

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, MARCH 20, 2017 TIME: 7:00 PM

AGENDA

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

PRESENTATION

- 1. Energize 360 Seacoast NH Campaign Kick-off

V. ACCEPTANCE OF MINUTES – MARCH 6, 2017

VI. PUBLIC COMMENT SESSION

VII. APPROVAL OF GRANTS/DONATIONS

- A. *Acceptance of Fire Department Donations of disbursement checks in the amount of \$105,687.00 and \$81,813.00 from the Estate of Geraldine W. Webber (***Sample motion – move to accept and approve the donations to the Fire Department, as presented***)
- B. Acceptance of Donation of disbursement check in the amount of \$81,813.00 from the Estate of Geraldine W. Webber (***Sample motion – move to accept and approve the donation to the Police Department, as presented***)

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of Proposed Ordinance amending Chapter 3, Article II, Section 3.208 - Regulation of Single Use Carryout Plastic Bags (*Tabled from the March 6, 2017 City Council meeting*)
- B. First Reading of proposed Ordinance amending Chapter 7, Article VII, Section 7.704 and 7.705 to clarify the Prohibition of Truck Traffic on Banfield Road

IX. CONSENT AGENDA

(ANTICIPATED ACTION - MOVE TO ADOPT CONSENT AGENDA)

- A. Letter from Robert P. Valarese, Department of the Army, requesting permission to conduct Best Warrior Competition using Route 1A and 1B on April 9, 2017. (***Anticipated action – move to refer to the City Manager with power***)
- B. Letter from Jay Diener, Co-race Director, requesting permission to conduct the 12th annual Seacoast Half Marathon on Sunday, November 12, 2017. (***Anticipated action – move to refer to the City Manager with power***)

- C. Letter from Richard Wagner, AIDS Response Seacoast requesting permission to conduct the 21st Annual Seacoast AIDS Walk and Dog Walk on Sunday, May 7, 2017 from 10:00 a.m. to 5:00 p.m. (***Anticipated action – move to refer to the City Manager with power***)

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Letter from Raymond and Maryrose Richer Re: Potential Release of City Interest in a portion of Woodworth Avenue (***Sample motion – move to refer to the Planning Board for report back***)

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

City Manager's Items Which Require Action:

- 1. Proposed Amendment to exempt signs and other elements related to public parking in private parking lots from specific zoning standards when authorized under a permit from the Department of Public Works
- 2. Appointments to Rockingham Metropolitan Organization (MPO) Technical Advisory Committee
- 3. Request a Work Session March 27, 2017 Re:
 - A. An Update and Review of the Master Plan
 - B. Review the Process for Identifying Reuses and/or Improvements for the Bridge Street, Vaughan Mall, and Worth Lot
- 4. Request to Establish a Public Hearing Re: Proposed Bonding of up to Five Million (\$5,000,000.00) Dollars for Phase I Dondero School Improvements
- 5. Report Back Re: Islington Street Project Burying Underground Utilities

Informational items

- 1. Events Listing
- 2. Electronic Communication by City Councilors during Council Meetings
- 3. Cooperative Alliance for Seacoast Transportation (COAST) Bus Stops
- 4. Household Hazardous Waste Collection Day
- 5. Proposed Ordinance Re: Financial Disclosure

B. MAYOR BLALOCK

1. Appointments to be Voted:
 - Reappointment of Dana Levenson to the Trustee of the Trust Funds
 - Appointment of Jeffery Kisiel as regular member to the Planning Board
 - Appointment of Corey Clark as an Alternate member of the Planning Board
 - Appointment of Marie Cowgill to the Citizens Advisory Committee

C. ASSISTANT MAYOR SPLAINE

1. *Question: How Can We Best Preserve Borthwick Forest Off Islington Street?

D. COUNCILOR PEARSON

1. Public Art Update (See attachment)

E. COUNCILOR DENTON

1. *Resolution Re: Energize 360 Seacoast NH Campaign Kick-off

XII. MISCELLANEOUS/UNFINISHED BUSINESS

1. Legislative Subcommittee Report
 - Legislative Subcommittee Report
 - Update on Testimony Re: HB 144
 - Principles for Legislative Positions
 - Summary of recent House and Senate votes and Committee Reports

XIII. ADJOURNMENT

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

**Indicates Verbal Report*

INFORMATIONAL ITEMS

1. Notification that the minutes of the February 1, 2017 and February 8, 2017 meetings of the Historic District Commission are now available on the City's Website

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

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, MARCH 6, 2017

PORTSMOUTH, NH
TIME: 7:00PM

I. CALL TO ORDER

Mayor Blalock called the meeting to order at 7:00 p.m.

