owner’s use of and payment for City parking spaces due to a delay in construction caused by severe winter weather in 2015 and two major abutting projects being constructed at the same time. (One of the abutters is 143 Daniel Street, LLC’s, the former Connie Bean (“Abutter”). Immediately prior to the Owner’s request for a Second Amendment, the Owner and Abutter entered into two separate agreements addressing their proportional share of the cost to restore and repave the Memorial Bridge Parking Lot. The Owner’s request for a Second Amendment to License Agreement was delayed several months because the City wanted the Agreement to address all pending issues regarding the Owner’s property, including but not limited to working with Eversource, the Owner and Abutter regarding the location of utilities for both properties and the Memorial Bridge Parking Lot, flaggers for future deliveries, Abutter’s access to its property and access to the alley between the two properties.

I recommend the City Council move to authorize the City Manager to negotiate and enter into a Second Amendment to the License Agreement for Wright Avenue, LLC.

6. **Downtown Parking Shuttle Service Recommendation for 2016.** City staff is recommending partnering with COAST to operate the downtown shuttle service for the 2016 season. COAST currently partners with the City to provide related public transit services in the City and throughout the region. As a quasi-public transit provider, COAST cannot compete directly with private service providers. Therefore, if the City decides to enter into a contract with COAST, City Council approval is required as this service will not be publicly bid as it was in 2014 and 2015. Partnering with Coast will consolidate public transit services and reduce costs. More details on this program are provided in the [attached memorandum from Juliet Walker, Transportation Planner](#).

I recommend the City Council move to authorize the City Manager to negotiate and enter into an agreement between COAST and the City of Portsmouth to operate the downtown parking shuttle for the 2016 season.

7. **Greenleaf Recreation Center Lease Extension.** For the past two years, Operation Blessing has operated the Greenleaf Recreation Center on Greenleaf Avenue as a teen center and community center open to the public. The agency has been very successful in reaching out to the community, including the children and families living in the adjacent 100-unit Wamesit Place Apartments as well as the broader community through partnerships with various organizations serving Portsmouth residents, including Friends in Action, Easter Seals, Families First, Seacoast Family Food Pantry, Boy Scouts, and other groups. Operation Blessing’s own programs include Seacoast Adopt-A-Block, a youth volunteer program and the Family Life Center as well as drop-in after-school programming, camps for children, leadership programs, a teen outreach program, and other activities and outings it organizes for families, including the popular weekly cook-out held

on the grounds of the Center. In addition to sponsoring successful and vibrant programming the organization has made improvements to the building exterior.

This City building was originally acquired through a public benefit conveyance from the National Park Service (NPS). Per the NPS Federal Lands-to-Parks program, the property must be utilized as a recreation facility open to the public. Please note that, due to a National Park Service regulations, the instrument for this type of arrangement is referred to a “concession agreement” as opposed to a lease agreement.

At this time, Operation Blessing is seeking to extend the existing concession agreement to April 2018 with all other terms remaining the same. In recognition of the record of performance and the great community benefits resulting from the agency’s programming, I would recommend the lease term be extended through April 2018, with all other lease terms remaining the same.

I recommend the City Council move to authorize the City Manager to enter into a concession agreement with Operation Blessing for the Greenleaf Recreation Center through to April 16, 2018.

8. **Request to Establish a Public Hearing Re: Proposed Bonding of up to Five Million (\$5,000,000) Dollars for Phase II Little Harbour School Improvements.** [Attached is a letter from Superintendent Steve Zadavec along with the proposed Resolution](#) requesting that the City Council establish a public hearing for April 18, 2016 regarding the authorization to bond up to Five Million (\$5,000,000) Dollars for the Phase II improvements to Little Harbour School. This item has been identified in the FY2017 Capital Improvement Plan. Superintendent Zadavec would like to receive authorization on this expenditure by the beginning of May in order to assure that materials can be ordered prior to the closure of school. This would allow for the construction improvements to be done during the summer months while the students are on break. This is similar to the way Phase I of the Little Harbour Project took place and has seemed to work out very well.

I recommend the City Council move to establish a public hearing on Monday, April 18, 2016 for bonding of up to Five Million (\$5,000,000) Dollars for Phase II of the Little Harbour School Improvements.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on March 21, 2016. In addition, this can be found on the City’s website.
2. **Firm Selection for Prescott Park Master Plan.** At its meeting on March 14, 2016, the Mayor’s Blue Ribbon Committee on the Prescott Park Master Plan recommended I enter into negotiations with its first choice firm for the Master Planning engagement, Weston & Sampson Engineers, Inc. At this time, the City will be contracting for these professional

services, which will cost \$80,000. Fifty percent (\$40,000) of the total cost will be funded with Urban Development Action Grant Funds and the other 50% (\$40,000) will be funded with contingency funds.

This selection process began with the issuance of a Request for Qualifications to which nine firms responded; later, four firms were invited to submit proposals. Weston & Sampson was recommended following an interview with City staff and representatives from the Blue Ribbon Committee. Weston & Sampson is a highly-respected engineering firm with a number of successful landscape architecture and engineering engagements in Portsmouth. In addition, Weston & Sampson brings extensive experience working across New England on municipally-owned public parks, including those in waterfront settings. [Attached is additional information](#) about the firm's relevant past experience and project team.

The firm's work on this project will begin very shortly. City staff, in coordination with the Blue Ribbon Committee on the Prescott Park Master Plan, will be carrying out this work. Updates about the project timeline, major milestones, public input opportunities and other information about the project will be forthcoming.

3. **Report Back Re: Assistant Mayor Splaine's Request – Project Labor Agreement for the Peirce Island Wastewater Treatment Facility Upgrade.** As you will recall, at the March 21, 2016 City Council meeting, Assistant Mayor Splaine requested a report back regarding a project labor agreement for the Peirce Island Wastewater Treatment Facility (PI WWTF) Upgrade.

City staff does not recommend the incorporation of a Project Labor Agreement (PLA) into the existing bid process for the Peirce Island Wastewater Treatment Facility Upgrade. In short, a PLA requires the use of union labor for most tasks.

First, the incorporation of a PLA into the bidding process is not in accord with the intent of the City's competitive bidding ordinances and is inconsistent with past bidding practices. This issue of requiring the use of union labor for a project has arisen before in the context of other municipal projects and been rejected. A PLA makes the process less competitive by excluding otherwise qualified bidders and, based on reports from other communities and agencies, increases prices.

Second, there is no objective, documented evidence that staff is aware of that supports the assertion that the quality of the work performed by a unionized workforce in the northeast region is better than non-union work forces. The City's own experience after completing over \$55 million in pipe work, rebuilding roads, and constructing several buildings in the last 15 years, is that union versus non-union worker has no bearing on quality or safety.

Third, New Hampshire has a far greater proportion of non-union workers within the trades that are going to be employed on Peirce Island than union workers. A PLA would likely exclude more New Hampshire workers than include.

Fourth, it is late in the PI WWTF current bidding process to add a PLA. The project is already out to bid and it is assumed that given the complexity of the project, it will take ten or more weeks for bids to be prepared by the firms. Of the five prequalified bidders, one firm has already signaled that it would withdraw from the bidding process if the PLA is required because its workforces are non-union. A second firm might also withdraw.

4. **Water Country Traffic Study.** For your information, Water Country has consented to pay half of a traffic study and the City will pay the other half. The total cost for the traffic study is \$10,300. We have funding available to complete this project.