

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, AUGUST 15, 2016 TIME: 7:00PM

AGENDA

- 5:45PM – NON-PUBLIC SESSION RE: PEASE DEVELOPMENT AUTHORITY POLICE AGREEMENT – RSA 91-A:3, II (i) & ANTICIPATED “NON-MEETING” WITH COUNSEL RE: COLLECTIVE BARGAINING - POLICE AND FIRE CONTRACTS – RSA 91-A:2(a).

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

PRESENTATION

1. Portsmouth Little League 9-10 State Champions

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

- VI. PUBLIC COMMENT SESSION

- VII. PUBLIC INPUT SESSION

- A. ON THE CITY’S CONTINUED PURSUIT OF A PUBLIC-PRIVATE PARTNERSHIP FOR THE REDEVELOPMENT OF THE MCINTYRE FEDERAL PROPERTY (62 DANIEL STREET) AND CONSTRUCTION OF A NEW FEDERAL FACILITY ON THE BRIDGE STREET PARKING LOT OR ANOTHER CITY-OWNED PARCEL IN THE DOWNTOWN BUSINESS DISTRICT

- VIII. PUBLIC HEARINGS

- A. RESOLUTION APPROPRIATING THE SUM OF ONE MILLION EIGHT HUNDRED FIFTY THOUSAND DOLLARS (\$1,850,000.00) FOR THE PURCHASE OF LAND FOR RECREATION FIELDS AND OTHER MUNICIPAL USES

- IX. APPROVAL OF GRANTS/DONATIONS

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

- X. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Third and final reading of Annual Omnibus Ordinance Change, Parking and Traffic
- B. Adoption of Resolution Appropriating the sum of One Million Eight Hundred Fifty Thousand Dollars (\$1,850,000.00) for the Purchase of Land for Recreation Fields and other Municipal Uses

XI. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Zhana Morris, The Music Hall requesting Parking Meter Permit for 2016-2017 Season ***(Anticipated action – move to refer to the City Manager with power)***
- B. Letter from Carolyn Ostrom & Ed Harvey, Susan G. Komen Foundation requesting permission to hold the Race for the Cure 5K on May 13, 2017 at Strawberry Banke at 9:00 a.m. ***(Anticipated action – move to refer to the City Manager with power)***
- C. Letter from Mary-Jo Monusky, Arts in Reach requesting permission to hold the 4th Annual AIRWalk 5K Walk on Saturday, October 22, 2016 ***(Anticipated action – move to refer to the City Manager with power)***
- D. Acceptance of Donation of an antique leather helmet donated by Joshua Beede ***(Anticipated action – move to accept and approve the donation to the Portsmouth Fire Department)***

XII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Alfred Dolman regarding Proposed Redevelopment of the Bridge Street Parking Lot

XIII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action:

- 1. Deer Street Garage Property Acquisition
- 2. Request to Establish Hearing to Take a Portion of Property at 150 Greenleaf Avenue by Eminent Domain
- 3. Report Back Re: Partnership Proposal for Chestnut Street Improvements
- 4. License Request Completion of Work at 77 Hanover Street

Informational items

- 1. Events Listing
- 2. Inspection Department Annual Report for FY 2016
- 3. Report Back Re: North Façade
- 4. Report Back Re: Build Dio
- 5. Water Restrictions

B. COUNCILOR LOWN

1. Parking & Traffic Safety Action Sheet and Minutes of the August 4, 2016 meeting (***Sample motion – move to approve and accept the action sheet and minutes of the August 4, 2016 Parking & Traffic Safety meeting***)

C. COUNCILOR SPEAR

1. Extension and Amendments to City Manager's Employment Agreement (***Motion – move to execute the amendments to the City Manager's Employment Agreement dated August 10, 2016, as outlined in this memorandum, and further, that all other conditions of the City Manager's Employment Agreement dated October 23, 2012, remain in full force and effect***)

<http://www.cityofportsmouth.com/hr/contracts/Municipal/CityManagerexp6-2020.pdf>

D. COUNCILOR DENTON

1. *Water Country (***Sample motion – move that the City hold a public meeting in the fall to discuss any impact the Water Country traffic numbers collected this summer have on the original traffic study, other Water Country related traffic concerns, and next steps (If any)***)

XIV. MISCELLANEOUS/UNFINISHED BUSINESS

XV. ADJOURNMENT

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

**Indicates Verbal Report*

INFORMATIONAL ITEMS

1. Notification that the minutes of the June 16, 2016 meeting of the Planning Board are now available on the City's website
2. Notification that the minutes of the July 12, 2016 meeting of the Site Review Technical Advisory Committee 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.

LEGAL NOTICE

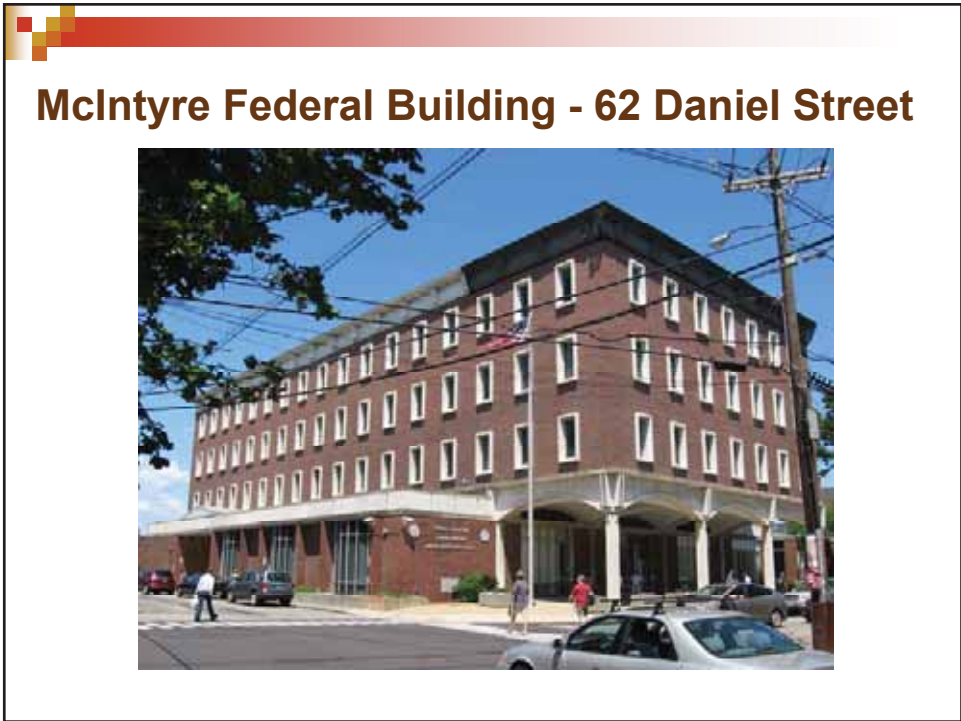
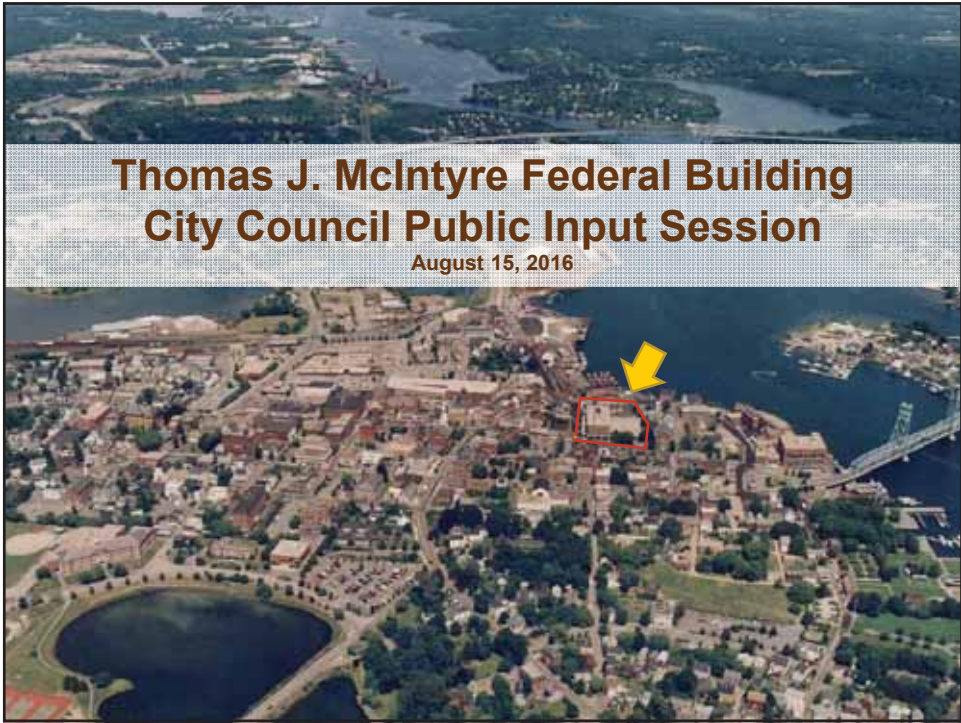
NOTICE IS HEREBY GIVEN that a Public Input Session will be held by the Portsmouth City Council on Monday, August 15, 2016 at 7:00 p.m., at the Eileen Dondero Foley Council Chambers, Municipal Complex, 1 Junkins Avenue, Portsmouth, NH on the City's continued pursuit of a public-private partnership for the redevelopment of the McIntyre Federal property (62 Daniel Street) and construction of a new Federal facility on the Bridge Street parking lot or another City-owned parcel in the downtown business district.

Kelli L. Barnaby, MMC, CMC, CNHMC
City Clerk

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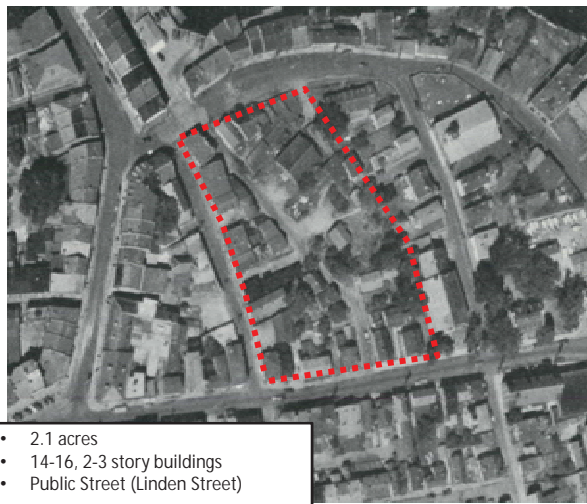
Kelli L. Barnaby, MMC, CMC, CNHMC
City Clerk



View from Bow & Ceres Streets



The McIntyre Site in the 1960s



- 2.1 acres
- 14-16, 2-3 story buildings
- Public Street (Linden Street)



The McIntyre Site Today



- 2.1 acres
- 107,000 SF / 4 story/ 60 foot McIntyre Building
- 135 parking spaces (91 out 44 in)
- Tenants: 8
- Employees: 145+/-

Chronology/Background 2004 - 2012

2004

- **PL 108-199 authorizes \$24.8 M for purchase of 11 acres of land at Pease Tradeport and design construction & relocation of McIntyre Bldg. tenants.**
- Law authorizes transfer of McIntyre Bldg. City for economic development purposes.
- GSA begins process of land purchase and new building design – estimated construction completion 2008.

2005

- City includes funds in CIP in anticipation of planning process for site redevelopment.

2006

- **GSA purchases 11.51 acres of land at 235 Corporate Dr. at Pease Tradeport (\$1.5M).**
- **Project completion delayed to 2010.**

2007-2008

- GSA initiates federal process to issue RFP for new building design.

2009

- GSA reduces new building project scope & funding (to \$20M) to reflect smaller facility.

2010 - 2012

- City/Legislative Delegates request multiple meetings on transfer status/construction updates.
- **Project delayed to Spring 2015 due to new federal regulations for federal offices, reduced tenant needs and requisite building redesign.**

Chronology 2013-2016

2013

- **GSA informs City that relocation project eliminated from President's budget.**
- GSA makes determination that property transfer would be at market value.
- Spurs series of interactions and meetings between GSA, City & legislation delegation.
- Legislation delegation intervenes with correspondence to GSA from delegation re: decision on McIntyre relocation. GSA remains resolute.
- GSA initiates process to find alternate relocation site for federal tenants downtown.

2014

- GSA introduces new Urban Development/Good Neighbor program for long-term use of McIntyre site.
- Mayor establishes a 4-member City Council working group for series of teleconference meetings with GSA for project updates every 6 weeks.
- **From fall 2014-2016 working group participates in 17 teleconferences on process/options under federal property disposition.**

2015

- Ongoing teleconferences w/ GSA on federal tenant program needs and city's ability to participate in the disposition and redevelopment of the McIntyre property.
- **GSA introduces the Request for Information (RFI) concept & three options for transfer.**

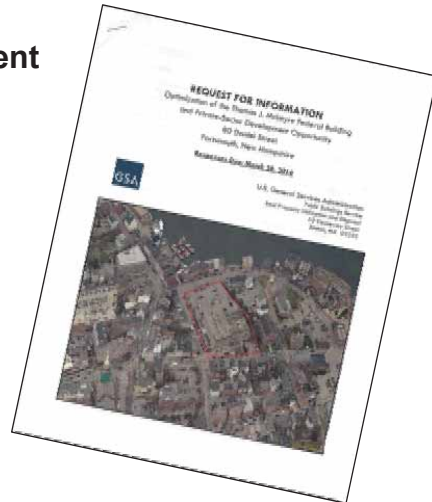
2016

- **GSA issues RFI and hosts Industry Day for interested developers.**

GSA – Request for Information (RFI)

1. Gauge Level of Interest
2. Explore Best Development Option
3. Identify Potential Sites Evaluate Conceptual Redevelopment
4. Refine the Request for Proposals

March 28th – Responses Received



Three Development Options

- | | |
|-------------------------------------|--|
| PRIVATE PARTNERSHIP | 1. Exchange Federal McIntyre Property for <u>Newly Constructed Facility</u> in Downtown |
| PRIVATE PARTNERSHIP | 2. Exchange Federal McIntyre Property for New Facility in an <u>Existing Building</u> in Downtown |
| PUBLIC / PRIVATE PARTNERSHIP | 3. Exchange Federal McIntyre Property for Newly Constructed Facility on <u>City-Owned Land</u> in Downtown |

For Council's Discussion: Next Steps

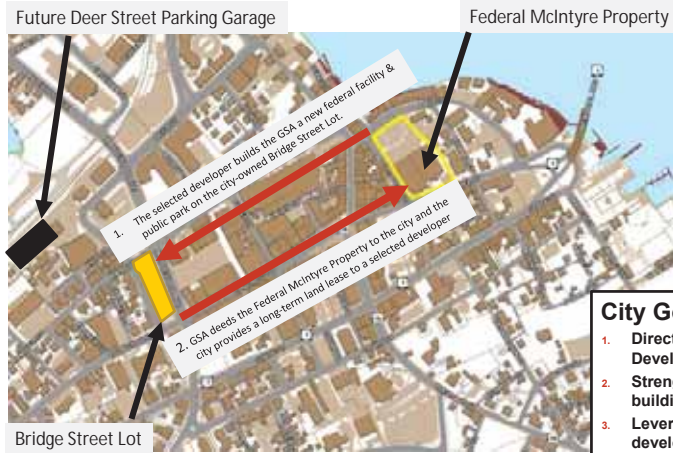
Public Policy Decision:

- Allow the Private Market to determine redevelopment in Options 1 & 2
- Participate in a Public / Private redevelopment in Option 3:



- i. Develop an RFQ/RFP for the Project
- ii. Select a Preferred Developer
- iii. Conceptual Building & Site Development

Example of Public / Private Partnership using the Bridge Street Lot



City Goals:

1. Directly participate in the Developer-Selection Process.
2. Strengthen public input on the building and site design.
3. Leverage overall economic development impacts and public amenities through incentives.

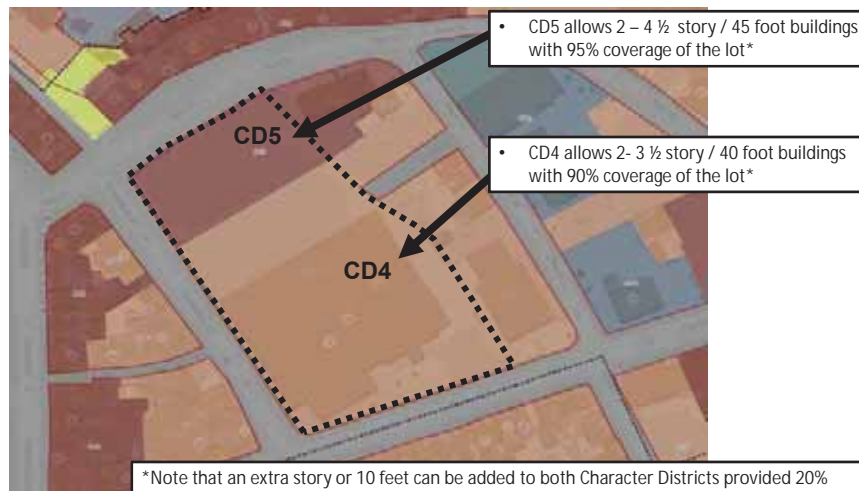
Why the Public / Private Partnership of “Option 3”?

