

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, NOVEMBER 21, 2016 TIME: 6:00PM

AGENDA

- 6:00PM – REPORT FROM HOUSING COMMITTEE RE: POLICY

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

PRESENTATIONS

1. Recognition of Peter Torrey
2. Update Re: Deer Street Parking Garage
3. Status Re: Doble Property Acquisition

- V. ACCEPTANCE OF MINUTES – SEPTEMBER 19, 2016 & OCTOBER 3, 2016

- VI. PUBLIC COMMENT SESSION

- VII. PUBLIC HEARING

- A. RESOLUTION AUTHORIZING A SUPPLEMENTAL APPROPRIATION OF FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00) FOR THE PURCHASE OF PROPERTY LOCATED AT 850 BANFIELD ROAD

- VIII. APPROVAL OF GRANTS/DONATIONS

- A. *Acceptance of Hazard Mitigation Planning Grant (***Sample motion – move to accept and approve the New Hampshire Homeland Security and Management Grant for the purposes of updating the City’s Hazard Mitigation Plan, as presented, and further, authorize the City Manager to execute the Agreement***) *The grant requires a 25% match on behalf of the city; which will be met by staff time on plan*
- B. Portsmouth Police Department Grant and Donation:
 - NH Department of Justice Violence Against Women Grant - \$60,000.00
 - Donation from Friends of the South End in support of the Portsmouth Police Explorers - \$700.00***(Sample motion – move to accept and approve the Grant and Donation to the Portsmouth Police Department, as listed)***

IX. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. Resolution Authorizing a Supplemental Appropriation of Four Hundred Thousand Dollars (\$400,000.00) for the Purchase of Property Located at 850 Banfield Road (*An additional \$150,000.00 as approved by the Conservation Commission at the November 10, 2016 meeting and action by the City Council would be taken under the City Manager's Action Items. This is a total of \$550,000.00 for the purchase of the Elliott Property on Banfield Road*) (**Sample motion – move to adopt a Resolution to authorize a Supplemental Appropriation of Four Hundred Dollars (\$400,000.00) for the Purchase of Property located at 850 Banfield Road as recommended by the Conservation Commission**)

X. CONSENT AGENDA

A MOTION WOULD BE IN ORDER TO ADOPT THE CONSENT AGENDA

- A. Letter from Emily Christian, National Multiple Sclerosis Society, requesting permission to hold the 2017 Walk MS Portsmouth on Saturday, April 8, 2017 from 10:00 a.m. to 2:00 p.m. (**Anticipated action – move to refer to the City Manager with power**)
- B. Letter from Raymond Will, The Salvation Army requesting that the City Council and each Board and Commission and City Committees consider volunteering to stand and ring the kettle bell for an enter single day (**Anticipated action – move to accept the letter and place it on file**)
- C. Letter from Donna Hepp, Seacoast Century Granite State Wheelmen Bicycle Club, requesting permission to hold the 44th Annual Seacoast Century on September 24 – 25, 2017 (**Anticipated action – move to refer to the City Manager with power**)
- D. *Acceptance of Donations to the Coalition Legal Fund:
- Town of Carroll - \$1,000.00
 - Town of Rye - \$5,000.00
- (**Anticipated action – move to approve and accept the donations, as listed, to be placed in the Coalition Legal Fund**)
- E. Request for Licenses to Install Projecting Signs:
- Northern Tier Real Estate Acquisition & Development, LLC (c/o John Dussi), owner of La Carreta, for property located at 172 Hanover Street
 - Heather Dalton & Catherine Ianchulev, owner of Seaside Allure for property located at 24 Congress Street
- (**Anticipated action – move to approve the aforementioned Projecting Sign Licenses as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreements for these requests**)
- Planning Director's Stipulations:**
- **The licenses shall be approved by the Legal Department as to content and form;**