II. ROLL CALL

Present: Mayor Blalock, Assistant Mayor Splaine, Councilors Perkins, Dwyer, Lown, Pearson, Spear, Cyr and Denton

III. INVOCATION

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

IV. PLEDGE OF ALLEGIANCE

City Manager Bohenko led in the Pledge of Allegiance to the Flag.

V. ACCEPTANCE OF MINUTES – FEBRUARY 6, 2017 AND FEBRUARY 21, 2017

Councilor Lown moved to accept and approve the minutes of the February 6, 2017 and February 21, 2017 City Council meetings. Seconded by Councilor Spear and voted.

VI. PUBLIC COMMENT SESSION

Roy Helsel inquired as to the line item in the budget entitled “Other Operating Costs.” He also spoke opposed to the plastic bag ordinance.

Jim Lee spoke against the ban for plastic bags. He said this is an item in search of a problem.

Merle White, Anchor Taxi, Rye, NH spoke to the new insurance regulations under the Taxi Ordinance. He said this matter should have been brought back to the City Council because the rates are too high and will drive Taxi Companies out of the City.

Jim Boyle said it has been a month since the verdict came down and it is wrong to take this long to settle the financial aspects of the case. He requested that Mayor Blalock schedule a special City Council meeting and have the City Council express how they feel on the verdict and eminent domain.

Mary Lou McElwain spoke regarding proposed metered parking at the Parrott Avenue lot. She said any changes in the parking at Parrott Avenue will push the vehicles into the neighborhoods. She spoke to a Parking Utilization Report done by John Burke which indicated that the Vaughan Street lot is under-utilized and she feels that should become the City lot for employees to park. She requested that the motion on this matter be tabled until the review of John Burke’s Report by the City Council.

Erik Anderson spoke on banning plastic bags. He said there is a great deal of information you can find on this matter. He stated there are more cons than benefits to banning plastic bags. He informed the City Council that he spoke with a supermarket personnel and there is an 80% use of plastic bags at the store.

Pat Bagley said residents and non-residents are perplexed with why there is a proposal to meter Parrott Avenue lot. She said that this is another bad idea and will push cars into the neighborhoods. Ms. Bagley spoke to the need of enforcing the 72 hour requirement at Parrott Avenue lot. She requested the Council table the motion.

Mark Brighton said Councilor Denton wants to change the campaign financing requirement and asked is it \$99.00 per year or per election cycle. He asked how would the ordinance be enforced and said he opposes the proposed ordinance and feels it is unenforceable.

Jeff Semprini said the lack of confidence is disrespectful to residents. He said he opposes the plastic bag ordinance and feels it would hurt the elderly who use these plastic bags for many purposes. He stated his support of the Recycling Program.

Bob Wofchuck, Brentwood, NH, spoke in support of the plastic bag ordinance. He said plastic bags have an effect on our environment.

Nathalie Morison spoke in support of the plastic bag ordinance and it is time for Portsmouth to join other cities across the Country. She spoke to plastic bags harmful effects on wildlife.

Kirsten Howard spoke in support of the plastic bag ordinance and feels it is time for the City to move in this direction. She spoke to the effect plastic bags have on water quality.

Mayor Blalock and the City Council allowed two additional speakers that did not sign up to speak at the Public Comment Session.

Carol Hollis spoke in favor of the plastic bag ordinance and said she picked a plastic bag out of the mill pond today. She said we need to conserve and educate people who will change their behavior.

David Kaskins said he is currently working on a development off of Moffat Street by combining two tax lots into a lot and will continue the approval process with Planning Board. He explained that he would create a loop road and would provide safety and increase the egress to the area. He said it is important what the Council acts on to be released. He said he does not support the release of the intersection. He said if the intersection is released it would recreate a problem for the development.