1. Neighborhood Context
2. Community spaces
3. View corridors
4. Cultural and civic uses
5. Revitalization of Bridge Street Neighborhood
6. Site control


Potential Incentives for Encouraging a Better Redevelopment Plan

- Tax Increment Financing (TIF) in support of public improvements
- Long-Term Land Lease / Easement for use of the Bridge Street Lot
- Brownfields Funding for removal or remediation of any potential hazardous materials
- Streamlined Permitting through better design

Federal McIntyre Property: Character-Based Zoning



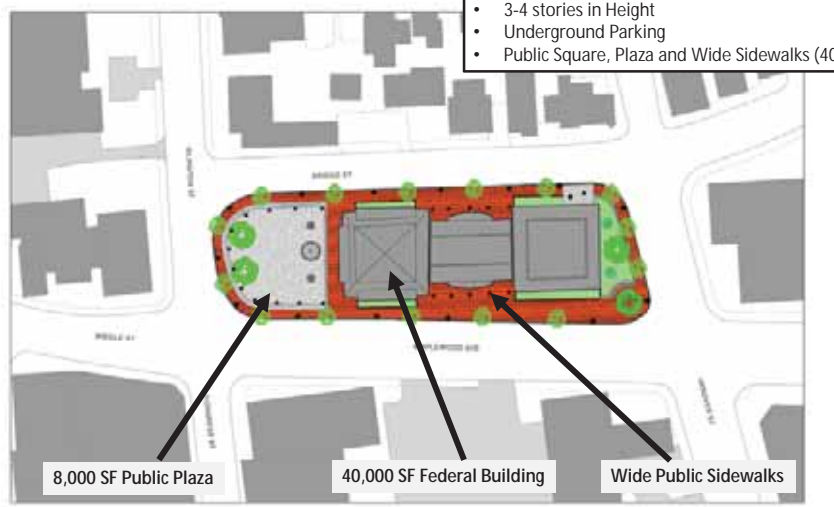
Conceptual Redevelopment Plan for the Federal McIntyre Property - Using Character-Based Zoning -



Architectural renderings and floor plans for three streets: Daniel Street, Penhallow Street, and Bow Street. Each street view is accompanied by a corresponding floor plan. The renderings show multi-story brick buildings with gabled roofs and multiple windows. The floor plans show the layout of the buildings, including rooms and corridors.

- 200-250K SF+ of Mixed-Use Buildings
- 10% Open Space
- No Required Community Space
- 3-4 ½ stories in height
- Screened private parking

Conceptual Site Plan for the Bridge Street Lot



Site plan for the Bridge Street Lot. The plan shows a central building footprint (40,000 SF) and an adjacent public plaza (8,000 SF). The site is surrounded by streets: Bridge St, Mill St, and others. The plan also indicates wide public sidewalks (40%) and underground parking. Arrows point from labels to the corresponding features on the site plan.

- New Federal Building (40,000 SF)
- 3-4 stories in Height
- Underground Parking
- Public Square, Plaza and Wide Sidewalks (40%)

8,000 SF Public Plaza

40,000 SF Federal Building

Wide Public Sidewalks

FEDERAL BUILDING PROJECT - BRIDGE STREET LOT

– GSA Building Design Concepts –



Federal Building, Charleston, SC



Federal Building, White Plains, NY



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Kelli L. Barnaby, MMC, CMC, CNHMC
City Clerk

PH00219485

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 7, VEHICLES, TRAFFIC and PARKING of the ordinances of the City of Portsmouth be amended as follows by deletions from existing language stricken and highlighted in **red**; additions to existing language bolded and highlighted in **red**, remaining language unchanged from existing:

[Explanatory note not part of ordinance. The following amendments to the parking ordinance were either implemented by the Parking and Traffic Safety Committee on a trial basis last year or are part of ongoing improvements to the parking ordinance and are forwarded to the City Council for approval. Each ordinance change is shown on diagrams attached hereto.]

A. Amend: Chapter 7, Article III – TRAFFIC ORDINANCE, Section 7.330: No Parking

Section 7.330: NO PARKING

A. Unless otherwise designated by ordinance, parking shall be prohibited at all times in the following described streets and locations:

30. Cutts Street: easterly side, between Maplewood Avenue and Leslie Drive.

75. McDonough Street: both sides, from the easterly curb line of Dover Street to a point 90 feet east of Dover Street.

122. Union Street: westerly side, from State Street to a point 45 feet north of State Street.

B. Amend: Chapter 7, Article IV – OFF-STREET PARKING AREAS

Section 7.402: AREAS ESTABLISHED, DESIGNATED, AND DESCRIBED

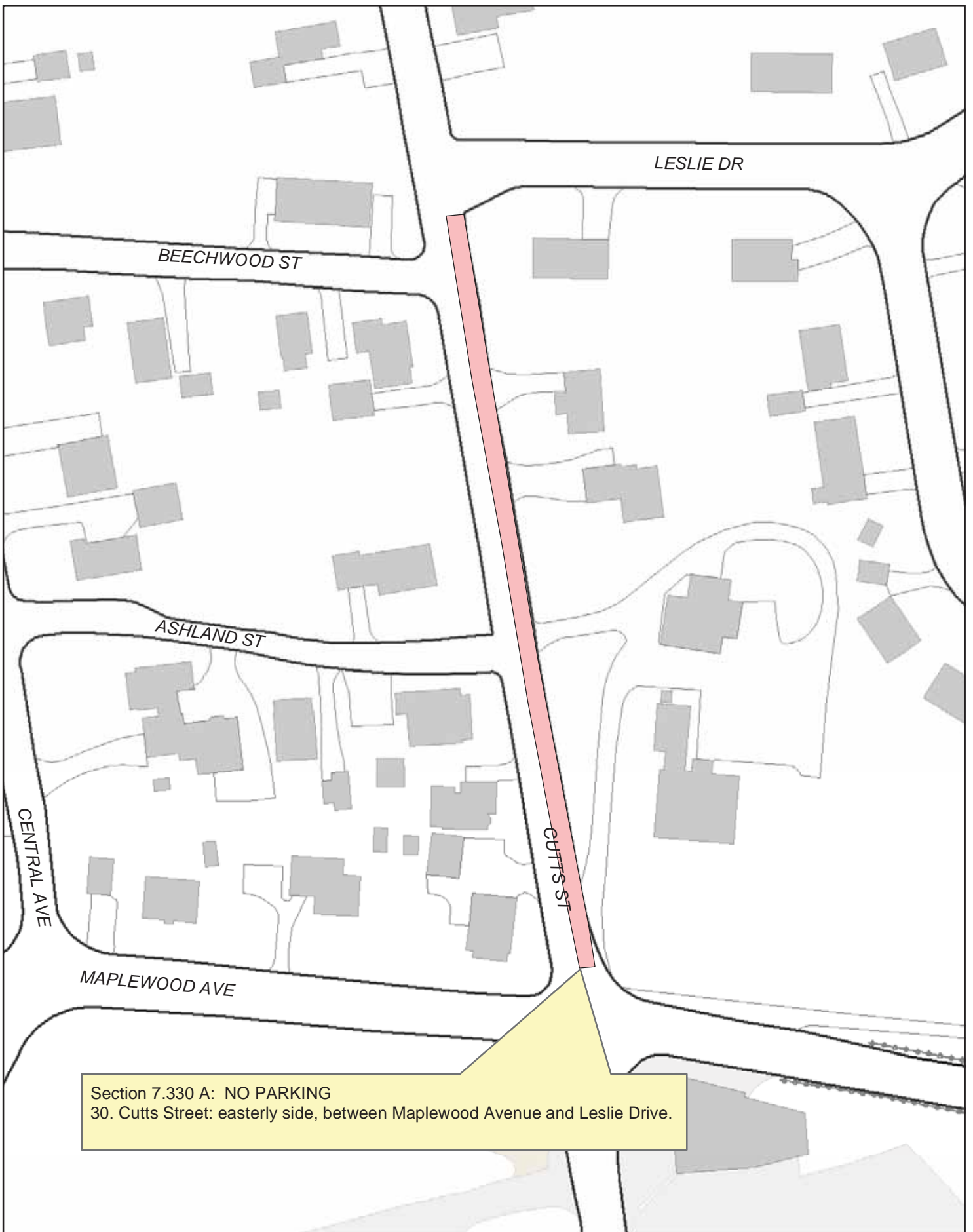
D. ~~Vaughn Street Off-Street Parking Area~~ (Worth Lot)

The following area to be known as the ~~Vaughn Street Off-Street Parking Area~~ **Worth Lot** is hereby established for off-street parking of motor vehicles said area being more particularly bounded and described as follows:

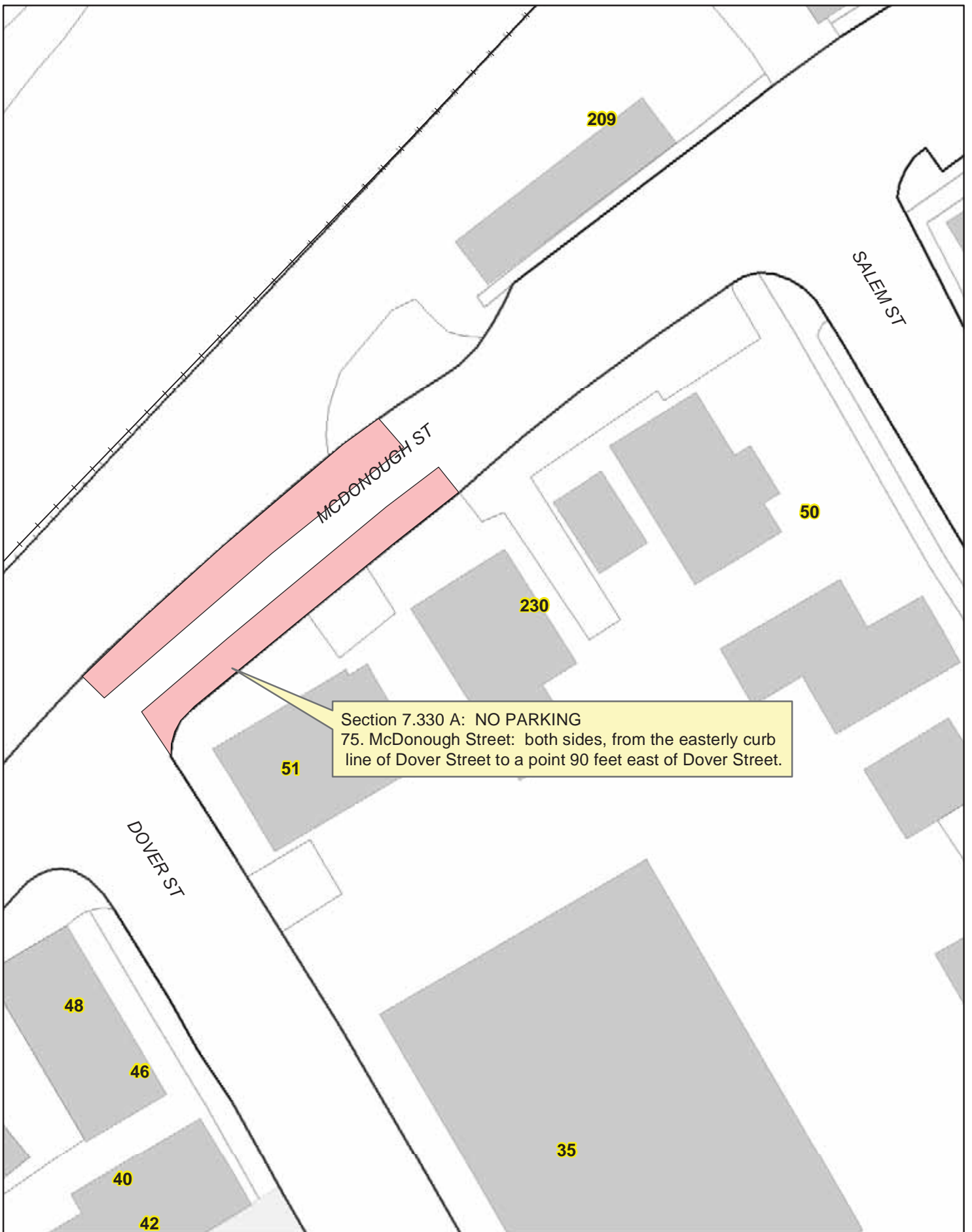
Beginning on the westerly sideline of Vaughan Street where said westerly sideline of said Vaughan Street intersects the northerly sideline of a certain right of way which extends from said Vaughan Street in a westerly direction to land now or former of the YMCA; thence running westerly by said right of way and the land of said YMCA a distance of 394.3 feet to a point; thence turning and running in a southerly direction 15 feet, more or less, to a point; thence turning and running by land now or formerly of Whitaker a distance of 75 feet, more or less, to the easterly sideline of Bridge Street; thence turning and running along said easterly sideline of said Bridge Street, a distance of 94.9 feet to the land now or formerly of Norman Munday; thence turning and running in an easterly direction along land of Munday, Knott, Roylos and Savramis a distance of 256 feet; thence turning and running in a northerly direction along land of Savramis a distance of 105.4 feet to the southerly sideline of Hanover Street; thence turning and running along said southerly sideline of said Hanover Street in an easterly direction a distance of 69.9 feet to land now or formerly of Rirado Realities, Inc.; thence turning and running in a southerly direction along land of said Rirado Realities, Inc. a distance of 118 feet to a point; thence turning and running in an easterly direction a distance of 141 feet to the westerly sideline of Vaughan Street; thence turning and running along said westerly sideline of said Vaughan Street in a southerly direction, a distance of 104.9 feet to the City of Portsmouth, NH Ordinances Page 40 Chapter 7 point of beginning. All of said area within the ~~Vaughan Street Off Street Parking~~ **Worth** Lot is hereby designated as parking meter zones.

All of said area in the ~~Vaughan Street Off Street Parking area~~ (Worth Lot) is designated as a parking meter zone. All off-street area within the ~~Vaughan Street Off Street parking area~~ **Worth Lot** is hereby designated as a ~~two~~ **three** hour parking zone except as follows:

1. To the extent that contractual obligations of the City of Portsmouth require otherwise.
 2. Two spaces in the northeastern corner of the lot shall be designated and marked "Fifteen Minute Parking Only".
 - ~~3. The first two spaces available in the southwestern corner of the lot shall be designated and marked "Fifteen Minute Parking Only".~~
-

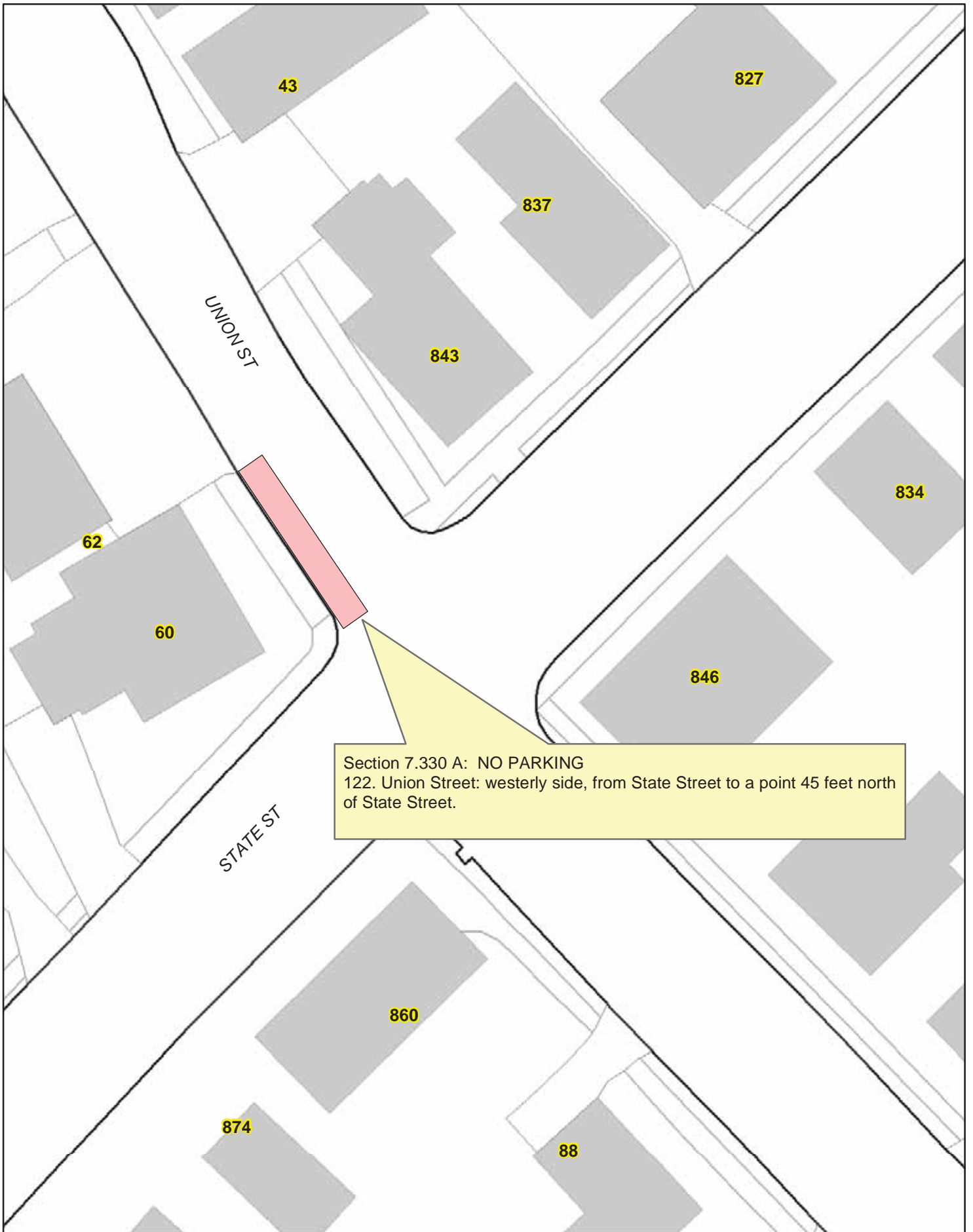


**Cutts Street No Parking
Portsmouth, New Hampshire**



**McDonough Street No Parking
Portsmouth, New Hampshire**

Map prepared by Portsmouth Department of Public Works, 9 June 2016
Map document: U:\Projects\0263 Parking Traffic & Safety\Traffic and Parking Ordinance Changes\2016



**Union Street No Parking
Portsmouth, New Hampshire**

The Music Hall
28 Chestnut St.
Portsmouth, NH 03801



July 26, 2016

John Bohenko
City Manager
1 Junkins Ave
Portsmouth, NH 03801

Dear John:

Please find enclosed the Parking Meter Permit requests for the Music Hall's 2016-2017 Season for the City Council's review at their earliest convenience.

I thank you and the City Council for your continued support of the Music Hall. I look forward to hearing from your office soon.