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

- F. *Acceptance of Library Donation from Phyllis Eldridge - \$1,000.00 representing the balance of her pledge (**Anticipated action – move to accept and approve the donation, as listed**)
- G. Letter from Chris Vlangas, Cystic Fibrosis Foundation, requesting to hold the CF Cycle for Life on Saturday, July 15, 2017 (**Anticipated action – move to refer to the City Manager with power**)
- H. Letter from Matthew McFarland, Saint Patrick School, requesting permission to hold its 4th Annual 5k Road Race on Saturday, March 18, 2017 at 10:30 a.m. (**Anticipated action – move to refer to the City Manager with power**)
- I. Petition and Underground Utility License for Comcast on Ledgewood Drive (**Anticipated action – move to refer to the City Manager with power**)
- J. Eversource License Agreement for one replacement pole location at the intersection of Barberry Lane and Islington Street (**Anticipated action – move to refer to the City Manager with power**)
- K. Eversource License Agreement to install 55 feet of electrical conduit on Porter Street for new underground service for The Music Hall (**Anticipated action – move to refer to the City Manager with power**)

XI. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Paula Chalfin regarding Union & Middle Streets Intersection (**Sample motion – move to refer to the Parking and Traffic Safety Committee**)

XII. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action:

1. Report Back Re: Acquisition of Property at 850 Banfield Road
2. Approval of \$150,000.00 Additional Appropriation from the Conservation Fund Re: Elliott Property at 850 Banfield Road

3. Request for First Reading of Proposed Zoning Ordinance Amendments (“Zoning Omnibus, Part 1”)
4. Atlantic Heights Emergency Access
5. Approval of Trust Re: 400th Anniversary Celebration
6. Holiday Parking
7. Planning Board Report Re: Request of Northern Utilities, Inc., d/b/a/ Unitil for Easement Across City Land at 1 Franklin Drive
8. Request for First Reading Re: Taxi Ordinance
9. Approval of Petition and Utility License Re: Langdon Street
10. Proposed Public Art Application Re: Cast Sculpture, Jay Smith Memorial Garden, State Street
11. License Request for 2 Bow Street

Informational items

1. Events Listing
2. Report Back Re: Composting
3. Update on Acquisition of Land from the Foundation of Seacoast Health
4. Off-Leash Dog Area at Route 33 Park and Ride Open to Residents

B. MAYOR BLALOCK

1. *Appointment to Demolition Committee
 - 1 Historic District Commission member – Jonathan Wyckoff
 - 1 Planning Board member – Elizabeth Moreau
 - 1 Portsmouth Historical Society member - TBD
 - Chief Building Inspector or Designee – Robert Marsilia
 - Planning Director or Designee – Nick Cracknell
2. Appointments to be Considered:
 - Reappointment of Robert Marchewka to the Economic Development Commission
 - Appointment of Richard Shea as Regular member to the Historic District Commission
 - Appointment of Martin Ryan as an Alternate member to the Historic District Commission
3. Mayor’s Appointments to Blue Ribbon Committee:
 - Appointment of Paul Dilorio, Jr. to the Sustainable Practices Blue Ribbon Committee
 - Appointment of Matthew Glynn to the Sustainable Practices Blue Ribbon Committee

C. COUNCILOR LOWN

1. Parking and Traffic Safety Committee Action Sheet and Minutes of the November 3, 2016 meeting

D. COUNCILOR PEARSON

1. Request for Resources to Update and Refresh the City's Cultural Plan

E. COUNCILOR SPEAR

1. Proposed Portsmouth Holiday Parking Plan

F. COUNCILOR DENTON

1. *SOAK Up The Rain New Hampshire: <http://soaknh.org/>

XIII. MISCELLANEOUS/UNFINISHED BUSINESS

XIV. ADJOURNMENT

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

**Indicates Verbal Report*

INFORMATION ITEMS

1. Notification that the minutes of the September 15, 2016 meeting of the Planning Board are now available on the City's website
2. Notification that the minutes of the October 4, 2016 meeting of the Technical Advisory Committee are now available on the City's website
3. Notification that the minutes of the October 5, 2016 and October 12, 2016 meetings of the Historic District Commission now are available on the City's website


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

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: November 17, 2016

To: Honorable Mayor Jack Blalock and City Council Members

From: John P. Bohenko, City Manager 

Re: City Manager's Comments on November 21, 2016 City Council Agenda

Work Session:

6:00 p.m.