VII. APPROVAL OF GRANTS/DONATIONS

- A. Acceptance of Donation from Wentworth Senior Living, Sponsorship of Senior Luncheon Program - \$15,000.00

Councilor Lown moved to accept and approve the donation to the Police Department, as presented. Seconded by Councilor Perkins and voted.

- B. Acceptance of Donation of a disbursement check in the amount of \$105,687.00 from the Estate of Geraldine W. Webber

Councilor Lown moved to accept and approve the donation to the Police Department, as presented. Seconded by Councilor Cyr and voted.

VIII. CONSIDERATION OF RESOLUTIONS AND ORDINANCES

- A. First reading of proposed Ordinance amending Chapter 3, Article II, Section 3208 – Regulation of Single Use Carryout Plastic Bags

City Manager Bohenko said there is no requirement or rule to bring this forward for first reading.

Councilor Spear said the reason to do the pre-first reading is to get thoughts out. He said he would be making a motion to bring back first reading.

City Manager Bohenko said you could make a request to table the ordinance and bring it back for first reading at the March 20, 2017 City Council meeting.

Councilor Lown moved to table first reading until the March 20, 2017 City Council meeting. Seconded by Assistant Mayor Splaine.

Councilor Lown said that the City has the power to do this and there is a bill in the legislature that would create enabling legislation regarding plastic bags. He further stated that our ordinance would not go into effect for one year.

Councilor Denton said he looks forward to having this ordinance brought forward. He supports the tabling but is pleased that the ordinance will be brought forward and it has taken over a year to bring it forward.

Assistant Mayor Splaine said he supports tabling to learn more about this matter. He spoke to the Town of York, Maine adopting a similar ordinance a year and half ago and it has created no problems for that community.

Councilor Perkins said she is inclined to see us move forward on the ordinance. She asked if the ordinance needs to change. City Attorney Sullivan explained that he reviewed the entire ordinance and made various changes and it is ready to move forward. She said she supports the tabling motion and would like to hear from the businesses that would be impacted by this.

Councilor Spear asked about the language under definition of store items 2 and 4. He can find no difference between items 2 and 4. City Attorney Sullivan said Surf Rider wanted to cover all stores. Councilor Spear requested that items 2 and 4 be changed under definitions.

Councilor Dwyer said 5 of 7 pages is definition and to make this workable it needs to state what we are incentivizing here. She said people have a problem with the single use language in the ordinance.

Motion passed.

- B. Third and final reading of proposed Ordinance amending Chapter 7, Article I, Section 7.115 – Sign Permit Required for Private Parking Lot

Councilor Lown moved to pass third and final reading of the proposed ordinance, as presented. Seconded by Councilor Dwyer.

City Manager Bohenko said we will be coming back with more requirements and have more control on what is placed out there.

Motion passed.

IX. CONSENT AGENDA

- A. Letter from Mike St. Laurent, LOCO Sports, LLC, requesting permission to hold a half marathon road race on Sunday, April 23, 2017 at 8:00 a.m. **(Anticipated action – move to refer to the City Manager with power)**
- B. Letter from Molly Bolster and Matt Glenn, Gundalow Company, requesting permission to hold the 7th annual Round Island Regatta on Saturday, August 19, 2017 **(Anticipated action – move to refer to the City Manager with power)**
- C. Letter from Ken La Valley, American Foundation of Suicide Prevention, requesting permission to hold the Out of the Darkness Community Walk on Saturday, September 16, 2017 at 10:00 a.m. **(Anticipated action – move to refer to the City Manager with power)**
- D. Request for License to Install Projecting Sign:

Elaine Miller owner of Ceres Gallery for property located at 23 Ceres Street **(Anticipated action – move to approve the aforementioned Projecting Sign License as recommended by the Planning Director, and further, authorize the City Manager to execute the License Agreement for this request)**

Planning Director's Stipulations:

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

Councilor Lown moved to adopt the Consent Agenda. Seconded by Councilor Cyr and voted.

X. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

(There are no Written Communications and Petitions on for consideration this evening)

XI. REPORTS AND COMMUNICATIONS FROM CITY OFFICIALS

A. CITY MANAGER

1. Adoption of Proposed Capital Improvement Plan (CIP) FY2018 – 2023

City Manager Bohenko said this is the CIP for FY18 and asked the City Council if they wanted to add or subtract from the general fund it would be better to do at budget time.