Sincerely,

A handwritten signature in black ink, appearing to read "Zhana Morris".

Zhana Morris
Production Manager, The Music Hall
603-766-2184
zmorris@themusichall.org

Enc.: Parking Permit Requests 2016-2017 Season - TMH

Cc: Joey Giordano - Parking and Transportation Director; Peter Rice - Director of Public Works

Event	Day	Date	Spaces required
Bruce Hornsby and Noisemakers	Monday	9/5/2016	6
Marc Maron	Friday	9/23/2016	2
School Show: Pete The Cat	Wednesday	9/28/2016	3
School Show: Brown Bear, Brown Bear	Tuesday	10/4/2016	2
Brett Dennen	Friday	10/21/2016	5
School Show: Skippyjon Jones	Wednesday	11/9/2016	2
Guster	Friday	11/18/2016	6
MOMIX	Saturday	2/18/2017	13
Ten Tenors	Saturday	3/11/2017	7
Solas	Friday	3/17/2017	4
School Show: Elephant & Piggie	Wednesday	3/22/2017	4
The Moth Mainstage	Saturday	3/25/2017	4
7 Fingers of The Hand	Wednesday	3/29/2017	4
School Show: Rainbow Fish	Wednesday	4/12/2017	2
Vaud and the Villains	Friday	4/21/2017	6
Kathy Griffin	Saturday	4/29/2017	2
School Show: The Little Prince	Tuesday	5/2/2017	2
School Show: PSO Concert	Tuesday	5/9/2017	2

Parking Permit Requests 2016-2017 Season - TMH as of 07/26/16



received
8/3/16

P.O. Box 2496, 1009 Depot Street, Manchester Center, Vermont 05255 802-362-2733
Email: info@vtnhkomen.org www.komenvtnh.org

August 1, 2016

Jack Blalock, John Bohenko, and Portsmouth City Council
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

Dear Mayor Blalock, City Manager and City Council,

With your help and support, our 2016 NH Race for the Cure raised over \$78,000 and had 500 participants and 100 volunteers. Even with the chilly weather, we had many men and women who came out to support our local breast cancer survivors. We heard over and over again how great our event was from the start to finish, on the course and on the grounds of Strawberry Banke, so thank you for helping us make it a fantastic event all around!

On behalf of the Susan G. Komen Vermont-New Hampshire, we are respectfully requesting permission from the City of Portsmouth to conduct the following event in 2017:

Susan G. Komen New Hampshire Race for the Cure® (5K) on May 13, 2017; to take place at Strawberry Banke in Portsmouth, NH starting at 9:00 am.

We have a meeting schedule with the City Manager on September 16 at 10:30 am to discuss changing the course because of construction out on Peirce Island.

As you may know, Susan G. Komen for the Cure is the world's largest and most progressive grassroots network fighting to end breast cancer forever. With your permission, this will be the Sixth Susan G. Komen NH 5K event held in Portsmouth.

Thank you in advance for your consideration.

Sincerely,

Carolyn Ostrom, NH Community Relations Specialist
costrom@vtnhkomen.org, Phone – 617-501-2728

Ed Harvey, Race Director
Edmund.Harvey@unh.edu, Phone – 603-862-1246



Board of Directors

Glicka Kaplan
President

Lisa Burk-McCoy
Vice President

Judith Rubenstein
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Diane DeVries

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Staff

Mary-Jo Monusky
Executive Director

Rebecca Romanoski
Program Director

Chelsea Haskell
AmeriCorps* VISTA

Lauren Garza
AmeriCorps* VISTA

August 8, 2016

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

Dear City Manager, Mayor Blalock, and City Council Members,

Arts In Reach (AIR), a nonprofit organization, provides mentoring through the arts to teenage girls in the Greater Seacoast of New Hampshire. AIR empowers teenage girls through innovative teaching and mentoring, utilizing accessible arts programming as the platform for success. Arts In Reach respectfully requests permission to hold our fourth annual AIRWalk fundraiser on Saturday, October 22nd^h, 2016.

The 5K walk will be held from 9am to 11am, starting and finishing at 11 Jewell Court. We will be using the same route as previous years, which would run through downtown Portsmouth and back to Jewell Court. AIR staff and volunteers will be accompanying the participants.

Upon approval for October 22nd, we will submit the permit, \$20 fee, and a Certificate of Insurance for this event to the City Clerk in the amount of one million dollars, naming the City of Portsmouth as certificate holder as well as additional insured.

Thank you for your consideration of our request.

Sincerely,

Mary-Jo Monusky
Executive Director



Portsmouth Fire Department

Administration

To: City Manager John Bohenko
From: Fire Chief Steven Achilles
Date: 8/10/2016
Re: Donation of Antique Leather Fire Helmet

The department has received an antique leather helmet that was used by a member of Portsmouth Fire's Colonel Sise Engine Company. It was graciously donated by Mr. Joshua Beede. Can you please put the consideration of accepting this donation on the next available Council Meeting Agenda?



Department Memorandum

Alfred (Fred) Dolman
136 Hill Street – Unit 2
Portsmouth, NH 03801 USA
Home/Office: 603-436-7680
Mobile: 603-828-3633
Fax: 866-396-0979
eMail: fdolman@yahoo.com



City Council
c/o Office of the City Clerk
City of Portsmouth
One Junkins Avenue
Portsmouth, NH 03801

RE: Proposed Redevelopment of the Bridge Street Parking Lot

Dear City Councilors,

I will be unable to attend the council meeting on Aug 15 and am writing in to express my views on the potential exchange of the Bridge Street Lot for the McIntyre Building. While I am for obtaining the McIntyre, I am not in favor of the Bridge Street lot becoming a federal building for several reasons:

- 1) I live on Hill Street, approximately one block from the current Bridge Street Parking Lot. I do not envision a Federal office building at a major gateway to the city's downtown and to the Islington Creek/West End neighborhood as our best use for that space.
- 2) The Bridge Street Lot, through charrettes and public input sessions for the Islington Corridor project and others, has long been envisioned as a green/open/civic space. NOT a giant federal building.
- 3) The Bridge Street Lot has a fairly small footprint. Is it actually large enough to handle an office building large enough to accommodate the employees currently housed in the McIntyre Building?
- 4) The McIntyre Building currently includes 135 parking spaces (44 indoor and 91 outside) for the use of the Federal employees. Is the Bridge Street lot big enough to accommodate both the necessary office space and that parking, or will those employees be taking up 135 spaces in the new garage? That would be a major consideration since 10% of the spaces are already committed to the use of Deer Street Associates. Losing another 135 spaces would hardly make building the garage worth it. In addition, our neighborhood is already overrun with downtown workers taking spaces from the residents. Despite more than a decade of begging, the City refuses to do anything to address that and this would just aggravate an already intolerable situation even more.
- 5) And lastly, but most importantly, I cannot support building any building there until I hear exactly what the City's and the developer's plans are for the McIntyre Building. Although you promise that the developer will not turn it in to condos, past experience

dictates that will probably happen anyhow and we have more than enough luxury condos in Portsmouth now.

Consequently, I urge you to act to reject the proposal to locate a new Federal Building on the current Bridge St. parking lot and instead encourage future development of that space for parks, greenspace, and smaller structures that support local, civic purposes. We have had enough of the mega sized development downtown. In our zeal to build on every square inch of the downtown, we are turning in to Portsmouth, Massachusetts.


Thank you for your consideration.

A handwritten signature in cursive script, appearing to read "Fred Dolman".

Fred Dolman
08/05/2016

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: August 11, 2016
To: Honorable Mayor Jack Blalock and City Council Members
From: John P. Bohenko, City Manager 
Re: City Manager's Comments on August 15, 2016 City Council Agenda

5:45 p.m. - Non-public session in accordance with 91-A:3 II (i) regarding Pease Development Authority Police Agreement.

Non-meeting with counsel in accordance with RSA 91-A:2 (a) regarding Police and Fire Contracts.

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

Public Input Session:

1. **Federal McIntyre Property.** On Monday evening, City staff will make a brief presentation and City Council will receive public input regarding the proposed development partnership concept for the Federal McIntyre property. [See attached PowerPoint.](#)

Items Which Require Action Under Other Sections of the Agenda:

1. **Public Hearing and Adoption of Resolution:**
 - 1.1 **Public Hearing and Adoption of \$1,850,000 Supplemental Appropriation from Bond Premium Re: Proposed Acquisition of Land from Foundation for Seacoast Health.** As a result of the August 1, 2016 City Council meeting, I am bringing back for public hearing and adoption the [attached Supplemental Appropriation](#) for the acquisition of the land owned by the Foundation for Seacoast Health ([see attached map](#)).

Also, as you will recall, at the August 1st City Council meeting, the Council voted to authorize the following:

- 1) Execute a Purchase and Sale Agreement;
- 2) Establish a public hearing for a Supplemental Appropriation on August 15, 2016 to fund the purchase of land from bond premiums; and,
- 3) Refer this matter to the Planning Board for a report back.

At this time the purchase price to be included in the Agreement is \$1,850,000 for the approximately 50 acres of land. I propose 100% of the cost of this land purchase be covered from premiums the City received from previously issued general obligation bonds. By using the bond premiums, there will be no impact on the City's tax rate. The acquisition of the property is the first step in realizing the City's long held goals of expanding the Recycling Center (site 3); creating a multi-field complex for outdoor recreation (sites 1 and 2); and ensuring protection of valuable wetland and open space (site 4).

The Purchase and Sale Agreement (Agreement) will establish a purchase price and other terms. The Foundation was obligated by the Attorney General's Office Division of Charitable Trust to receive two appraisals on this property to insure a fair market value. The purchase price of \$1,850,000 is approximately the average of the two appraisals. For example, included in the terms will be all environmental and geotechnical assessments and other due diligence work customarily performed for a large land purchase. In addition, the parcel needs to be subdivided either by the City or Foundation, which will be addressed in the Agreement.

I recommend the City Council move to adopt the Supplemental Appropriation for \$1,850,000 using bond premium to purchase the land owned by the Foundation for Seacoast Health, as presented. Action on this matter should take place under Section X of the Agenda.

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

- 2.1 **Third and Final Reading Annual Omnibus Ordinance Change, Parking and Traffic.** As a result of the August 1st City Council meeting, under Section X of the Agenda, I am bringing back for third and final reading the [annual omnibus set of ordinances](#) by the Parking and Traffic Safety Committee. This year's omnibus changes are detailed on the [attached sheets](#), and address changes to on-street parking spaces and update wording to reflect current conditions.

By way of background, On March 29, 2000, the City Council adopted Ordinance #4-2000 under Chapter 7, Article 1, Section 7.103 of the Vehicles, Traffic and Parking Ordinance. This ordinance was adopted in order to be more responsive to the changing parking needs of the downtown. Before its adoption, it often took three readings of the City Council to simply change a parking space from a two-hour time restriction to a 15-minute one. This process would often take four to six months to complete.

The current ordinance authorizes the Parking Traffic and Safety Committee to recommend temporary parking and traffic regulations to the City Council for its approval in the form of its monthly meeting minutes. Once the Council approves these minutes, the temporary regulations are in effect for a period not to exceed one year. During that year the Council and the public have the benefit of seeing how a temporary regulation works before adopting it as a permanent change to the parking ordinance. These temporary regulations are presented at one time to the Council for its consideration.

The [attached amendments](#) to Chapter 7, Vehicles, Traffic and Parking for the Council's consideration summarize the temporary parking regulations implemented by the Parking and Traffic Safety Committee between June 12, 2015 and June 2, 2016, as well as updates to reflect current conditions.

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

Consent Agenda:

1. **Acceptance of Fire Department Donation.** Attached is a memorandum from Fire Chief Steve Achilles requesting that the City Council accept a donation of an antique leather fire helmet.

I recommend the City Council move to approve and accept the donation to the Fire Department, as presented. *Action on this matter should take place under Section XI of the Agenda.*

City Manager's Items Which Require Action:

1. **Deer Street Garage Property Acquisition.** The most recent action at the City Council level on the Deer Street garage property acquisition occurred on July 11, 2016. That evening the City Council voted as follows:

“Voted that the City Council ratify its action of April 18, 2016 and reiterate the authority of the City Manager to negotiate and execute the Purchase & Sale Agreement, Post Closing Obligation Agreement and all related agreements and documents with Deer Street Association necessary to bring about the acquisition of the municipal parking garage site on Deer Street by August 15, 2016, subject to the City receiving marketable title in the City's judgment, to that property free and clear of all restrictions, easements and covenants of any kind, in particular those held by the railroad.”
(emphasis added)

Since the date of that City Council vote, City staff and DSA have continued negotiations in an effort to satisfy the condition established by the City Council that prior to the City acquiring the Deer Street property that it be “free and clear of all restrictions, easements and covenants of any kind”. Although that specific goal has not been reached, significant progress appears to have been achieved in that direction.

Attached you will find a copy of a letter addressed to Mayor Blalock dated August 5, 2016 from Kim Rogers, President of G.L. Rogers & Company and Manager of Deer Street Associate. In his letter, Mr. Rogers provides a summary of covenant, restriction and easement issues. He indicates that in conversations with the railroad that “DSA anticipates that, for a price and other consideration, the railroad will agree to remove almost all of the covenants that impact the City’s parcel.” He states further, “The three title covenants that will remain will not interfere with development. They are the environmental release, the agency office, and the modified underground utilities / facilities covenant.” As of the drafting of this memorandum, supporting documentation signed by the railroad which would allow confirmation of those observations does not exist. However, unsigned copies of proposed documents were received shortly before this memo was written. Slight modifications to those documents are being negotiated and signed originals of the final product will need to be obtained. Additionally, the “other agreement” mentioned in Mr. Rogers’ letter will need to be negotiated and executed.

The August 5, 2016 letter from Mr. Rogers has been discussed among City staff and by e-mail, telephone and in-person with the members of the City Council Working Group who have been providing guidance with respect to the Deer Street property acquisition. The members of the Working Group are Councilors Rebecca Perkins, Brad Lown and Eric Spear. Based upon communication with the Council Working Group and the considerations cited above, we feel that the proposed property acquisition is ready for a final vote of the City Council. Relying on the analysis provided by the Council Working Group, we feel that an appropriate motion to be presented to the City Council when the issue arises during the Council meeting of August 15, 2016 would be as follows:

MOVED: *That the City Council ratify its action of April 18, 2016 and reiterate the authority of the City Manager to negotiate and execute the Purchase & Sale Agreement, Post Closing Obligation Agreement and all related Agreements and documents with Deer Street Associates necessary to bring about the acquisition of the municipal parking garage site on Deer Street subject only to a determination by the Council Working Group of Councilors Rebecca Perkins, Brad Lown and Eric Spear that documentation has been received by the City adequately supporting the conclusions and representations made by Kim Rogers to Mayor Jack Blalock and City Manager John P. Bohenko by letter dated August 5, 2016.*

If the foregoing Motion is passed by the City Council on August 15, 2016, then it is anticipated that no further vote of the City Council would be required prior to the acquisition of the proposed Deer Street garage site by the City.

2. **Request to Establish Public Hearing to Take a Portion of Property at 150 Greenleaf Avenue by Eminent Domain.** In order to resolve alleged defects in rights for the City to maintain a public sewer line and to manage stormwater flows on and through a historically swampy area, it has been recommended by legal counsel that the City Council exercise eminent domain over a portion of the parcel located at 150 Greenleaf. The area under consideration for eminent domain is shown on the [attached](#) plan.

Legal counsel recommends that the City Council authorize the City Manager to (1) establish a meeting place and time for the City Council to view the proposed area of taking and (2) establish a public hearing for September 6, 2016 to determine the public necessity, use and benefit of taking a portion of property located at 150 Greenleaf Avenue. A presentation by legal counsel will be made at the public hearing.

The property owner, James Boyle, Trustee of the 150 Greenleaf Avenue, has been notified of this anticipated action. He will be provided with an appraisal of the value of the property to be taken and have other statutory rights to accept and to challenge the amount offered for the property should the City Council proceed with eminent domain. Eminent domain has been suggested as a resolution to the title defects by the Superior Court which has been adjudicating issues relative to the sewer line, stormwater flows and wetlands on the property for the last several years.

Move to authorize the City Manager to (1) establish a meeting place and time to view the property to be taken and (2) establish a public hearing for September 6, 2016 to determine the public necessity, use and benefit of taking a portion of property located at 150 Greenleaf Avenue.

3. **Report Back Re: Partnership Proposal for Chestnut Street Improvements.** As you may recall, at its meeting on March 21st, representatives from The Music Hall made a presentation about a proposed public-private partnership between the City and The Music Hall for streetscape improvements on Chestnut Street. At that time, the City Council authorized The Music Hall to move forward with project reviews by the Historic District Commission, Trees & Greenery Committee, and Parking & Traffic Safety Committee. In addition, the proposal was forwarded to Art-Speak per City Council policy. The Council action also requested this report back following the project reviews.

Since that time, The Music Hall held a kick-off for the project reviews with a “Let’s Talk” event at the Music Hall Loft in early May and subsequently met with each of the identified boards and commissions, including Art-Speak. This report back includes a summary of the proposal and other project information, including a summary of the project reviews and possible next steps for the City Council moving forward. The summary of the project reviews can be found in the [following attachments](#):

- [Attachment 1: Summary of Project Reviews \(The Music Hall Let’s Talk Event; Parking & Traffic Safety; and Trees & Greenery\).](#)
- [Attachment 2: Art Speak Report Back on City Council Referral.](#)
- [Attachment 3: Communication from Historic District Commission’s Project Review](#)

- [Attachment 4: Proposed Partnership Description and Images](#)

The Proposal calls for a 50-50 partnership with the City to implement a series of improvements to the Chestnut Street streetscape between Porter and Congress Streets. The proposal has several goals including making pedestrian safety improvements on this City block; improving circulation for large vehicles including emergency response and school buses; improving the visibility of The Music Hall from Congress Street; and contributing toward the establishment of the Chestnut/Vaughn Mall corridor as an obvious and welcoming pedestrian passageway connecting the African Burying Ground and the Northern Tier where one currently one does not exist. Patricia Lynch, The Music Hall's Executive Director, and Ben Auger, Member of the Music Hall Board of Trustees, provided an overview and description of the project proposal on March 21, 2016. That presentation can be viewed on the City's YouTube channel.