1. **Report from Housing Committee on Policy.** The Housing Committee has completed its work and is requesting the City Council consider its recommendation which includes a housing policy and zoning amendments. [Please see attached Housing Committee memorandum and documents.](#)

Presentation:

1. **Recognition of Peter Torrey.** On Monday evening, Peter Torrey will be recognized for his years of service as Accountant to the Trustees of the Trust Fund.
2. **Update Re: Deer Street Parking Garage.** David Allen, Parking Garage Project Manager, will update the City Council regarding the Deer Street Parking Garage.
3. **Status Re: Doble Property Acquisition.** Assistant City Manager David Moore will update the City Council regarding the status of the Doble property acquisition.

Items Which Require Action Under Other Sections of the Agenda:

1. Public Hearing on Proposed Resolution.

- 1.1 **Public Hearing on Proposed Resolution authorizing a Supplemental Appropriation of Four Hundred Thousand Dollars (\$400,000) for the Purchase of Property located at 850 Banfield Road.** As a result of the October 17, 2016 City Council meeting, under Section VII of the Agenda, is a proposed Resolution authorizing a Supplemental Appropriation of Four Hundred Thousand Dollars (\$400,000) for the Purchase of Property located at 850 Banfield Road. This appropriation will come from Fund Balance. The total purchase price of the property is \$550,000. The remaining \$150,000 will come from the Conservation Fund which was approved on November 10, 2016 by the Conservation Commission. The request for the \$150,000 additional appropriation is under the City Manager's Action Items.

As you are aware, the City has been in discussions with George Elliott and his attorney, Richard Foley, with regard to settling a dispute related to drainage impacts to the property at 850 Banfield Road ([see attached](#)). The property is located at a low point in a series of drainages originating along Route 1 through the Portsmouth Industrial Parks on Constitution Avenue and Heritage Avenue which outlet through a railroad culvert into the Great Bog. Due to changing development patterns and lack of maintenance by the railroad, the property at 850 Banfield Road has experienced a history of stormwater inundation impacting Mr. Elliott's property. In addition to the storm-water inundation, Mr. Elliott believes his drinking water well was impacted by the change in ground water hydrology.

The lengthy negotiations have included a number of potential solutions including securing a drainage easement, purchasing a portion of the property and purchasing all of the property. The property owner has indicated that he prefers that the City purchase the entire parcel.

In an effort to avoid potential litigation the City has negotiated an agreement with Mr. Elliott to purchase the entire parcel, approximately 7.1 acres, for \$550,000. Please note that 3.3 acres in wetlands will be used to help stormwater management. The remaining 3.8 acres are in uplands and can be subdivided to be sold as possibly two building lots whereby the City could recover a majority of the cost of purchasing this land. This property abuts conservation land the City already owns. The purchase of this property would provide better stormwater management options over the long term and supports conservation efforts.

I recommend the City Council move to adopt a Resolution to authorize a Supplemental Appropriation of Four Hundred Thousand Dollars (\$400,000) for the Purchase of Property located at 850 Banfield Road as recommend by the Conservation Commission. Action on this matter should take place under Section IX of the Agenda.

Acceptance of Grants and Donations:

1. **Acceptance of Hazard Mitigation Planning Grant.** The City of Portsmouth has received a Hazard Mitigation Planning Grant in the amount of \$10,000 from the New Hampshire Homeland Security and Emergency Management for the purposes of updating the City's Hazard Mitigation Plan. This grant requires a 25% match by the City, which will be complied with by the use of staff time preparing the plan.

I recommend the City Council move to accept and approve the New Hampshire Homeland Security and Management Grant for the purposes of updating the City's Hazard Mitigation Plan, as presented, and further, authorize the City Manager to execute the Agreement. Action on this matter should take place under Section VIII of the Agenda.

2. **Acceptance of Police Department Grant and Donation.** [Attached under Section VIII of the Agenda is a memorandum](#), dated November 16, 2016, from Kathleen M. Levesque, Executive Assistant, Office of the Police Chief, regarding the acceptance of a grant and donation. At the October 25, 2016 monthly Police Commission meeting, the Board of Police Commissioners approved and accepted the following grant and donation.