Councilor Lown asked whether the Webber funds coming to the Police and Fire Departments affect the CIP. City Manager Bohenko said both the Fire Chief and Police Chief will be making a decision on what equipment they want to purchase. He said it is to add to something that may not be here. City Attorney Sullivan said the funds must be spent for safety purposes. Councilor Lown asked if all equipment owned by the Fire and Police Departments is safety equipment. City Manager Bohenko said yes.

Councilor Dwyer said Item 60 – Prescott Park she would like to mark for the out years of 2019, 2021, 2022 to add \$3,000,000.00. City Manager Bohenko said he would work with the Prescott Park Advisory Committee and suggested to add this request to the narrative for Prescott Park.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he echoes Councilor Dwyer's thoughts regarding Prescott Park.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

City Manager Bohenko said he will reflect that in the Prescott Park narrative.

Councilor Spear move to adopt the Capital Improvement Plan (CIP) FY 2018-2023. Seconded by Assistant Mayor Splaine.

Councilor Denton moved to amend Enterprise Funds – Sewer Item 162 – Regional Digester Facility at Pease Waste Water Treatment Facility by moving up the funding for FY'19 of \$50,000.00 to FY'19, FY'21 of \$1,500,000.00 to FY'20 and FY'23 of \$16,500,000.00 to FY'22. Seconded by Assistant Mayor Splaine and voted.

Councilor Spear inquired about Item 53 – Police Department New Facility and if that should remain in the budget. City Manager said we are going to look at all our projects next year and evaluate each one which will require us to start earlier on the CIP next year.

Councilor Dwyer asked about Item 83 – Citywide Storm Drainage Improvements. City Manager Bohenko said that the item is for a new permit. He said we are working on methods to use the funding sources for revenue. Councilor Dwyer asked if it would be Enterprise Funds. City Manager Bohenko responded Special Revenue Funds.

Main motion passed, as amended.

Assistant Mayor Splaine moved to suspend the rules in order to take up Item XI. A.5. – Sewer Easement for relocated Brick Box Sewer. Seconded by Councilor Lown and voted.

5. Sewer Easement for relocated Brick Box Sewer

City Manager Bohenko said that we would get rid of a 90 degree angle in the pipe which makes more sense to have a straight pipe.

Councilor Lown moved to refer this issue to the Planning Board for a report back to the City Council on this proposed land transaction. Seconded by Assistant Mayor Splaine.

Councilor Lown thanked Mr. Happy for coming forward and offering to do this

Motion passed.

2. Report Back from Planning Board regarding Involuntarily Merged Lots at 630 Middle Road and Sylvester Street

Councilor Lown moved to accept the Planning Board's recommendation, as presented. Seconded by Councilor Dwyer and voted.

Planning Board's Recommendation:

That the parcel at 630 Middle Road and Sylvester Street be restored to its premerger status as three lots. The effect of this action would be to separate lots 203 and 204 as shown on the 1903 plan of Prospect Park as two individual lots, leaving the remaining five original lots as a single voluntarily merged lot

3. Report back from Planning Board Re: Request for Release of Paper Streets Pursuant to RSA 231:51 and 231:52 – 26 Moffat Street (Tax Map 243, Lot 69) and Swett Avenue (Tax Map 243, Lot 23)

Planning Director Taintor reported in his memorandum there are 3 attachments on the 1902 map he drew around the area and it was just meant to be a general reference. He said on the attachment with hash marks he does not include the intersection and he is not proposing to close the intersection.

Councilor Lown moved to accept the Planning Board's recommendation, as presented. Seconded by Councilor Perkins and voted.

Planning Board's Recommendation:

That the City Council release all right, title and interest, if any, in the paper streets abutting the parcels shown as Assessor's Map 243 Lot 69 and 23.

4. Request for First Reading a Proposed Ordinance amending Chapter 7, Article VII, Section 7.703 and 7.7.04 to clarify the Prohibition of Truck Traffic on Banfield Road

City Manager Bohenko informed the City Council that this is going back to the ordinance we had in the 1990's.