The project includes the:

1. removal of the utility pole at Porter and Chestnut Streets (with potential undergrounding of overhead utilities servicing The Music Hall);
2. extension of the pavement program into Congress Street to include the potential creation of a raised pedestrian crossing, which will provide for traffic calming as well as enhancements to pedestrian safety;
3. installation of decorative pavers as well as sidewalk and drainage system upgrades;
4. installation of granite seat walls and planters;
5. installation of tree plantings and other greenery; and
6. erection of a Wayfinding Arch at the opening of Chestnut Street at Congress Street.

All of the project elements above are proposed to be funded under the 50-50 partnership with the City with the exception of the Wayfinding Arch, which would be a piece of public art donated by the Music Hall. The Music Hall has proposed funding 100% of the fabrication and installation of the Arch.

An important aspect of evaluating the proposed project is the constructability of the project in keeping with roadway design, pedestrian safety, and other standards for public construction. The concept proposed, while not advanced to final design, will be able to meet these standards. It should be noted that the Wayfinding Arch does require substantial foundational components below the surface of the street. Initial investigations of the foundation locations indicate the potential need for moving or rerouting utilities in the vicinity.

No impacts are proposed to existing on street parking along Congress Street and there is no elimination of the unloading zones on either Chestnut or Congress Streets.

According to cost estimates provided by The Music Hall, the project is anticipated to cost approximately \$800,000 (this total does not include The Music Hall Arch). As part of the 50-50 partnership, the City would be responsible for \$400,000. The FY 2017-2022 Capital Improvement Program includes an element sheet for this partnership showing the

City's contribution divided evenly between the Urban Development Action Grant funds and bond funding. A fundraising campaign is planned by The Music Hall for their portion of the project costs, including the Wayfinding Arch.

At this time, if the City Council would like to move forward in partnership with The Music Hall, I would recommend the City Council refer this matter to the Legal Department for the development of a Partnership Agreement with The Music Hall.

4. **License Request Completion of Work at 77 Hanover Street.** Bay Contracting Inc is currently conducting work at 77 Hanover Street. Bay Contracting applied for and received from the City an encumbrance permit for the erection of sidewalk scaffolding and to use three parking spaces. [See attached sketch of area encumbered.](#)

During Bay Contracting's reconstruction work at 77 Hanover Street it uncovered unexpected deteriorated conditions with the exterior wall and windows. The repair of these unforeseen conditions has delayed the completion of the façade work by approximately 3 weeks. The company contacted the Legal Department today and is requesting additional time to encumber the sidewalk until Friday September 2. A license is required for that additional time.

City staff has no objection to the grant of a license provided that it includes terms and conditions similar to those already contained in the encumbrance permit which includes protection of pedestrians, clean up of debris, and related conditions.

I recommend the City Council move to authorize the City Manager to negotiate and enter into a license with Bay Contracting Inc to facilitate completion of construction activities at 77 Hanover Street.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on August 1, 2016. In addition, this can be found on the City's website.
2. **Inspection Department Annual Report for FY 2016.** For your information, [attached is the Inspection Department Annual Report for FY 2016](#) (Period July 1, 2015 to June 30, 2016) from Robert Marsilia, Chief Building Inspector. This report also includes a comparison to the previous Fiscal Year.
3. **Report Back Re: North Façade.** In 2014, the North Wall of City Hall facing the South Mill Pond was inspected by structural engineers after showing stress cracks in the brick veneer. The result of that structural evaluation showed the brick façade was at risk of complete failure and immediate temporary repairs were made to secure the façade. These repairs were a temporary fix intended to allow the City time to design a permanent facade replacement.

As part of 2014 Municipal Complex Programmatic Needs study, Lavallee Brensinger Architects was tasked with developing conceptual designs for a new North Wall Façade. [Attached are two conceptual plans](#) developed by Lavallee Brensinger Architects which will be taken to the City’s Historic District Commission for review and input in September prior to bringing them to the City Council for final selection.

Once a plan is agreed upon, Lavallee Brensinger Architects will begin final design development of the chosen scheme. Although the façade has had temporary repairs, it is critical that the façade replacement move forward to avoid the potential consequence of a complete failure. The final design completion and bidding is scheduled for this winter, with construction scheduled for the Spring of 2017.

4. **Report Back Re: Build Dio.** As you will recall, at the June 6, 2016 City Council meeting, the Build Dio project was referred to Art-Speak for a report back to City Council. For your information, [attached is a report back from Art-Speak.](#)
5. **Water Restrictions.** For your information, beginning Tuesday, August 16th, the Department of Public Works – Water Division will be implementing odd/even irrigation restrictions on its water customers. The Water Division will be requesting customers to refrain from outdoor watering on even-numbered days, and to only water lawns and gardens on odd-numbered days from midnight to 10:00 a.m. According to data tracked by the City’s water operations staff, river levels are at historic low levels for this time of year and our reservoir is also lower than normal. City staff will continue to monitor these levels and update the community on the water supply status and any changes in water use advisories.

Customers can read the full Water Supply Status Report and details behind the current supply status at www.Cityofportsmouth.com/publicworks (click on “water”), and view current State conditions at <http://tinyurl.com/nhwaterbans>.



GL ROGERS & COMPANY

Growth through service, leadership, and development

Deer Street Associates

August 5th, 2016

City of Portsmouth
Jack Blalock, Mayor
John Bohenko, City Manager

Re: Easements and Deed Restrictions (Covenants) to DSA property

Dear Jack and John:

Thank you for meeting today to discuss this project. DSA is pleased to report that the discussions with the railroad have been very positive. DSA anticipates that, for a price and other consideration, the railroad will agree to remove almost all of the covenants that impact the City's parcel. This includes the covenants related to fencing, track rights, fire damage, and drainage. This is a significant improvement over what was previously suggested as an acceptable solution by the City's team back in May.

Here are covenant and easement bullet points for easy reference:

1. Fencing - deed restrictions to be removed.
2. Track rights - deed restrictions to be removed.
3. Drainage restrictions - deed restrictions to be removed.
4. Fire Damage Exclusion - deed restrictions to be removed.
5. Underground Utilities and Facilities - modified language to be substituted allowing for relocation.
6. Environmental Exclusion - deed restrictions to be modified to match 2015 deed.
7. Railroad Agency Office - addressed previously in negotiations.
8. City Sewer Easement - not addressed by DSA
9. PSNH Utility Easement - not addressed by DSA

The three title covenants that will remain will not interfere with development. They are the environmental release, the agency office, and the modified underground utilities / facilities covenant.

Environmental: With respect to the environmental release, the railroad has agreed that the covenant can be in the same form as what was used for the parcel locus to Rock Street that DSA acquired for the City in 2015. Language in that covenant was modified by Bob Sullivan and Dave Allen as part of the acquisition process, and it only releases claims that DSA and/or the City may have against the railroad for prior contamination issues caused by the railroad. As you both know, there has been extensive environmental testing at the property and DSA has agree to escrow \$500,000 for any additional environmental costs incurred by the City, which is well above the estimated additional costs to address known conditions.

PO Box 100 York Harbor Maine 03911

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Agency Office: The agency office being located in the parking garage was part of the original letter of intent signed by the City and DSA in January of 2015. It makes sense from a project development standpoint to locate it there. Notwithstanding, when this became a hot-button concern recently, DSA agreed to reduce the purchase price by \$200,000 in order to have the agency office located in the garage. If the City requires a release from this covenant, then the purchase price would have to be adjusted to reflect the past concession and also the additional cost to DSA to construct and maintain an agency office.

Underground Utilities: While the railroad won't agree to remove the covenant related to underground utilities and facilities, it is willing to agree to allow any underground utilities discovered during construction to be relocated. This would allow maximum flexibility with respect to anything that is discovered during construction. The reality is that no one is aware of any underground facilities or utilities located on the City property or DSA property - other than the City's storm water and sewer lines and various connections to it including catch basins. Those are going to be relocated to Deer Street extension anyways. This really puts the City and DSA property in a better position than other locations because the ability to relocate what might be discovered during construction isn't always a given.

Risks: Unfortunately, much of the discussions about title and the project generally have played out in the press without any real analysis of the risks involved. DSA has consistently been of the opinion that the title will support the City's project - which opinion is strengthened by the latest improvements DSA has been able to obtain. The practical fact is that DSA has owned a majority of this site since 1984 and none of the railroad covenants has interfered with its use, operation, ownership, development or redevelopment over the past 30+ years. And DSA has been able to finance and refinance the property with various lenders for millions of dollars over the years - and lenders are notoriously risk averse when it comes to their collateral. DSA hopes that practicality will prevail over technicality in the end, as it does in most real estate transactions.

Other Agreement: In addition to the purchase price to be paid by DSA for the covenant releases and modifications, the railroad has asked in return that DSA contractually agree that it will put fencing along the railroad boundary anywhere that doesn't have a building or parking garage near the boundary line. This doesn't seem too difficult given the plans we have seen, since the City wants to build its parking garage as close to the property line as possible. For public safety, fencing is required anyway. Also, the railroad has asked DSA to agree that it won't develop its properties in a way that would have a material adverse effect on drainage to or from the railroad property. This isn't a significant burden either, as modern project engineering and development practices wouldn't allow this. To avoid future controversy, DSA would want the City to execute a similar agreement with DSA on the fencing and drainage provisions. This agreement and also the DSA agreement with the railroad would not be recorded and would not be a title covenant or deed restriction, nor would the City agreement with DSA be an agreement that the railroad could enforce, and these provisions wouldn't make the railroad and the City contractual partners.

GL Rogers & Company, Inc. - Deer Street Associates

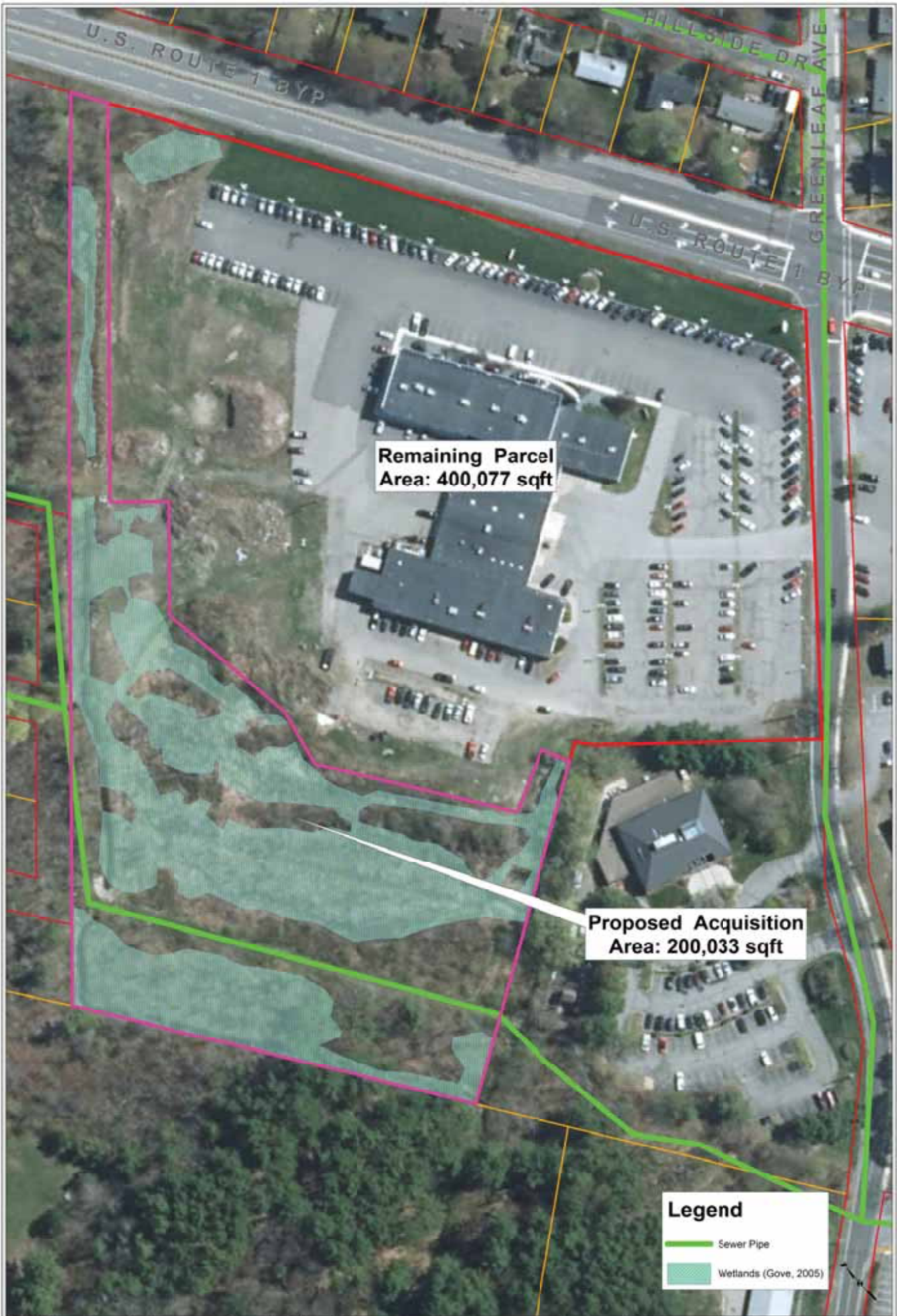
While I hesitate to end on a negative note, DSA is concerned about the changing expectations on title over the last 18 months and Councilor Lown's latest motion setting an unrealistic and unnecessarily difficult burden on DSA when it comes to title. As I explained at the City Council meeting, almost every commercial property in New Hampshire is burdened by some title matters. Utility easements are common, and even the City's property is burdened by the City's own sewer easement. Those types of things peacefully co-exist with property use and development as a matter of course. Asking DSA to provide a property free of all easements and restrictions is simply unrealistic and unnecessary for the City to build a parking garage.

Hopefully, what is being suggested above as a solution to the railroad covenants is sufficient for the City. DSA strongly believes that it should be sufficient and that it would be for any commercial real estate transaction, and DSA hopes that this process will be completed by the end of August.

Sincerely,



Kim S. Rogers
President
GL Rogers and Company, Inc.
Manager of Deer Street Associates



**Remaining Parcel
Area: 400,077 sqft**

**Proposed Acquisition
Area: 200,033 sqft**

Legend

-  Sewer Pipe
-  Wetlands (Gove, 2005)

150 Greenleaf Avenue – Acquisition Plan

Map prepared by Portsmouth Department of Public Works

0 20 40 80 Feet

ATTACHMENT 1

Summary of Comments from Project Reviews

On March 21, 2016, the City Council voted to move forward with the following with regard to the proposed Partnership:

To refer this matter to Art-Speak per City Council policy and to authorize The Music Hall to proceed with project reviews by the Historic District Commission; Parking, Traffic & Safety Committee; and Trees & Greenery Committee. Further, to request the City Manager prepare a report back to the City Council following these reviews (and Art-Speak referral) prior to final project approval by the City Council.

Below is a summary of the feedback received as part of these project reviews and consultations. At the end of this Attachment, a brief response to the comments by The Music Hall is included.

ArtSpeak Referral

The City Council referred this matter directly to ArtSpeak who has submitted a report back, which is appended to this report back.

Let's Talk Event hosted by The Music Hall – May 12, 2016

This Music Hall hosted this event open to the public at the Loft with over forty attendees. The Music Hall Representatives gave an overview of the proposal and invited questions and answers from members of the general public. The overwhelming majority of those in attendance supported the project a summary of specific comments is provided below.

1. Coordination on the construction timeline and impacts to the abutting properties and businesses will be key.
2. A barrier (street element be installed, to protect the future proposed Music Hall marquis (not part of partnership, but planned for the Music Hall façade as part of a series of planned improvements to The Music Hall building).
3. Lighting the Arch is important, and makes it even more attractive
4. No cobblestones or brick sidewalks and watch for slick pavers
5. This is a much needed improvement and it would be great if Vaughn Mall could be upgraded
6. Fixing the drainage is key, the sidewalks are icy in winter.
7. Add a bike rack.

Parking Traffic & Safety – June 2, 2016

Music Hall representatives presented the proposed partnership to the Parking & Traffic Safety Committee and received comments from board members, which are summarized below.

1. Decorative surfacing should provide for sufficient traction and be functional as well as decorative.
2. The opportunity to introduce a “raised table” at the Congress Street pedestrian crossing to Chestnut Street was viewed as a great improvement for pedestrians and traffic calming.
3. This block of Chestnut Street should remain as a street for vehicles.
4. Skateboard deterrents should be considered for the benches.

Trees & Greenery – June 8, 2016

The Music Hall representatives met with the Trees and Greenery Committee and presented tree and other planting proposals and received a positive recommendation and some guidance on species selection.

1. The proposed use of fruiting shrubs should be evaluated
2. Pigeon protection should be provided for on the arch

Historic District Commission – June 8, 2016 and August 3, 2016

The Music Hall representatives met in work session with the Historic District Commission twice; once on June 8th and a follow-up work session on August 3rd. Members of the public also made comments during work sessions. Following, the second work session, at which meeting The Music Hall presented revised Arch drawings and electronic 3D massing model, a summary of the HDC comments were received and is included in Attachment C.

Responses from The Music Hall to be recommended in the Final Partnership

The Music Hall has indicated its interest in incorporating the following into the final project:

1. With the enthusiastic support of abutters The Music Hall takes seriously the need to communicate the construction schedule to all abutters and partners.
2. Decorative pavers for the surfaces must be non-slick and easy to walk on and will help create a pedestrian friendly street and gathering area
3. The Arch to include lighting.
4. Review the planting plan to eliminate fruiting shrubs.

5. Skateboard deterrents on benches will be part of the design along with pigeon protections for the Arch
6. The Arch design has been simplified of extraneous filigree, reduced by over two feet smaller with smaller bases.
7. Will work with DPW as needed for the speed table
8. The street will remain open for vehicles as in the design so handicapped and older patrons along with children on school buses can be dropped off and neighboring businesses loading zones are not impacted
9. Will work with Art-speak to create an educational element for the public art work of the arch which the Music Hall is paying to design, construct, and install.