- a. New Hampshire Department of Justice Violence Against Women Grant (VAWA) in the amount of \$60,000 (NOTE: The award has been changed to a bi-annual award, so this amount represents 2 years of funding.) The VAWA grant provides funding for the Victim/Witness Advocate position in our court office.
- b. A donation in the amount of \$700 from "Friends of the South End" in support of the Portsmouth Police Explorers.

The Police Commission submits the information to the City Council pursuant to City Policy Memorandum #94-36, for the City Council's consideration and approval at their next meeting.

I recommend the City Council move to accept and approve the grant and donation to the Portsmouth Police Department, as presented. Action on this matter should take place under Section VIII of the Agenda.

Consent Agenda:

1. **Acceptance of Donations to the Coalition Legal Fund.** The City of Portsmouth has received the following donations to the Coalition Legal Fund, which will be utilized to continue our fight to eliminate the statewide property tax:

- Town of Carroll \$1,000.00
- Town of Rye \$5,000.00

I would recommend the City Council move to approve and accept the donations, as listed, to be placed in the Coalition Legal Fund. Action on this matter should take place under Section X of the Agenda.

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

- Northern Tier Real Estate Acquisition & Development, LLC (c/o John Dussi), owner of La Carreta, for property located at 172 Hanover Street
- Heather Dalton & Cathrine Ianchulev, owner of Seaside Allure for property located at 24 Congress Street

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

3. **Acceptance of Library Donation.** The Portsmouth Public Library has received a check in the amount of \$1,000 from Phyllis Eldridge, which represents the balance of her pledge during the library building fundraising campaign many years ago.

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

City Manager's Items Which Require Action:

1. **Report Back Re: Acquisition of Property at 850 Banfield Road.** At its meeting on October 17, 2016, the City Council voted to refer to the Planning Board a proposal to purchase the parcel of land at 850 Banfield Road, containing approximately 7.1 acres. A portion of this parcel is in wetlands and will be retained by the City for stormwater management. The remaining 3.8 acres may be sold to recover a portion of the acquisition cost. [Attached are plans.](#)

At its meeting on October 20, 2016, the Planning Board voted unanimously to recommend that the City Council approve the acquisition of the property at 850 Banfield Road.

I recommend the City Council move to accept the Planning Board's recommendation that the City Council approve the acquisition of the property at 850 Banfield Road.

2. **Approval of \$150,000 Additional Appropriation from the Conservation Fund Re: Elliott Property at 850 Banfield Road.** As you are aware, an additional appropriation of \$150,000 will come from the Conservation Fund. At the November 10, 2016 Conservation Commission meeting, the Commission voted as follows:

To Authorize and approve the expenditure of \$150,000 from the Conservation Fund to acquire the property at 850 Banfield Road and request continued involvement with the City Council in the City's disposition of the property.

This along with the \$400,000 appropriation from Fund Balance will total \$550,000 for the purchase of the property.

Therefore, I recommend the City Council approve the additional appropriation of \$150,000 from the Conservation Fund as approved by the Conservation Commission for the purchase of the Elliott property at 850 Banfield Road.

3. **Request for First Reading of Proposed Zoning Ordinance Amendments ("Zoning Omnibus, Part 1")**. As outlined in [Planning Director Rick Taintor's attached memorandum](#), the Planning Department has been working on a number of proposed amendments to the Zoning Ordinance to address identified issues with the existing Ordinance as well as new priorities emerging in the City.

Although it has been our intention to present a comprehensive "omnibus" including all items in progress, there is a need to move forward with a phased approach, in part because of the urgency of responding to a new state law regarding accessory dwelling units, and also because some of the zoning revisions in progress will require more lengthy review and would unnecessarily hold up implementation of the easier revisions. The first phase of the zoning omnibus is presented in this memorandum and the [attached document](#), and an overview of the next phase is provided at the end of the memo.