ATTACHMENT 2

Art Speak Report Back on City Council Referral



Final Report on the public art element in the Music Hall Chestnut Street proposal
June 30, 2016

Per the public art guidelines, Art-Speak created a Project Planning Committee of the following community members:

Ben Auger
Brian Murphy
Sheila Shea
Jessa Berna
Cathy Sununu
Nancy Pearson

This committee was charged with evaluating the following factors regarding the Music Hall arch proposal.

- Visibility and civic prominence.
- Accessibility to proposed artwork for all individuals, including facility users, surrounding community members and those with special needs.
- Public safety and liability issues.
- Vehicular and pedestrian traffic patterns.
- Relationship to architectural and natural features, landscape design, environmental impact and concerns, and future plans for the area.
- Social context and other uses of the artwork or space.
- Existing artwork or any visual impediments within the proposed site vicinity.

On May 19, 2016, the Project Planning Committee completed a list of recommendations for the Music Hall to consider. (Attached)

These recommendations were made in addition to feedback from several other city boards and commissions.

Traffic and Safety Committee, June 2.

Trees and Greenery Committee, June 8.

Historic District Commission, June 8, who played a role in the final iteration of the comprehensive proposal.

Modifications to the arch that resulted from feedback from each of these committees include:

- The arch has been reduced in height.
- The bases have been reduced in size.
- The decorative elements have been simplified, streamlined.
- Pigeon protection has been added.

The Music Hall has been open to ideas and suggestions that further enhance the design and functionality of the arch. Successful completion of a beautifully designed arch could set a positive precedent for future public art projects aimed at creating pedestrian friendly place-making spaces that connect neighborhoods across the city.

Per the public art guidelines, ten percent of the cost of the arch should be set aside for stewardship. In addition, there is a maintenance policy described below.

1. Prior to the acceptance of a new work by the city, the artist/donor will submit in writing a routine maintenance plan to Art-Speak, and provide appropriate training where necessary.
2. Routine maintenance of permanently installed artwork will be the responsibility of the site management in consultation with Art-Speak and according to the artist's maintenance plan. The artist will be notified and consulted as to any repairs or restoration deemed necessary.
3. Maintenance will be guaranteed by the artist against all defects of material and workmanship for a minimum of one year following installation or according to artist's contract.
4. On an annual basis Art-Speak will review routine maintenance activities on artwork acquired for the city.
5. Art-Speak will be responsible for keeping the City informed about changes in the condition of artworks and the sites.
6. Art-Speak will not authorize the repairing of artwork beyond what is specified in the artist's maintenance plan without notification to the City.
7. Any proposed public art project requiring operation or maintenance expenses shall include a plan with annual operating and maintenance estimates to be submitted for prior approval to the City.

Art-Speak is in support of the overall project as the elements together create a sense of place for the Congress/Chestnut Street area. It is our recommendation that the City Council approve of this project.



Recommendations from May 19, 2016 Project Planning Committee

SUMMARY

The committee is unanimous in its support of the overall project; the elements together create a sense of place for the Congress/Chestnut Street area. Successful completion of a beautifully designed arch would set a positive precedent for future projects aimed at creating pedestrian friendly place-making spaces that connect neighborhoods across the city. With this in mind, we have some recommendations that we believe would enhance the public art elements. While there is an understanding that timing may not allow for alterations in design, we feel the following can strengthen and elevate the project.

1. Consideration of Factors per the Public Art Guidelines

In evaluating the placement and design of the public art element (the arch) the committee considered the following factors:

Visibility and Civic Prominence

- The location poses many challenges. Currently, it is a dark, uninviting area of the city with little incentive for pedestrian activity. The north/south street direction is a challenge across the city with these side streets having much less foot traffic than the east/west streets. The committee observed that the arch as currently designed lacks connection to the Congress Street axis, but has the potential to open up the whole corridor and address both north/south and east/west activity. Is there potential to consider design elements that might increase its visibility if one were standing in Market Square, or on Islington Street looking down Congress?
- The current location of the arch seems to situate it a bit too close to the Kearsarge and Bullmoose buildings. While it functionally works for pedestrians and utility vehicles, at its true size and scale it will feel crowded. Creating physical model of the arch at a smaller scale would be a helpful tool to get a sense of this and would be a helpful tool for presentations.

Accessibility to proposed artwork for all individuals, including facility users, surrounding community members and those with special needs

- *Public safety and liability issues*
- *Vehicular and pedestrian traffic patterns*

The committee defers to the Parking and Traffic Safety Committee for municipal and ADA regulations.

Relationship to architectural and natural features, landscape design, environmental impact and concerns, and future plans for the area

- The location is an ideal spot to place a piece of public art, and the project as a whole addresses much needed landscape design and impact concerns. (roof runoff, pedestrian safety, etc.)
- If successfully implemented, the project provides a blueprint and an inspiration for similar place-making projects, both public and private, around the city. The Harborcorp project; the new parking garage; the civic space on Deer Street; the West End redevelopment projects--all of these include public art in their proposals.

This installation has an amazing opportunity to be something special and unique unto itself and without necessarily being referential to history or adopted from the local architecture. Perhaps it might incorporate some more organic and sculptural elements. We thought it might be worth taking another look at some of the design ideas that Terrence explored along the way.

- This could really become a representation of the juncture of two currents, an energetic moment in the downtown landscape. The proposal as a whole could launch Portsmouth on a public art journey that defines the city today and propels it forward into the future.

Social context and other uses of the artwork or space

- The arch serves more than one purpose
- The arch design allows for incorporation of wayfinding elements
- The arch serves as a place-making feature
- The arch gives visual art a notable presence in the city. While Portsmouth has number of performing arts venues and organizations, visual art is under-represented. Public art offers is accessibility--an opportunity for community members to view, interact with, and develop an understanding of how to see and interpret visual representations of an idea, a person or an event.
- We recommend that an educational component be added--perhaps in the form of a plaque--that provides additional commentary and information to the public

Existing artwork or any visual impediments within the proposed site vicinity

- The placement of the arch sits between two existing public art pieces: The African Burying Ground Memorial and the smaller-scale "Ingenuity" sculpture in the Vaughan Mall. The arch will serve as a conduit helping to channel the flow of pedestrian and other traffic from one gathering space to the next, while also standing as a compelling piece of art in its own right.

Further Recommendations:

- The committee concluded that the context of historic arches in Portsmouth is not necessarily the strongest argument for an arch as many were temporary, and even the more permanent looking ones are no longer standing. Creating dynamic spaces, connecting neighborhoods, improving pedestrian and vehicle traffic flow and safety and enhancing aesthetics of downtown seem to carry more weight.
- We recognize and appreciate the level of expertise that Ben Auger brings to the project. It is a real advantage to have someone so knowledgeable involved. He brings skill in the areas of construction and presentation before the various boards and committees and an understanding of the nuances of working through the city's approval process. It would be our recommendation that you maximize the advantage that offers, perhaps placing him in a visible role as a leader in some of the key presentations. It is common for a representative to speak on behalf of a client before boards and commissions-the presence of someone with Ben's expertise lends weight and credibility to the project and the fact that he is not directly tied to the arts organization would add a perceived element of objectivity to the overall proposal.
- In terms of the approval process with the City (HDC in particular), we believe that presenting the goals and thought process of the project will serve to be better than presenting a design that seems final. Dialog and a feedback process through a few work sessions will be important.

ATTACHMENT 3

Summary Communication Regarding Historic District Commission's Project Review



CITY OF PORTSMOUTH

Community Development Department
(603) 610-7232

Planning Department
(603) 610-7216

PLANNING DEPARTMENT

HISTORIC DISTRICT COMMISSION

Date: August 8, 2016

To: The Friends of the Music Hall
28 Chestnut Street
Portsmouth, NH 03801

Re: Chestnut Street between Congress & Porter Streets

On Wednesday August 3rd, the Historic District Commission (HDC) held a public work session with representatives of the Music Hall on Chestnut Street to review the proposed improvements (as revised) for Chestnut Street between. The following is a summary of the HDC's findings on the proposed streetscape improvements, as well as the Archway location and style.


- Streetscape Improvements – Largely due to the prominence of the Music Hall at the top of Chestnut Street, the HDC fully supports the proposed streetscape improvements on Chestnut Street as revised. Such improvements include the use of textured and patterned pavers, the addition of granite seat walls, landscaping and lighting as well as a future connection to the African Burial Ground. Importantly, some members felt that the proposed streetscape improvements, when considered in conjunction with the approved guitar mosaic on the Chestnut façade of the Bull Moose building, may be adequate in terms of wayfinding for the Music Hall making the proposed Archway unnecessary.
- Location of the Archway - A strong majority of the HDC supports the concept of installing an archway at the intersection of Congress and Chestnuts Streets. However, some members suggested the archway might be more appropriate if it was located either across Congress Street (where visibility is significantly increased and historic precedent for an archway exists). A couple of members felt consideration should also be given to relocating the Archway to either end of the Vaughan Mall, given the transition between the downtown and the North End.
- Archway Design – A majority of the HDC expressed concerns about the proposed style of the Archway. Some members felt the Archway was too large, imposing and out of context with the surrounding historic buildings and streetscape. Moreover, some members felt it was too ornate and its composition of a wide variety of Portsmouth motifs and styles was not representative of the imagery associated with activities at the Music Hall.

Page 2

Chestnut Street between Congress and Porter Streets
August 8, 2016

The minutes and tape recording of the meeting may be reviewed in the Planning Department.

Respectfully submitted,

 FOR

Joseph Almeida, Chairman
Historic District Commission

JA/lg

cc: Robert Marsilia, Building Inspector
Rosann Maurice-Lentz, Assessor
✓ David Moore, Assistant City Manager
Patricia Lynch, Executive Director, The Music Hall

ATTACHMENT 4

Proposed Partnership Description and Images

Chestnut Street Streetscape Improvement

A Music Hall/City of Portsmouth Collaboration

An unwelcoming street leads to major city treasures

Sidewalks always icy in winter because of poor drainage

Both the Music Hall and the African Burying Ground are hard to find from downtown

Heaving, pitched sidewalks

Perilously placed utility pole

Awkward access for pedestrians, school buses, and handicap patrons and cars

Chestnut is a side street that is dark and dangerous for the 100,000+ residents and visitors that come to The Music Hall and use it as access to the African Burying Ground



UTILITY POLE RESTRICTS TURNING OF BUSES AND DELIVERY TRUCKS





The only existing site amenity – planter box / sitting wall



View to residential parking; Utility pole



Difficult sidewalks and access



The Music Hall as a partner with the City seeks to help remedy the problem by

A 50/50 partnership with the City for the streetscape

\$400,000 for the street improvements funded by The Music Hall

\$400,000 from the City's CIP & UDAG funds

additionally, **The Music Hall will fund** a “Wayfinding Arch” to connect the African Burying Ground and Vaughan Mall to the Northern Tier; a gateway with orienting signage

A partnership creates an elegant solution

Pedestrian-friendly street that allows for patron drop off and loading

Improved turning radius for emergency vehicles on Chestnut St.

Safe, aesthetically aligned with improvements on Congress St.

Wayfinding Arch creates visibility to city treasures and builds on city history of archways and historic doorways

School bus loading and unloading now safer on Chestnut St.

Will meet the City's Master Plan goals of increasing the number of community gathering areas downtown

Work with designers, engineers, and City

These street plans have been under discussion between the City and the Music Hall for at least eight years, included in multiple CIPs with detailed plans and designs

local firm, Altus Engineering – Civil Engineer

local firm, JSN Associates, Inc. – Structural Engineer

local firm, Terra Firma Landscape Architecture – Designer

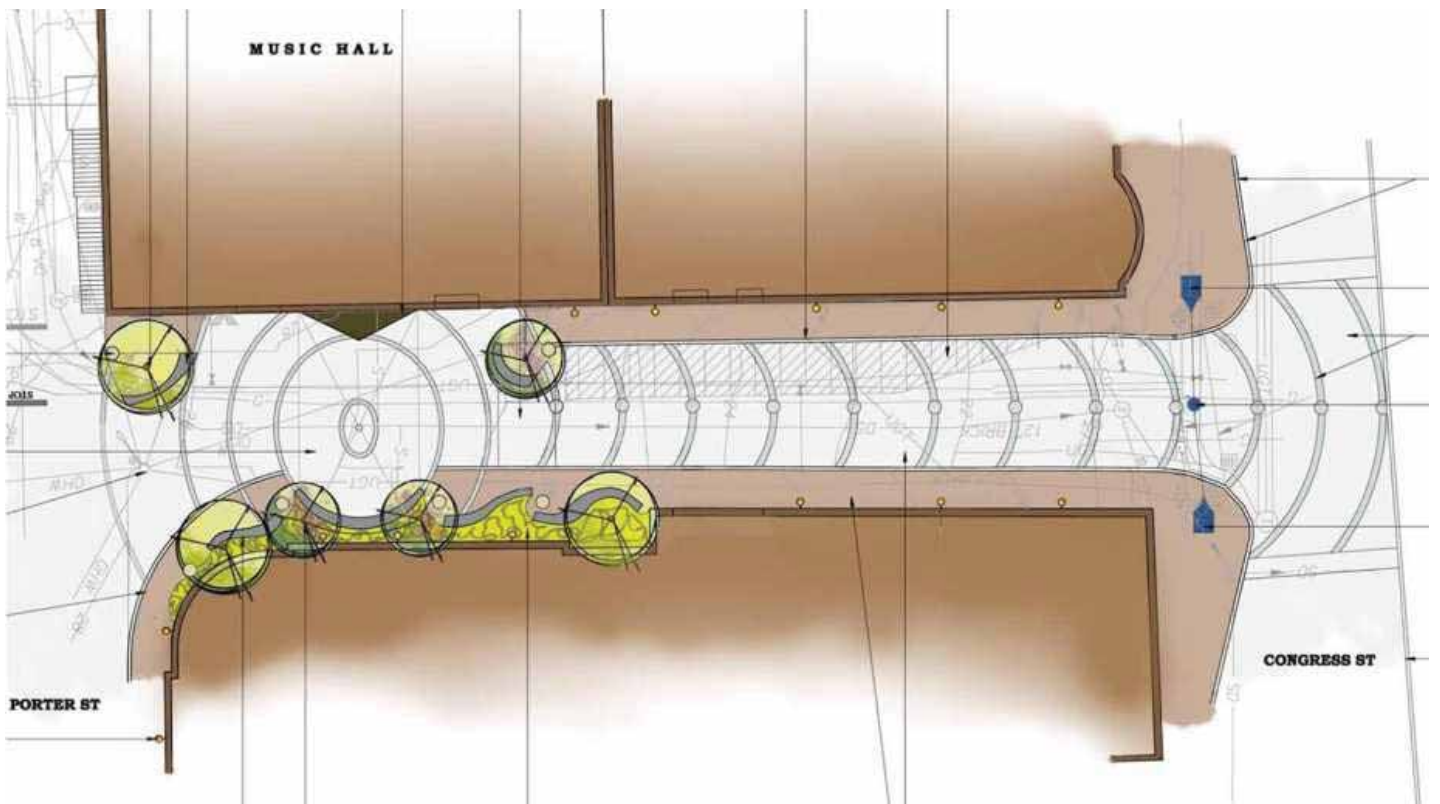
New England firm, NeoKraft – Archway Builder

Initial design concepts

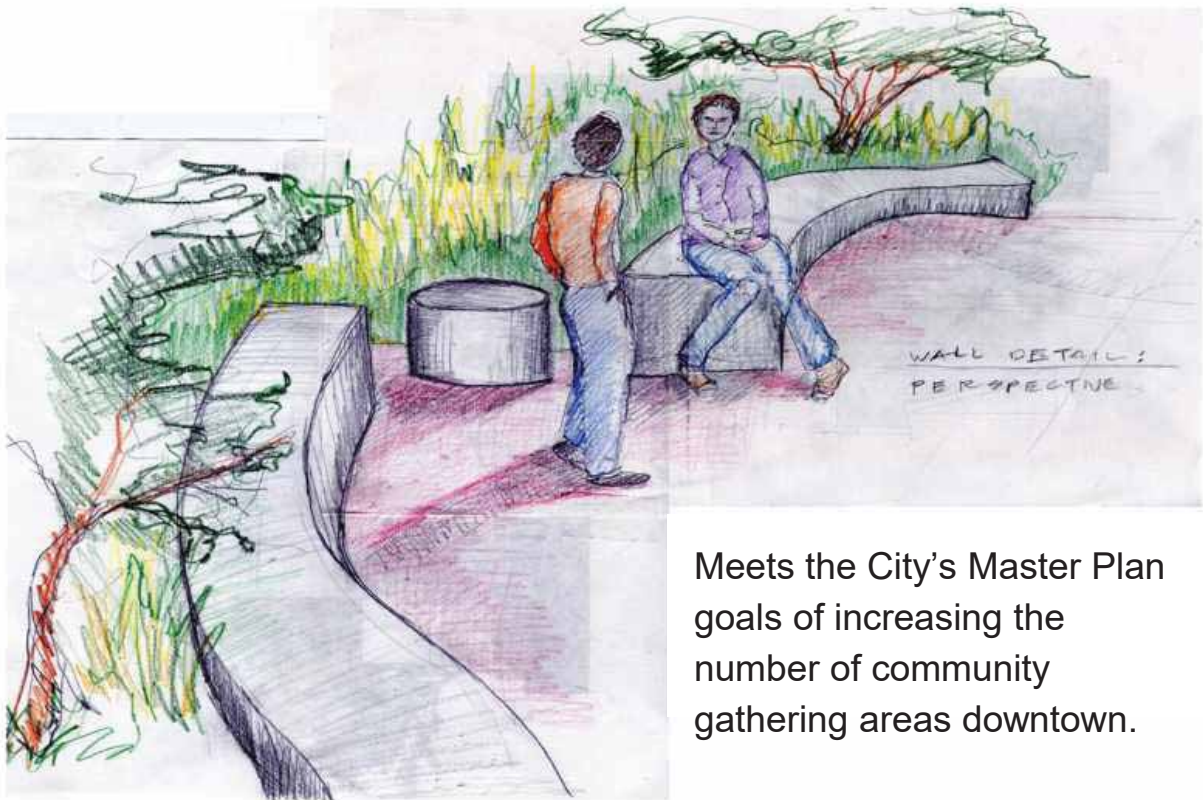
Have been discussed in multiple consultations with City departments

State Preservation Office embraces the idea; they oversee our designation as an “American Treasure”

Have been shared with the owners of the two abutting buildings and they have expressed enthusiasm







Meets the City's Master Plan goals of increasing the number of community gathering areas downtown.

A Wayfinding Arch

Creates focal point

Makes two of the city's most important historical treasures visible

Echoes the City's history of arches

Before



After







*Roman
Modified
Script*

**African
Burying
Ground**

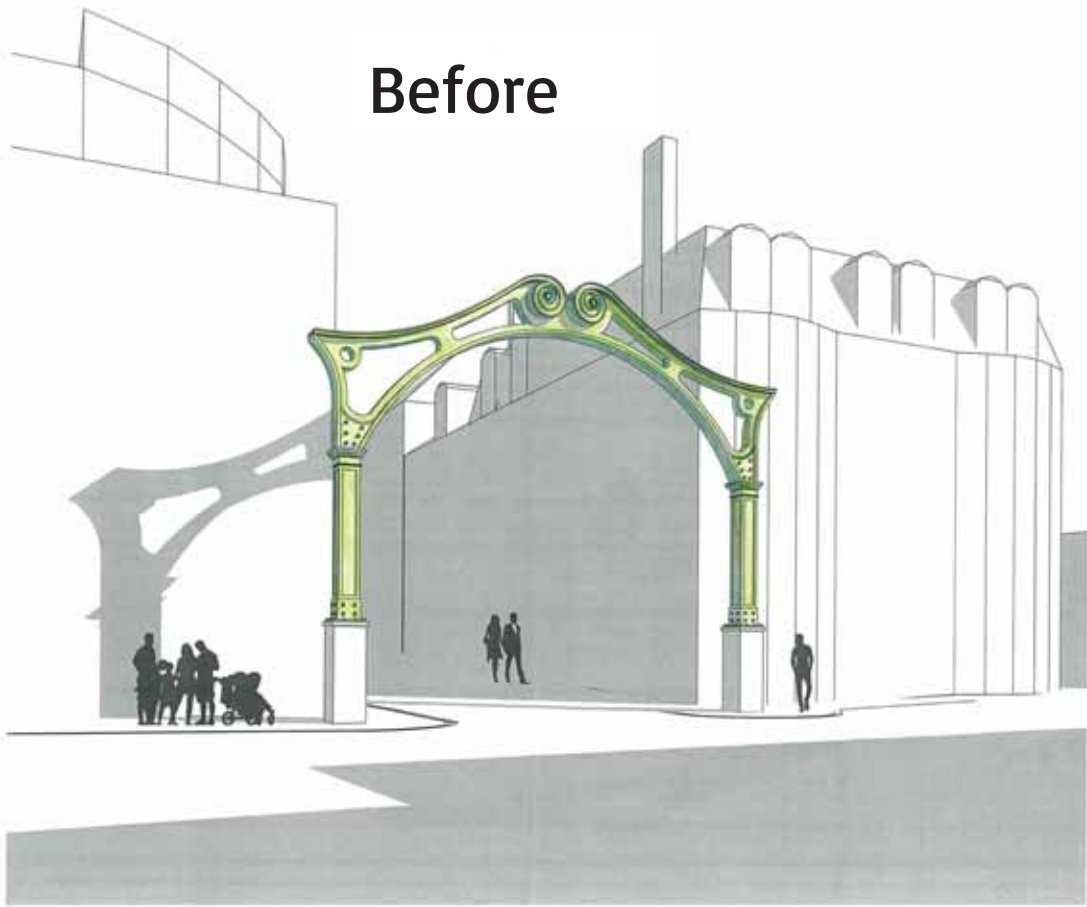


**Discover
Portsmouth**



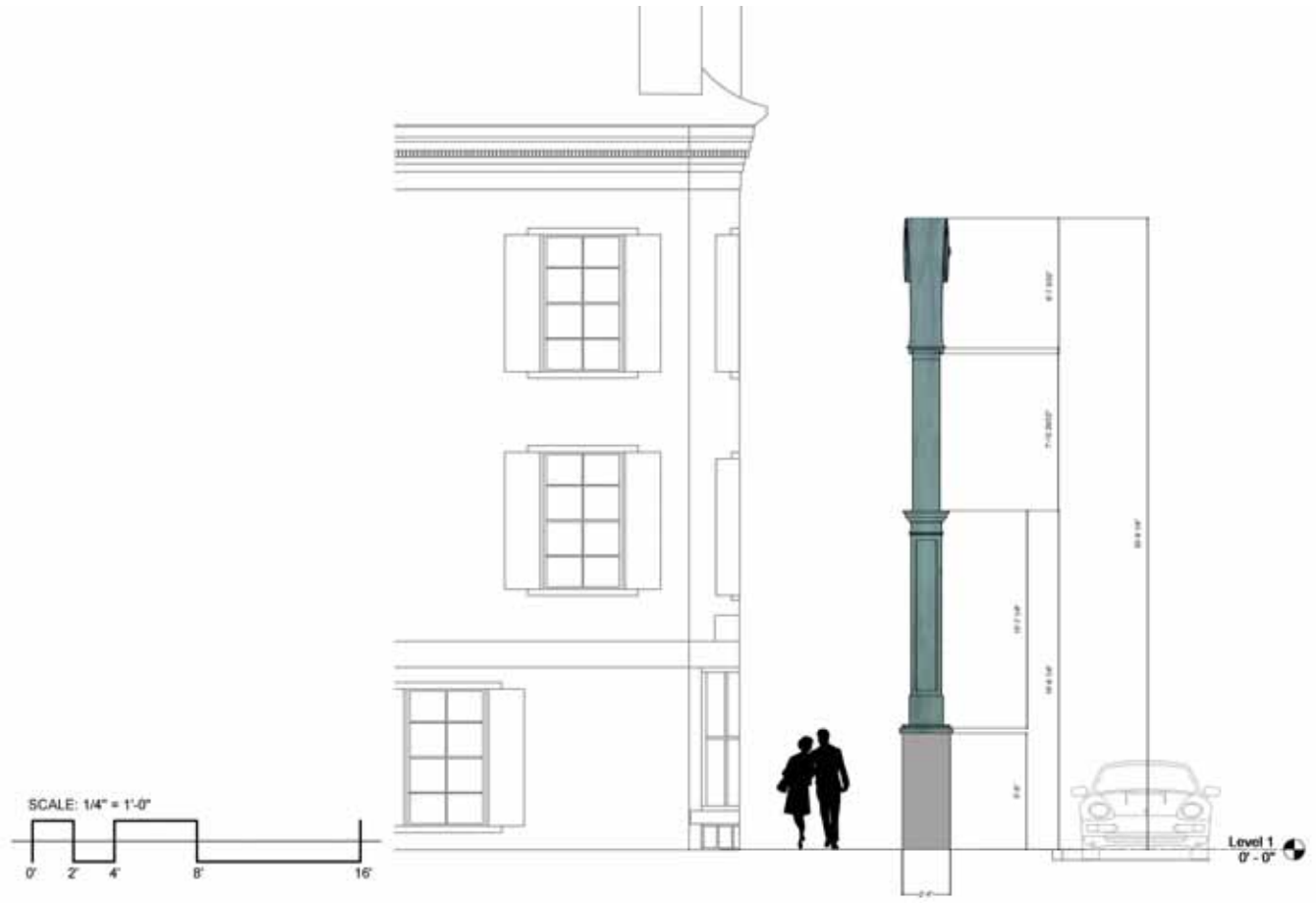
Music Hall

Before



After







Hanover St

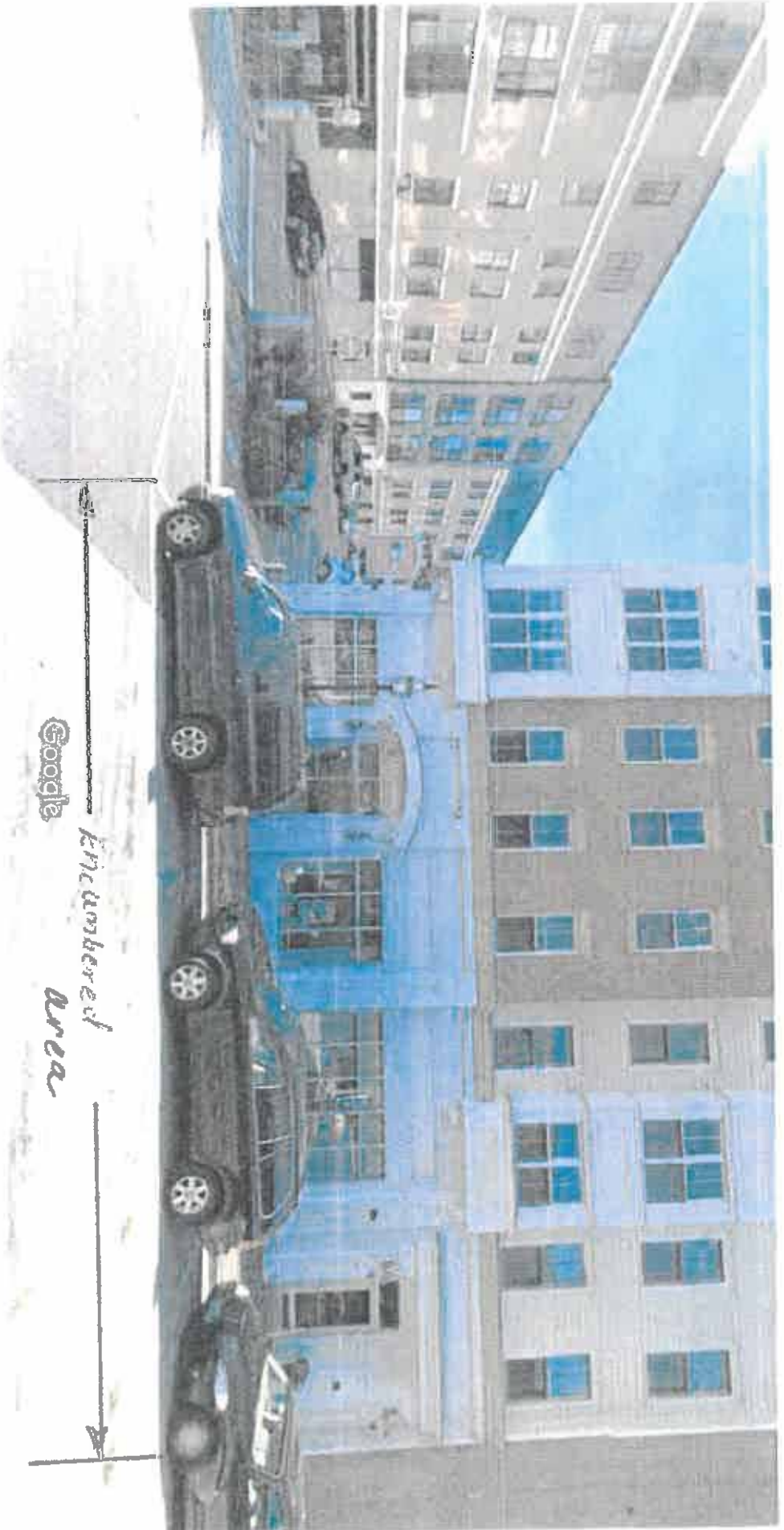


Image capture: Oct 2015 © 2016 Google

Portsmouth, New Hampshire

Street View - Oct 2015

Event Listing by Date

Starting Date: 8/ 1/2016

Ending Date: 7/31/2017

Start End	Type Description	Location	Requestor	Vote Date
8/ 4/2016 8/ 4/2016	RACE Justin Finn is the contact for this event. Race Start: 6:00 p.m. Registration: 4:30 p.m.	Portsmouth High School Cross Country Track	Portsmouth Rotary Club	12/ 7/2015
8/20/2016 8/20/2016	FUND Jim O'Brien is the contact for this event. Tel. (603) 380-5343	Market Square - Boot Drive	Portsmouth Professional Fire F	4/18/2016
8/27/2016 8/27/2016	BIKE TOUR Emily Christian, Development Manager is the contact for this event. Tel. #781-693-5154	Through Portsmouth	National Multiple Sclerosis So	7/11/2016
8/28/2016 8/28/2016	ROAD RACE Thomas P. D'Arcy is the contact for this event. Telephone number: 603-978-7884 This event begins at 9:00 a.m.	Pease Tradeport	Danielle's Dash	8/ 1/2016
9/17/2016 9/17/2016	RACE Holly Tennent and Melissa Mikulski are the contacts for this event. mmikulski@bottomline.com 501-5335 htennent@bottomline.com 501-6653 This event begins at 9:00 a.m.	Pease Tradeport	Bottomline Technologies	4/ 4/2016
9/17/2016 9/17/2016	WALK Contact: Ken La Valley, Chair - Out of Darkness Walk on Saturday, September 17, 2016 Registration: 8:30 a.m. Walk Duration 10:00 a.m. - Noon Peirce Island - Begin and end. Proposed Walk route 2.3 miles	Little Harbour School	American Foundation for Suicid	1/11/2016
9/18/2016 9/18/2016	RACE Wendy McCoolle is the contact for this event. Telephone #603-759-5640 Race Start: 9:00 a.m. Registration: 7:30 a.m.	Portsmouth Middle School	Celebrate Pink	12/ 7/2015
9/24/2016 9/25/2016	BIKE TOUR Donna Hepp is the contact for this event. Tel. 414-258-3287	Through Portsmouth	Grante State Wheelmen	12/ 7/2015
9/24/2016 9/25/2016	FESTIVAL David Hallowell is the contact for this event. This is a 2-day event starting at 8:00 a.m. to 6:00 p.m.	Pleasant Street	Portsmouth Maritime Folk Festi	1/25/2016
9/24/2016 9/25/2016	TOUR Caroline Amport Piper is the contact for this event. Tel. (603) 686-4338 Location of this event is to be determined. This event begins each day at 11:00 a.m. to 3:00 p.m.	South End	Friends of the South End	12/ 7/2015
10/ 9/2016 10/ 9/2016	ROAD RACE Contacts: (Date changed to October 9, 2016 instead of October 8th) Ben Anderson - ben@prescottpark.org Angela Greene - angela@prescottpark.org Race Start: 10:00 a.m. Registration: 8:00 a.m.	Memorial Bridge Portsmouth	Memorial Bridge Road Race	12/ 7/2015

Run: 8/11/16
8:06AM

Event Listing by Date

Page: 2

Starting Date: 8/ 1/2016

Ending Date: 7/31/2017

Start End	Type Description	Location	Requestor	Vote Date
10/22/2016 10/22/2016	WALK Contact Susan von Hemert Annual Memorial Bridge Walk walking across Memorial Bridge to Prescott Park	Memorial Bridge Walk to Prescott Park	Seacoast Rotary	3/ 3/2016
10/31/2016 10/31/2016	PARADE	Peirce Island thru downtown to Prescott Park	Portsmouth Halloween Parade	7/11/2016
11/13/2016 11/13/2016	ROAD RACE Jay Diener, Co-race Director is the contact for this event. He can be reached at (603) 758-1177 Runners start at 8:30 a.m.	Portsmouth, New Castle, Rye	Seacoast Half Marathon	4/18/2016
11/24/2016 11/24/2016	ROAD RACE Matt Junkin, Race Director is the contact for this event. This is the Thanksgiving Day Turkey Trot which begins at Peirce Island and ends at Strawberry Banke. Registration begins at 7:00 a.m. Race commences at 8:30 a.m.	Peirce Island is the start - Strawberry Banke is th	Seacoast Rotary Turkey Trot 5K	11/16/2015
12/11/2016 12/11/2016	ROAD RACE Thomas M. Bringle is the contact for this event. Tel. 603-724-6080 tbringle@arthritis.org. Registration begins at 9:00 a.m. Race start time: 10:00 a.m.	Little Harbour School	Arthritis Foundation - Jingle	1/25/2016
1/ 1/2017 1/ 1/2017	RACE Michael Rennebu is the contact for this event. Cell #603-969-9783 Race Start: 11:00 a.m. Registration: 9:00 a.m.	Portsmouth Middle School	Great Bay Services	12/ 7/2015
5/ 6/2017 5/ 6/2017	WALK Jenelle Dolan, Development Specialist is the contact for this event. Tel. 978-729-5849	Little Harbour Elementary School	March of Dimes	7/11/2016



City of Portsmouth

Inspection Department
(603) 610-7243

Robert T. Marsilia, Chief Building Inspector
Paul J. Garand, Assistant Building Inspector
Brian P. Kiely, Plumbing/Mechanical Inspector
John Flourde, Electrical Inspector

Annual Report for FY 2016 (Period July 1, 2015 to June 30, 2016) (With Comparison to Previous FY)

Period	7/1/2014		Through		6/30/2015				
	Applications						Inspections		
	Count	Cost	Fees	Count %	Cost %	Fees %	Count	Insp %	
Residential	1743	\$ 27,093,309.00	\$ 259,319.00	69.72%	36.96%	36.89%	1876	71.06%	
Commercial	757	\$ 46,211,044.00	\$ 443,709.00	30.28%	63.04%	63.11%	764	28.94%	
Total	2500	\$ 73,304,353.00	\$ 703,028.00				*2640		

Period	7/1/2015		Through		6/30/2016				
	Applications						Inspections		
	Count	Cost	Fees	Count %	Cost %	Fees %	Count	Insp %	
Residential	1929	\$ 29,534,259.00	\$ 327,750.00	62.51%	23.39%	32.11%	2787	63.23%	
Commercial	1157	\$ 96,714,941.00	\$ 692,833.00	37.49%	76.61%	67.89%	1621	36.77%	
Total	3086	\$126,249,200.00	\$ 1,020,583.00				*4408		

Year/Year Change	23%	72%	45%				67%	
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* Issued permits only.