At its meeting on October 20, 2016, the Planning Board voted unanimously to recommend that the City Council enact the series of amendments to the Zoning Ordinance set forth in [the attached document](#). These amendments address a variety of issues throughout the Ordinance, ranging from simple housekeeping matters to implementation of the new State mandate regarding accessory dwelling units.

The proposed amendments to Chapter 10 – Zoning Ordinance are presented as seven separate ordinances, as follows:

1. Housekeeping amendments (Articles 2, 3, 11 and 15);
2. Provisions relating to yards and definition of building coverage (Articles 5 and 15);
3. Reductions in maximum building height in the Residential and Mixed Residential zoning districts (Article 5);
4. Provisions relating to accessory dwelling units and garden apartments, to implement a new state statute (Articles 4, 8 and 15);
5. Revisions to the Historic District regulations, including referencing the Historic District Commission’s Design Guidelines, revising and expanding the list of activities exempt from HDC review, and clarifying the requirement for administrative review and approval of exempt activities (Articles 5A and 6);
6. Revisions to the Wetlands Protection provisions, including an expansion of the jurisdictional areas, clarification of an exemption for single and two-family dwellings, and addition of a provision relating to restoration of vegetated buffer strips (Article 10); and
7. Revisions to the sign regulations limiting the type and manner of illumination of signs using direct illumination, such as LED or plasma signs (Article 12).

Detailed information regarding the aforementioned proposed Ordinance amendments are included in the Planning Director’s memorandum. I am requesting that the City Council authorize the City Manager to bring back for first reading at your December 5, 2016 City Council meeting.

In addition as noted in the memorandum, the Planning Department continues to work on additional zoning amendment which we be presented the Planning Board and City Council in 2017. Those proposed amendments are outlined in the Planning Director’s memorandum as well.

Therefore, I recommend the City Council move to authorize the City Manager to bring back for first reading the proposed Ordinance amendments at the December 5, 2016 City Council meeting, as presented.

4. **Atlantic Heights Emergency Access.** As you may be aware, the City of Portsmouth has a license agreement from Eversource for the use of its access road at its Schiller Station property, which abuts the Atlantic Heights neighborhood. Under the agreement, the City has the ability to utilize the road, also known as the “boat road,” in the event of an emergency blocking (currently, the neighborhood’s only roadway exit) or otherwise preventing safe egress from the neighborhood via Kearsarge Way.

At this time, Eversource is preparing to divest itself of certain generation assets in New Hampshire including the Schiller Station on Gosling Road. In preparation for selling its generating capacity, Eversource recently was approved at the Portsmouth Planning Board for a lot line adjustment, which enables the company to sell off a portion of its property. The eventual sale of the land will have the effect of discontinuing the through path of the boat road from Porpoise Way to Gosling Road (a portion of the road is located on the lot to be sold). After discussions regarding this impact, the Planning Board stipulated - and Eversource agreed - to grant a permanent easement in favor of the City for the purpose of creating a new emergency access road out of the Atlantic Heights neighborhood. This easement is a significant improvement over the current license agreement in terms of the permanence of this emergency arrangement. The easement effectively codifies what has been voluntary cooperation from Eversource and runs with the land into the future. [A depiction of the proposed easement area is attached.](#)

It is important to note, the existing License Agreement remains in effect and the road itself is operable for the emergency purpose. The new proposed emergency access route will be shorter and provide an outlet onto Portsmouth Boulevard; in addition, like the Boat Road (which has never been operationalized for an emergency), this will only be used during emergencies requiring an alternative route out of the neighborhood.

At this time, I am recommending the City Council refer this matter, which involves the City's potential acquisition of interest in land (through an easement) to the Planning Board. Following the report back from the Planning Board, this matter will again be in front of the City Council for acceptance of the proposed easement.

I have asked Assistant City Manager David Moore to be in attendance at your meeting to provide additional background information on this issue.

I recommend the City Council refer this matter to the Planning Board for report back.