Narrative: Year-end figures confirmed a significant increase in all permitting categories as compared to the previous year with the total number of permits issued up by 23%, construction cost up by 72% and fees collected up 45% from the previous year's total. As expected, the total number of inspections performed was also up significantly from the previous year (up 67%). It is important to note that the total number of inspections represents inspections related to issued permits only. In addition to those, inspection staff conducted numerous non permit related inspections which are not tracked through the current software system. Inspections not included in the total listed above include complaint related inspections, pre-permit and informational inspections as well as the proactive inspections which were conducted as part of the Special Projects initiative.

Note, a new permitting software system provider is currently in negotiations with the City. It is anticipated that this new system will be in place before year's end. This system will greatly enhance our current on line application and permitting capacity as well as allow inspection staff to access and update system functions in real time from the field. It is anticipated that the increased efficiencies provided by this system will allow Inspections staff more time to devote to plan review, pre permit inspections as well as Special Projects.

1 Junkins Avenue
Portsmouth, New Hampshire 03801
Fax (603) 427-1593

Significant inspection department related events which occurred during this period included the permitting, numerous inspections and issue of the first of several Certificates of Occupancy (CO) for the fit out of a production suite (Cell Therapy 1) at the Lonza facility. The second CO for this facility is anticipated to take place in the Fall of 2016.

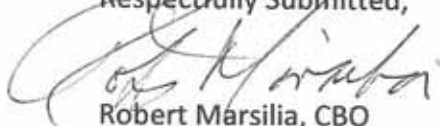
Continuing Education/Staff Training: Inspectors Garand and Plourde received training and certification in Firestop Inspections. Chief inspector Marsilia and plumbing/mech. inspector Kiely had both been trained and certified in this category previously. Additionally, inspectors Marsilia and Garand attended two day training seminars dealing with significant changes to the ICC Residential and Commercial Building Codes. Entire Inspections Department staff attended the City sponsored Customer Service training seminar.

Special Projects: Inspection staff continued working with Fire Prevention in conducting proactive inspections/interactions with commercial property owners (office parks, multi-unit apartment buildings, retail malls) to insure compliance with all applicable codes. Many were found to have outdated or non-existent life safety systems. In those cases, third party reports were required dealing with suggested updates which were implemented according to an agreed upon schedule. Examples of this are, Orchard Park Office Park (ongoing), Lafayette Professional Park (ongoing) and Malthouse Exchange Retail Mall (ongoing), 263 Rockland Street 34 unit apartment building (ongoing).

Inspection staff also continued working with Fire Prevention to pro-actively inspect the more than 100 Type 1 Hood, Commercial Kitchen Exhaust Systems to insure adequate maintenance and compliance with all applicable codes. Currently working to develop an informational presentation to be posted on City Website dealing with the recommended cleaning and maintenance of these important systems.

It is anticipated that the State of NH will adopt the 2015 edition of the ICC Model Codes. In preparation for this, the Chief Building Inspector will be preparing a summary of significant changes for review by the City Council in anticipation of adoption by The City of Portsmouth.

Respectfully Submitted,



Robert Marsilia, CBO

Chief Building Inspector
City of Portsmouth, NH
1 Junkins Ave, 03801
rtmarsilia@cityofportsmouth.com
603-610-7261

1 Junkins Avenue
Portsmouth, New Hampshire 03801
Fax (603) 427-1593

OPTION A - MASONRY



OPTION A - MASONRY

Brick Veneer

Cast Stone Cornices,
Window Surrounds

Cast Stone
Veneer Base



Portsmouth City Hall North Façade Replacement - Design Options

8/15/2016

LAVALLEE BRENSINGER ARCHITECTS

- Traditional Features: large cornice, precast stone banding, stone window heads & sills
- Traditional style three-part window type
- Cast stone base distinguishing lower and upper levels
- Updated Police Station entrance with masonry columns

OPTION A - MASONRY



OPTION A - MASONRY



Portsmouth City Hall North Façade Replacement - Design Options

8/15/2016

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Portsmouth City Hall North Façade Replacement - Design Options

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OPTION B – CURTAIN WALL & MASONRY



LAVALLEE | BRENSINGER ARCHITECTS

OPTION B – CURTAIN WALL & MASONRY

Brick Veneer Aluminum Curtain Wall Operable Windows Cast Stone Veneer



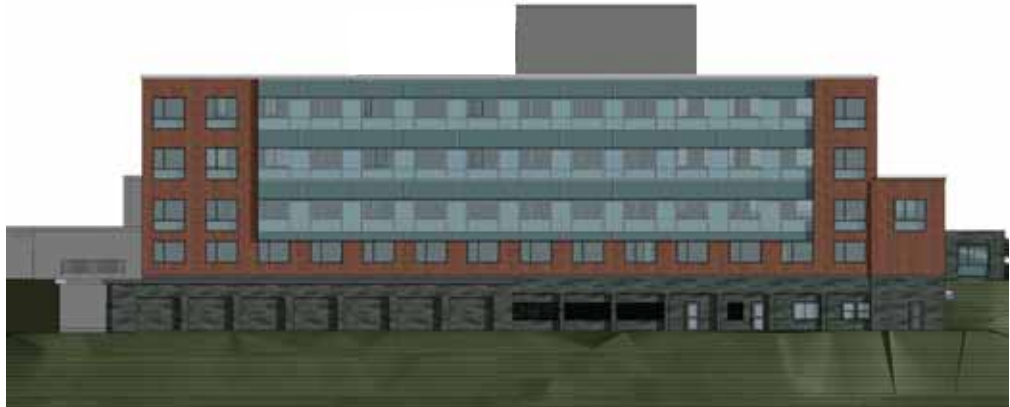
Portsmouth City Hall North Façade Replacement - Design Options

8/15/2016

LAVALLEE BRENSINGER ARCHITECTS

- Mix of vision glass and one or more colors of spandrel (non-vision) glass
- Areas of spandrel allow for adequate insulation behind curtain wall
- Cast Stone Veneer Base wraps corner facing Junkins Avenue
- Updated Police Station entrance matching cast stone base

OPTION B – CURTAIN WALL & MASONRY



OPTION B – CURTAIN WALL & MASONRY



Portsmouth City Hall North Façade Replacement - Design Options

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Report on the Build Dio Public Art Proposal

August 9, 2016

At a City Council meeting on June 6, 2016, Portsmouth resident Brian Kelly requested that his proposal to build a statue of heavy metal artist Ronnie James Dio in Prescott Park be referred to Art-Speak.

During that meeting, it was suggested that Art-Speak first hold a meeting with Mr. Kelly so that both parties could gain a better understanding of the proposal and the process. That meeting took place on June 14, 2016.

On June 20, the matter was again presented for consideration before the City Council and they voted unanimously to refer to Art-Speak.

Mr. Kelly has been made aware of the City's Public Art Procedural Guidelines, and the process for submitting public art proposals.

It is now incumbent upon Mr. Kelly to raise the necessary funds so that he may come back to Art-Speak and work jointly to design, build and erect a statue on city property. Per the Public Art Procedural Guidelines, once the funding has been established, a project planning committee will be created to manage the project in coordination with Mr. Kelly, the City and the procedural guidelines.

ACTION ITEMS

PARKING and TRAFFIC SAFETY COMMITTEE MEETING

8:00 A.M. – August 4, 2016
City Hall – Eileen Dondero Foley Council Chambers

MEMBERS PRESENT: Brad Lown, Chairman; John Bohenko, City Manager; James Heinz, Deputy Fire Chief; Frank Warchol, Police Captain; Ted Gray, Member; Ronald Cypher, Member; Harold Whitehouse, Member; Mary Lou McElwain, Alternate Member;

ALSO PRESENT: Eric Eby, Parking and Transportation Engineer
Joey Giordano, Parking Manager
Juliet Walker, Transportation Planner

MEMBERS ABSENT: Peter Rice, Public Works Director
Shari Donnermeyer, Member

Action Items requiring an immediate ordinance during the next Council meeting:
None

Temporary Action Items requiring an ordinance during the annual omnibus:
15-minute parking space nearest to 78 Bridge Street (VI.A.)

1. Accepted and placed on file the minutes of the Parking and Traffic Safety Committee Meeting held on July 7, 2016.
2. Accepted and placed on file the Financial Report dated June 30, 2016.
3. Public Comment Session – Two speakers: Marc Stettner and John Carroll
4. (VI.A.) – **Action Item:** Request by Rita Patel, Gary's Beverages, for two 15-minute parking spaces near 78 Bridge Street – **VOTED 7-1, to keep the metered parking spaces on Bridge Street at their current 3-hour time limit. Additionally, one unmetered parking space on Hanover Street, nearest to 78 Bridge Street, should be designated as a 15-minute parking space.**

5. (VII.A.) **Action Item:** Dedicated moped, motorcycle and scooter parking.
Informational update on request to identify on-street parking spaces for mopeds, motorcycles and scooters – **VOTED to convert one vehicle parking space in front of Breaking New Grounds at 14 Market Square into four moped and motorcycle parking spaces as a pilot program. Staff would report back in three months on parking activity.**
6. Public Comment Session – One speaker: Marc Stettner
7. Informational –
 - A. Loading Zone on Middle Street in front of Women’s City Club
 - B. Monthly accident report for 06/27/16 – 07/27/16
 - C. Islington Street/Albany Street temporary crosswalk project update
8. Miscellaneous –
 - Harold Whitehouse on bike rack at Crossroads House
 - Mary Lou McElwain on crosswalk safety and traffic speed issues
 - Rick Becksted – public comment
9. Adjournment – At 8:38 a.m., **voted** to adjourn.

Respectfully submitted by:

Amy Chastain
Secretary to the Committee

MEETING MINUTES

PARKING and TRAFFIC SAFETY COMMITTEE MEETING

8:00 A.M. – August 4, 2016
City Hall – Eileen Dondero Foley Council Chambers

I. CALL TO ORDER:

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

II. ROLL CALL:

Members Present:

Chairman, Brad Lown
City Manager, John Bohenko
Deputy Fire Chief, James Heinz
Police Captain, Frank Warchol
Member, Ted Gray
Member, Harold Whitehouse
Member, Ronald Cypher
Alternate Member, Mary Lou McElwain

Staff Advisors Present:

Parking and Transportation Engineer, Eric Eby
Joey Giordano, Parking Manager
Transportation Planner, Juliet Walker

Absent:

Public Works Director, Peter Rice
Member, Shari Donnermeyer

III. ACCEPTANCE OF THE MINUTES:

Ted Gray motioned to accept the July 7, 2016, meeting minutes.
Ron Cypher seconded.

Motion passed 8-0.

IV. FINANCIAL REPORT:

Harold Whitehouse motioned to accept the financial report dated June 30, 2016.
Ted Gray seconded.

Motion passed 8-0.

V. PUBLIC COMMENT:

Marc Stettner requested to speak on action item (VII.A.) regarding dedicated moped, motorcycle and scooter parking.

John Carroll, business owner at 88 Bridge Street, supported keeping the existing two 3-hour metered spaces directly in front of his business, and not converting them to 15-minute parking spaces. He also expressed concern about safety when box trucks park in the 15-minute spaces, and obstruct the view of stop signs at Bridge Street and Hanover Street.

VI. NEW BUSINESS:

A. Request by Rita Patel, Gary's Beverages, for two 15-minute parking spaces near 78 Bridge Street – Harold Whitehouse stated the Committee conducted a site visit on Tuesday, August 2, 2016. He clarified that an on-site visit is done to review the site and discuss the action item. The Committee at the PTS meeting makes the official decision.

Harold Whitehouse motioned to keep the metered parking spaces on Bridge Street at their current 3-hour time limit, and that one unmetered parking space on Hanover Street, nearest to 78 Bridge Street, be designated as a 15-minute parking space. Ron Cypher seconded.

Mary Lou McElwain supported keeping the 3-hour time limit spaces on Bridge Street, but opposed changing the one unmetered parking space on Hanover Street to a designated 15-minute parking space. She stated that because Hanover Street, in that area, is designated as Resident Parking Only, a change would cause consternation within the neighborhood.

Harold Whitehouse asked if the action item could be reviewed if parking issues develop. City Manager Bohenko stated the parking situation could be checked in the next three to six months and staff would report back to the Committee if issues develop.

The Committee discussed empty spaces in the area, trucks unloading on Hanover Street and the Residential Parking Only on Hanover Street. Chairman Lown expressed support for the motion in order to help a new business.

Voted 7-1, to keep the metered parking spaces on Bridge Street at their current 3-hour time limit. Additionally, one unmetered parking space on Hanover Street, nearest to 78 Bridge Street, should be designated as a 15-minute parking space. Mary Lou McElwain opposed.

VII. OLD BUSINESS:

A. Moped, motorcycle and scooter parking – Joey Giordano, Parking Manager, stated staff is currently drafting language regarding moped parking. They are also conducting informal surveys of downtown business owners regarding the issue.

Marc Stettner stated there are two issues: moped parking on sidewalks and more importantly, dedicated spaces for moped and motorcycle on-street parking. He suggested designating three to four parking spaces, with each space marked for four to six mopeds or motorcycles. He provided examples of other cities like Portland, Maine and Boston, that currently provide designated parking spaces on city streets. He requested the Committee to move forward and provide regular status updates.

City Manager Bohenko discussed the option of converting one vehicle parking space, in front of Breaking New Grounds, at 14 Market Square, into four marked moped and motorcycle parking spaces as a pilot program for three months.

City Manager Bohenko motioned to convert one vehicle parking space in front of Breaking New Grounds, at 14 Market Square, into four moped and motorcycle parking spaces as a pilot program. Staff would report back in three months on parking activity. Mary Lou McElwain seconded.

The Committee discussed using traffic cameras to record activity, seasonal parking, and that each marked space would be required to pay the meter rates.

Marc Stettner supported free parking in the designated space in front of Breaking New Grounds for mopeds and motorcycles for the pilot program. He stated that in Portland it is free. Boston charges 25 cents an hour for designated parking. He stated that by requiring payment for each spot, there is no incentive to the moped and motorcycle drivers. He believes they will continue to park multiples in one parking space, and only one driver will pay the meter rates.

Voted 8-0, to convert one vehicle parking space in front of Breaking New Grounds at 14 Market Square into four moped and motorcycle parking spaces as a pilot program. Staff would report back in three months on parking activity.

VIII. PUBLIC COMMENT:

Marc Stettner spoke during the previous action item (VII.A.)

IX. INFORMATIONAL:

A. Loading Zone on Middle Street in front of Women's City Club – Eric Eby stated that an inquiry was made about the loading zone signs on Middle Street in front of Women's City Club. He stated after reviewing PTS meeting minutes, the space was changed from No Parking to Loading and Unloading of Live Parked Vehicles. This occurred in 2014. This change allowed patrons with physical impairments to be picked up and dropped off in front of the club. Chairman Lown stated the inquiry originated from the President of the Women's City Club. She was interested in the history of the signs.

B. Monthly accident report for 06/27/16 – 07/27/16 – Police Captain Warchol summarized the report. One pedestrian and two bicycle accidents involving motor vehicles were reported. He stated that during the last three years only 23 pedestrians and six bicyclists were struck by motor vehicles, and only three of the bicyclist accidents occurred in Market Square. He stated that this is quite remarkable given the amount of vehicles and foot traffic in the downtown. Mary Lou McElwain thanked Police Captain Warchol for the report and suggested a quarterly report be provided in the future. The Committee agreed.

C. Islington Street/Albany Street temporary crosswalk project update – Eric Eby stated materials were being purchased for the temporary crosswalk. The materials included: temporary marking tape, signage, temporary handicap curb ramps and delineators to shift traffic away from the right turn lane in front of White Heron. He stated that during half of the 30-day pilot project, the corner of Bartlett Street and Islington Street would be repainted and traffic would be monitored. The tightening of the corner would reveal how traffic patterns would be affected. Eric Eby offered to show the Committee the temporary crosswalk plan if interested.

X. MISCELLANEOUS:

Harold Whitehouse inquired about a bike rack being installed at Crossroads House located at 600 Lafayette Road. He noticed many bikes on the ground. Juliet Walker, Transportation Planner, stated the site had been identified as needing additional bike racks and possibly a bike shelter. Police Captain Warchol stated that an existing bike rack is located on the property.

Mary Lou McElwain stated she had received comments on crosswalk safety and traffic speed issues. She expressed concern over the number of crosswalks in need of repair after utility construction projects. She identified crosswalks at Middle and Richards, Middle and Court, South and Brackett, as needing repair. City Manager Bohenko commended the Public Works Department for crosswalk restriping in the downtown and assured the Committee that the crosswalks identified would be addressed.

Rick Becksted commented that the spot chosen in front of Breaking New Grounds for moped and motorcycle designated parking is the most lucrative and highly utilized parking space in the area. He suggested finding a different location for designated on-street parking for mopeds and motorcycles.

He relayed an account of a pedestrian trying to use the crosswalk on Woodbury Avenue at Woodlawn Circle. He stated it is difficult to cross the street at that location. He requested additional steps be taken to address prominent crosswalks in the City. He discussed the use of solar powered flashing pedestrian signals, and how he would like more signals to be installed for pedestrian safety.

Mr. Becksted discussed traffic calming and proposed using solar powered radar speed signs. He stated after researching the issue, he discovered they are used as speed calming devices and can be purchased for \$3,500.00 each. He identified nine locations where they could be used effectively.

XI. ADJOURNMENT – At 8:38 a.m., voted to adjourn.

Respectfully submitted by:

Amy Chastain
Secretary of the Committee

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Date: August 10, 2016

To: Mayor Blalock and City Council Members

From: Councilor Eric Spear, Chair of the Evaluation Committee
Councilor Brad Lown
Councilor Chris Dwyer

Re: Extension of City Manager's Employment Agreement

The Mayor has charged the Evaluation Committee with negotiating the extension of the City Manager's Employment Agreement. We are pleased to provide you with a revised Employment Agreement that would terminate on June 30, 2020. The following are proposed changes which have been redlined in the attached Agreement, which has been reviewed by Thomas Closson, City Labor Attorney.