5. **Approval of Trust Re: 400th Anniversary Celebration.** As a result of the October 17th City Council meeting, the Council voted to authorize the development of a trust for the 400th Anniversary Celebration, and further, authorized the City Manager to enter into a partnership agreement with the Portsmouth Historical Society/Discover Portsmouth Center to provide an annual contribution from the City of Portsmouth to the PHS/DPC which will provide a base level of support to create a varied, organized and informed set of activities in which the community can engage to develop a sense of pride for Portsmouth's past and future. I am requesting that City Council approve the Trust document at this evening's meeting. [Attached is the Trust document and a draft agreement for your review.](#)

As you will recall, on Saturday, October 1, 2016 the Portsmouth Historical Society/Discover Portsmouth Center (PHS/DPC) made a presentation to the City Council outlining key goals in creating an ongoing celebration for Portsmouth's 400th anniversary.

As Portsmouth approaches its 400th anniversary in 2023, PHS/DPC will be the conveners of this celebration, one that will not only encompass a momentous event in 2023 but serve as a layered program throughout each year up to and beyond this milestone.

The development of a trust endorses the formation of this program and partnership between the City and PHS/DPC. With an established trust, a formal connection will be clarified and PHS/DPC can begin their planning in earnest and develop a steering committee to oversee all anniversary activities. Annual funding will provide needed support in creating a varied, organized and informed curriculum in which the community can engage in and have a sense of pride for both our past and our future.

I recommend the City Council move to approve the Trust for the 400th Anniversary Celebration, and authorize the City Manager to bring back a final agreement to be approved at the December 5th City Council meeting.

6. **Holiday Parking.** As the December holidays approach, it is time to consider a Portsmouth tradition – free holiday parking in the downtown. The City Council has not approved three weeks since 2014. Last year, we reduced the number to nine (9) days. This year, we are recommending seven (7) days commencing on Sunday, December 18, 2016 and ending Saturday, December 24, 2016. During this time, parking enforcement officers would check for time-limit violations only and inserts would be placed in all single-space and pay & display parking meters, stating, “Seasons Greetings, 3 Hours Free Parking” or “4 Hours Free Parking,” as appropriate. The loss of revenue for each day for free parking is \$8,000.00. For your information, Councilor Spear has additional information under his name.

I recommend the City Council move to approve Holiday Free Parking commencing on Sunday, December 18, 2016 and ending Saturday, December 24, 2016.

7. **Planning Board Report Re: Request of Northern Utilities, Inc., d/b/a Unitil for Easement Across City Land at 1 Franklin Drive.** Northern Utilities, Inc. d/b/a Unitil has requested that the City grant it an easement to lay a new gas line across land owned by the City and used for the New Franklin Elementary School. The proposed route of the gas line has been reviewed and approved by the Department of Public Works and the School Department. [See attached plan.](#)

The City Ordinances require that any acquisition or disposition of municipal real property, including easements, be referred to the Planning Board at least 30 days before final action is taken. In order to expedite this project, the Legal Department requested that the Planning Board review the proposal in advance of the easement’s consideration by the City Council.

At its meeting on October 20, 2016, the Planning Board voted unanimously to recommend that the City Council grant an easement to Northern Utilities, Inc., d/b/a Unitil across property owned by the City at 1 Franklin Drive, Portsmouth.

I recommend the City Council move to accept the Planning Board's recommendation to grant an easement to Northern Utilities, Inc., d/b/a Unitil across property owned by the City at 1 Franklin Drive, and further, authorize the City Manager to proceed with the execution of the necessary documents.

8. **Request for First Reading Re: Taxi Ordinance.** In follow up to the Joint Work Session of the Portsmouth City Council and the Transportation Services Commission, a draft ordinance has been prepared for consideration ([see attached](#)). From the work session it appeared there was some consensus on the following items:

1. Maintain a regulatory structure distinctly for taxis, recognizing that there can be no local regulation of transportation network service providers (Uber and Lyft for example) due to state law preemption;
2. Provide for vehicle safety and ease of enforcement;
3. Drivers/Operators should have background checks;
4. No regulation of rates; and
5. Little interest in maintaining a Transportation Services (or Taxi) Commission with administration and enforcement to be managed by City staff and the Police as applicable.