- Section 4 - Salary:
 - Paragraph A: Base salary effective upon approval of this Agreement would be \$163,800 annually. Commencing July 1, 2017 employee's salary will be \$172,000. Presently, the base salary is \$156,000.
 - New Paragraph B: Retention Bonus. The employee shall be provided a retention bonus of \$5,000 on January 1, 2017; \$5,000 on January 1, 2018; \$5,000 on January 1, 2019; and \$5,000 on January 1, 2020. This retention bonus will be put toward the employee's 457 Retirement Plan.
- Section 13 - Health, Life, Dental and Disability Insurance, Paragraph A: Amend language for Health Insurance to reflect the benefit that the employee currently receives.
- Section 14 - Deferred Compensation, Pension and Retirement Health Insurance:
 - Paragraph B: Add language to allow the employee to be reimbursed up to .55% of management fees incurred with my 401(a) Plan. (Because the City Manager is the only person in this plan, he gets charged the highest management fee. When the City Manager was in Connecticut, there was no fee because everyone else was in a 401.)
 - New Paragraph E: Upon retirement, the City Manager would become a contract employee for up to one year working 15 hours a week for a total maximum hours of 750 for a period of one year and an hourly rate of \$150.00. (We have included

this for his transition to retirement, as well as being able to assist the new manager as he/she deems appropriate.)

- Section 15 - New Paragraph B: Long-term Care Insurance. The City would provide a long-term care insurance policy in the amount of \$100,000.
- Section 16 - Indemnification: Added language to clearly show that the employee should be indemnified for anything that took place during his years with the City of Portsmouth in his retirement.

The City Manager's Employment Agreement can be found on the City Website:

<http://www.cityofportsmouth.com/hr/contracts/Municipal/CityManagerexp6-2020.pdf>

Proposed Motion:

Move to authorize the Mayor to execute the amendments to the City Manager's Employment Agreement dated August 10, 2016, as outlined in this memorandum, and further, that all other conditions of the City Manager's Employment Agreement dated October 23, 2012, remain in full force and effect.

EMPLOYMENT AGREEMENT

THIS AGREEMENT, made and entered into this ____ day of ~~2016~~ by and between the CITY OF PORTSMOUTH, a municipal corporation within the County of Rockingham and the State of New Hampshire (hereinafter called the "CITY"), as party of the first part, and JOHN P. BOHENKO, of the City of Portsmouth, County of Rockingham, and State of New Hampshire (hereinafter called "EMPLOYEE"), as party of the second part;

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WITNESSETH:

WHEREAS, the City desires to employ the services of the Employee as City Manager of the City of Portsmouth as provided by its Charter;

WHEREAS, it is the desire of the City Council to provide certain benefits, establish certain conditions of employment, and to set working conditions of said Employee;

WHEREAS, it is the desire of the City Council to (1) secure the services of the Employee and to provide inducement for him to remain in such employment, (2) to make possible full work productivity by assuring Employee's morale and peace of mind with respect to future security, and (3) to provide a just means for terminating Employee's services at such time as he may be unable to fully discharge his duties, within the discretion of the City Council, due to disability, or when the City may desire to otherwise terminate his employment; and,

WHEREAS, Employee desires to maintain employment as City Manager of said City.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants and agreements herein set forth, and for other good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. Duties. City hereby agrees to employ John P. Bohenko as City Manager of said City. Employee accepts such employment and agrees to perform the functions and duties specified in the City Charter, City Ordinances, and the New Hampshire General Statutes, and to perform such other legally permissible and proper duties, and reasonable functions as the City Council shall from time-to-time assign.

Section 2. Term.

A. This Agreement shall remain in effect from until June 30, 2020 except if extended in accordance with paragraph B. below.

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B. The Employee shall notify the City Council after July 1, 2019 and before August 15, 2019, that this Agreement is scheduled to terminate on June 30, 2020. After receipt of such notice, if the Council does not thereafter notify the Employee prior to September 15, 2019 of its intent to negotiate a new agreement, this Agreement shall expire under its terms and conditions on June 30, 2020, and Employee shall receive severance benefits as provided under Section 3 of this Agreement. If the City notifies the Employee of its intent to negotiate a new Agreement, the negotiations shall commence within thirty (30) days of the date of that notification. In the event the parties are unable to negotiate an agreement prior to December 2019, this Agreement shall terminate on June 30, 2020, and the Employee shall receive severance benefits as provided for in Section 3 of this Agreement.

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C. This Agreement may be terminated and the Employee removed from office by the Council pursuant to Section 5.7 of the City Charter. Unless the Employee is removed after

conviction of a felony or for intentional gross misconduct, the Employee shall receive his salary through June 30, 2020 and severance benefits as provided in Section 3 of this Agreement. Upon termination for conviction of a felony or final determination of intentional gross misconduct, the Employee shall not be entitled to salary or severance benefits after termination other than accrued vacation.

D. In the event the City seeks to terminate the Employee for intentional gross misconduct, the Employee shall be entitled to arbitrate the question under the rules, policies and procedures of the American Arbitration Association (AAA). This arbitration shall be under the following terms and conditions:

- 1] The Employee shall select the arbitrator from among those arbitrators approved by AAA.
- 2] The City shall bear all expenses of arbitration, including the reasonable attorneys fees of the Employee, regardless of the outcome of the arbitration.
- 3] The Employee shall receive all salary and contract benefits during the pendency of the arbitration.
- 4] In the event the arbitrator finds in favor of the Employee, then he shall resume his duties as City Manager.

Section 3. Termination and Severance Pay.

A. In the event the Employee is terminated by the City Council, the City agrees to pay the Employee within thirty (30) days of said termination, a cash payment equal to twelve (12) calendar months of compensation, plus one additional month for each full year of service with the City of Portsmouth and, in addition, shall pay in full all unused, accrued vacation time.

Unless the Employee is terminated because of his conviction of a felony or intentional gross misconduct, then the City shall have no obligation to pay the above sums, except vacation.

B. In the event that the City, at any time during the term of this Agreement, reduces the salary or other financial benefits of the Employee in a greater percentage than an applicable across-the-board reduction for all employees of the City, or in the event that the City refuses upon written notice to comply with any other provision benefiting the Employee under this Agreement, or in the event that the Employee resigns following a demand by the Council that he resign, then, in those events, the Employee may, at his option within 30 calendar days of the event, be deemed to be terminated and the severance pay provision as stated in this Agreement shall be applicable.

C. In the event the Employee voluntarily resigns his position with the City, then the Employee shall give the City not less than sixty (60) days written notice in advance, such notice to be directed to the Mayor of the City, with a copy to the City Clerk. If the Employee voluntarily resigns, he shall not be entitled to salary after resignation or to termination or severance benefits except he shall be paid for accrued, but unused vacation.

Section 4. Salary.

A. Effective _____, the Employee's salary will be ~~\$163,800~~. Commencing July 1, ~~2017 employee's salary will be \$172,000~~ and every July 1st thereafter through July 1, ~~2019~~, the Employee will receive a COLA adjustment based on the ten (10) year rolling average of the CPI for the Boston/Brockton/Nashua Index.

B. Retention Bonus. The employee shall be provided a retention bonus of \$5,000 on January 1, 2017; \$5,000 on January 1, 2018; \$5,000 on January 1, 2019; and \$5,000

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on January 1, 2020. This retention bonus will be put toward the employee's 457 Retirement Plan.

- C. The Employee shall be provided with such additional or further compensation above his base salary as may be voted by the City Council from time-to-time, based upon its annual performance evaluation and review of the Employee.

Section 5. Performance Evaluation.

A. A subcommittee of the City Council, consisting of those Council members with more than one year of Council service, shall review and evaluate the performance of the Employee annually during the month of June, or such other month as may be mutually agreed upon, commencing in 1998. This review and evaluation shall be in accordance with specific criteria developed jointly by the entire City Council and the Employee. These criteria may be added to or deleted from as the Council may from time to time determine, in consultation with the Employee. At the completion of the review and evaluation, the subcommittee shall consult with the entire Council to provide the Employee with a summary written statement of the findings of the subcommittee and to provide adequate opportunity for the Employee to discuss the review and evaluation with the entire Council.

B. Annually, commencing prior to September 15, 1997, the Council and the Employee shall define such performance objectives as they may determine necessary for the proper operation of the City and in attainment of the Council's policy objectives and shall further establish a relative priority among those various objectives, these objectives to be reduced to writing. The objectives shall generally be attainable within the time limitations as specified and the annual operating and capital budgets and appropriations provided.

C. In effecting the provisions of this section, the Council and the Employee mutually agree to abide by the provisions of applicable law.

Section 6. Hours of Work. It is recognized that the Employee must devote a great deal of time outside normal office hours to business of the City, and to that end, the Employee will be allowed to take reasonable compensatory time off as he shall deem appropriate during said normal office hours.

Section 7. Automobile. During the term in which the Employee is engaged in the performance of his duties and responsibilities pursuant to this Agreement, the City agrees to make automobile payments to any automobile leasing company which the Employee may designate in an amount not to exceed four hundred twenty-five dollars (\$425) per month. The City shall also provide for reimbursement for the cost of the registration and insurance on said vehicle along with supplying gasoline. Said vehicle shall be for both personal and business use.

Section 8. Dues and Subscriptions. The City hereby agrees to budget and pay the professional dues and subscriptions of the Employee, necessary for his continuation and full participation in national, regional, state, and local associations and organizations, necessary and desirable for his continued professional participation, growth and advancement, and for the good of the City.

Section 9. Professional Development. The City hereby agrees to pay, within budgetary constraints, the necessary expenses of Employee to continue his professional development and to adequately pursue official functions of the City, including but not limited to the annual conference of ICMA, and other such national, regional and state governmental groups and committees thereof on which Employee serves as a member. In addition, the employee shall be entitled, during the term of this agreement, a 3 month paid educational sabbatical.

Section 10. General Expenses - Expense Account. The City recognizes that certain expenses of a non-personal and generally job-affiliated nature are incurred by Employee, and hereby agrees to reimburse or to pay said general expenses upon receipt of duly executed expense vouchers, receipts, statements, or personal affidavits.

Section 11. Holidays and Vacation.

- A. Commencing January 1, 1998, the Employee shall receive thirty (30) work days vacation on an annual basis. Employee shall not accrue more than one-hundred eighty (180) work days vacation.
- B. The Employee may elect payment on June 30 of any year for unused vacation days, not to exceed ten (10) days in any year.
- C. Employee shall be entitled to the same paid holidays which other management employees receive.

Section 12. Sick Leave.

The Employee will not receive any preset number of sick days each year, but instead will not have his salary interrupted because of his absence due to illness. There will be no accumulation of sick leave of pay therefore upon termination of this agreement.

Section 13. Health, Life, Dental and Disability Insurance.

A. The City agrees to continue in force for Employee and his dependents at no cost to Employee the same health, life, dental and disability insurance afforded to other City management employees. ~~The employee agrees to pay the same~~ co-pay for health insurance premiums ~~as other non-union management employees.~~ Sections 125 and 129 Benefit Plans shall be available to the Employee to the extent they are available to other management employees. In the event that the Employee is involuntarily terminated (which shall not include expiration of the

Deleted: The Employee agrees to a 10% co-pay for health insurance premium. Effective July 1, 2008, the employee agrees to a 19% co-pay for health insurance premiums. Effective July 1, 2010, the employee agrees to a 20%

Agreement according to its terms or termination for commission of a felony or intentional gross misconduct), the City shall continue in force for Employee and his dependents at no cost to the employee, the life, dental and disability insurance afforded other City employees for a maximum period of 365 days after termination unless such coverage has been provided to Employee without cost through new employment. In the event that the Employee is involuntarily terminated (which shall not include expiration of the Agreement according to its terms or termination for conviction of a felony or intentional gross misconduct), the City will continue to provide health insurance coverage to the Employee and his family, and the Employee agrees to pay the same level of co-pay that is in effect on the date of termination for health insurance premium for the maximum period of 365 days after termination unless such coverage has been provided to Employee through other employment.

B. The City shall provide long-term disability insurance coverage to the Employee. This coverage shall provide the Employee with at least two-thirds of the salary which he is receiving.

If the Employee becomes wholly or continuously disabled, the City shall continue full salary of the Employee until either disability coverage becomes applicable or disability coverage is denied by the disability carrier. The Employee shall surrender to the City any worker's compensation, accident, sickness, or other disability benefit received from the City or any of its insurers during this initial period.

Section 14. Deferred Compensation, Pension and Retirement Health Insurance.

A. The City shall execute the necessary agreement allowing the Employee to enroll in a 457 Deferred Compensation Plan. Effective November 1, 2012, the City agrees to contribute an amount equal to 16% of the Employee's salary. Payment of this sum is to be pro-rated in accordance with the City's normal salary payment schedule.

B. The City shall execute the necessary agreement allowing the Employee to enroll in the International City Management Association's Retirement Corporation 401(a) Money Purchase Plan. Effective July 1, 2000 the City agrees to contribute an amount equal to and not to exceed twenty (20%) percent of the employee's compensation. The Employee shall be required to match the City's contribution with an amount not to exceed ten (10%) percent of his compensation. The City shall file for immediate vesting in the Plan for Employee. The City shall reimburse the employee up to .55% of the management fee incurred for the plan during the previous calendar year effective January 1, 2016 and every January thereafter.

C. The total contribution shall not exceed any maximum established by law.

D. Upon retirement, Employee shall be entitled to a monthly medical health insurance stipend. Said stipend shall increase annually from date of hire at a rate of 10% for each full year of service with the City to a maximum of 100% of the premium for health insurance carried by Employee on the date of retirement. On July 1 of each year after retirement, the amount of the health insurance stipend will increase at the same percentage level as the medical subsidy offered by the New Hampshire Retirement System (NHRS). The stipend shall be credited towards the purchase of medical insurance offered to other City retirees. If the City is unable to insure Employee, or at the Employee's request, the stipend shall be tendered to Employee in cash on July 1 of each year. At no time shall the stipend exceed Employee's actual cost for carrying health insurance. Employee agrees to cooperate with the City for purposes of establishing the

actual cost of Employee's health insurance. Employee's retirement shall be defined as leaving the employment of the City and receiving payments from Employee's 457 or 401(a) Plan.

E. Upon retirement from the City of Portsmouth, the employee will become a contract employee working an average of 15 hours a week for a total maximum hours of 750 for a period of one year. The employee will work at the direction of the City Manager on special projects or other work as assigned. The City will provide the employee office space, computer and cell phone for use during this engagement period. The employee will be compensated \$150.00 per hour. In the event the City no longer requires the services of the employee, the City shall pay a lump sum based on the number of hours remaining under this agreement.

Section 15.

A. Life Insurance. The City agrees to purchase, keep in effect, and pay the required premiums on a term life insurance policy equal to the amount of two hundred and fifty thousand dollars (\$250,000). Said policy is to be owned by the Employee. Such policy shall become effective as of October 6, 2006 and the City shall pay all renewal premiums as required. Upon termination of this Agreement, Employee will have the option to continue ownership of this policy at his expense.

B. Long-term Care Insurance. The City agrees to purchase and pay the required premium on a long-term care insurance policy in the amount of \$100,000. Said policy to be owned by the employee.

Section 16. Indemnification. The City agrees to indemnify and hold harmless the Employee from any and all losses, including reasonable attorneys' fees and other expenses of defense, in connection with any claim, demand, action, or suit, or judgment arising out of any act or omission of the Employee if at the time of the act or omission, the Employee was acting

within the scope of his employment and without malice or bad faith and shall maintain this indemnification upon retirement.

Section 17. Outside Work. The Employee shall not spend more than ten (10) hours a week in teaching, consulting, or other non-City connected business, without the prior approval of the City Council.

Section 18. Residence. The Employee agrees to establish his domicile within the City of Portsmouth in accordance with the City Charter.

Section 19. Bonding. The City shall bear the full cost of any fidelity or other bonds required of the Employee under any law or ordinance.

Section 20. Other Terms and Conditions. The City Council may fix such other reasonable terms and conditions of employment, as it may determine from time to time, relating to Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of the Agreement, the City Charter, or any other federal or state law.

Section 21. General Provisions.

A. The text herein shall constitute the entire Agreement between the parties.

B. This Agreement shall be binding upon the City and Employee, and their heirs, successors, and assigns.

C. The Agreement shall become effective upon execution.

Section 22. Severability.

If any provision of this Agreement is found to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable.

Section 23. Merger.

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The text of this written Agreement and any amendments approved by the City Council and executed by the Mayor and the Employee constitute the entire understanding between the parties with respect to the employment of John P. Bohenko as the City Manager of the City of Portsmouth.

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Section 24. Notices.

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Notices pursuant to this Agreement shall be given by deposit in the custody of the United States Postal Service, postage prepaid, addressed as follows:

- 1) City: Mayor, 1 Junkins Avenue
Portsmouth, New Hampshire 03801
- 2) Employee: 500 F.W. Hartford Drive
Portsmouth, New Hampshire 03801

Alternatively, notices required pursuant to this Agreement may be personally served in the same manner as is applicable to civil judicial practice or may be hand-delivered to the recipient. Notice shall be deemed given as of the date of personal service or as of the date of deposit of such written notice in the course of transmission in the United States Postal Service.

IN WITNESS WHEREOF, the City of Portsmouth has caused this Agreement to be signed and executed on this behalf by its Mayor and duly attested by the City Clerk, and the Employee has signed and executed this Agreement on the date first above written.

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Dated at Portsmouth, New Hampshire this _____ day of _____,

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WITNESS

JOHN P. BOHENKO
CITY MANAGER

WITNESS

JACK BLALOCK, MAYOR
CITY OF PORTSMOUTH, NH
Pursuant to vote of the City Council on _____

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CERTIFICATION

I hereby certify my opinion that the foregoing Agreement has been approved by the Portsmouth City Council in accordance with the Charter of the City of Portsmouth and the laws of the State of New Hampshire, and that as such the Agreement constitutes a binding legal obligation of the City of Portsmouth, according to its terms.

Robert P. Sullivan, Portsmouth City Attorney