A version of this draft ordinance was reviewed by the Transportation Services Commission last month and comment from taxi owners was solicited. Minor revisions were made after that input.

The item that caused the most comment from taxi owners was a proposed change in the inspection of vehicles. Following discussions with the Police Department and other staff, this ordinance proposes that inspections be done by manufacturer dealers for the vehicle being inspected. Manufacturer dealers receive recall notices and the City staff perceives less of a risk of inspection fraud. There is no requirement that repair work be performed by the dealership. The cost to taxi owners for simply bringing their vehicle to a dealer for final inspection would be less than the increase in the license fee that would be necessary to cover the expense of specially arranged inspections.

I recommend the City Council move to authorize the City Manager to bring back for first reading on December 5, 2016 the proposed Taxi Ordinance.

9. **Approval of Petition and Utility License Re: Langdon Street.** For City Council approval is a Petition and Underground Utility License to allow the installation of underground conduit to serve new residential units on Langdon Street. By way of background, there is an existing utility pole on Langdon Street that provides overhead electrical and telecommunication services to neighboring residences. As part of the development approvals for 81 and 91 Langdon Street, service to the new residential units will be underground. In order to make that a crossing by conduit under a street, the City typically requires a license.

The conduit will be installed by the property owner/developer in the first instance, but responsibility for the conduit will be transferred to the utility once service is run. Each utility wanted its own conduit. For additional detail and a sketch of the conduit crossing [see the memorandum from Ryan Flynn](#).

For context, if service for the new residential units were to be run overhead, the license for the existing utility pole would cover that service; this license facilitates the placement of services underground.

I recommend the City Council move to approve the petition and underground utility license for 81 and 91 Langdon Street.

10. **Proposed Public Art Application Re: Cast Sculpture, Jay Smith Memorial Garden, State Street.** [Attached is a public art application from Kate Crowell](#) for a cast sculpture at the Jay Smith Memorial Garden on State Street. This matter has been reviewed by Art-Speak and is being proposed for approval to the City Council.

I recommend the City Council move to approve the Cast Public Art Sculpture at the Jay Smith Memorial Garden on State Street.

11. **License Request for 2 Bow Street.** Two Bow Street LLC, has erected scaffolding and is currently working pursuant to a City issued encumbrance permit to repair and maintain the brick façade at 2 Bow Street. [See attached picture](#). That work will extend beyond the encumbrance permit period in part due to utility coordination; an Eversource pole was guyed to the building. Work is anticipated to be completed by December 16, 2016, but the license will provide the City Manager with the authority to extend the time as necessary given the utility coordination and an HDC approval issue which may require the work to extend longer.

The license would allow Two Bow Street LLC to continue to use, as needed for the masons, two parking spaces along Market Street Extension. If work stops temporarily while approvals or other utility agreements are pending, the scaffolding would remain but the parking spaces would be free for use by the public

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 such as payment for parking spaces when used as well as some of the special adjustments outlined above to balance the owner's needs with the holiday activity in the downtown and possibility of snow.

I recommend the City Council move to authorize the City Manager to negotiate and enter into a license with Two Bow Street LLC.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on October 17, 2016. In addition, this can be found on the City's website.
2. **Report Back Re: Composting.** [Attached is a memorandum from Jacob Levenson, Solid Waste Sustainability Coordinator](#), regarding curbside composting for food waste collection options.
3. **Update on Acquisition of Land from the Foundation of Seacoast Health.** As you know, in August, the City Council authorized me to enter into a Purchase and Sales Agreement with the Foundation for Seacoast Health for the acquisition of a portion of its land at 100 Campus Drive. In addition, the Council authorized borrowing for the purchase price of \$1,850,000. Since that time, an Agreement has been entered into for the purchase and work has progressed on the Phase I environmental assessment and title research work. By way of update and for your information, I have [attached a copy of the Purchase and Sales Agreement with the Foundation](#).
4. **Off-Leash Dog Area at Route 33 Park and Ride Open to Residents.** For your information, [attached is a press release](#) announcing the opening of an off-leash dog area at the Route 33 Park and Ride which is open to residents.