Councilor Lown said Parking and Transportation Engineer Eby did a great job and stated there were 4 exceptions to the ban as outlined in the Parking & Traffic Safety Committee minutes.

Councilor Perkins asked about references to Peverly Hill Road being removed and the idea of a truck through road.

Public Works Director Rice said it is not to address or change Peverly Hill Road currently it is to limit the truck traffic on Banfield Road.

Assistant Mayor Splaine said in 1977 there were concerns with the narrowness of the road and the industrial parks effect the cut through of Banfield Road to reduce the impact.

Assistant Mayor Splaine moved to authorize the City Manager to bring back an Ordinance for first reading at the March 20, 2017 City Council meeting to address the issues outlined in his memorandum. Seconded by Councilor Lown and voted.

6. Pilot Program for Late Night Food Vending

City Manager Bohenko said we would need Parking & Traffic Safety Committee to adopt this during its omnibus process and set up a pilot program and have a time certain for coming back. He said the omnibus would be done for 2018. He said location of the trucks are to be near bathroom facilities per the Health Officer.

Councilor Perkins moved to refer this matter to the Parking and Traffic Safety Committee for consideration of a proposed pilot program to allow late night food truck vending in a select area around the High Hanover garage. Seconded by Assistant Mayor Splaine.

Councilor Perkins said she is excited to see how this moves forward. She said that we could consider the other side of the garage on High Street for the trucks to be located.

Councilor Dwyer said she is concerned for downtown residents. She said it can become very loud.

Motion passed.

B. MAYOR BLALOCK

1. Appointments to be Considered:
 - Reappointment of Dana Levenson to the Trustee of the Trust Funds
 - Appointment of Jeffery Kisiel as regular member to the Planning Board
 - Appointment of Corey Clark as an Alternate member of the Planning Board
 - Appointment of Marie Cowgill to the Citizens Advisory Committee

The City Council considered the appointments which will be voted on at the next City Council meeting.

C. ASSISTANT MAYOR SPLAINE

1. Consideration of draft of a City of Portsmouth Welcoming and Diversity Resolution

Assistant Mayor Splaine said he would bring the Resolution back for a vote at the April 3, 2017 City Council meeting.

D. COUNCILOR DWYER

1. Update: Reviewing and weighing evidence, seeking and interpreting expert consultation, Council preparation

Councilor Dwyer said we might as a City Council have a more systematic approach to decisions when weighing certain issues how we take into view evidence. She said that this is a practice followed in England. She said she will bring something for the City Council to consider at a future meeting.

Assistant Mayor Splaine said the idea has some good value. He said he welcomes and thanked any resident watch dogs that come forward and bring to the City Council's attention any issues that we will need to be addressed by the City. He said this should be a committee separate from the City and we need to welcome people that are smart and can perceive matters of concern.

Councilor Perkins said she supports Councilor Dwyer on this matter.

E. COUNCILOR LOWN

1. Parking & Traffic Safety Committee Action Sheet and Minutes of the February 2, 2017 meeting

Councilor Lown moved to accept and approve the action sheet and minutes of the February 2, 2017 Parking & Traffic Safety Committee meeting. Seconded by Councilor Dwyer and voted.

F. COUNCILOR SPEAR

1. Downtown Employee Parking for Parrott Avenue Lot

Councilor Spear said there is a need for parking for downtown employees and having that parking be affordable. He said it is time that we address this problem and provide a minimum charge. He said there would be a parking kiosk for people to use.

Councilor Spear move to bring back for first reading an expansion of affordable downtown worker parking through metering the Parrott Avenue Lot at 50 cents per hour for a maximum of 11 hours. Seconded by Councilor Lown.

Councilor Lown said that this is an interesting concept.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said the money is not important and would like to see the fee at \$.25. He said there is no parking at the lot available after 8:00 a.m. He informed the Council that his employees try to use the lot but they are not able to because they get here after 8:00 a.m. Mayor Blalock stated it would be enforced and cause turn over for people to utilize the parking spaces.

Assistant Mayor Splaine returned the gavel to the Mayor Blalock.

Councilor Dwyer said until we get Deer Street Parking Garage on line we are not ready to make any changes to parking. She would like to see us permitting spaces for downtown employees. She said she wants to make sure it is downtown workers getting the special rate. She stated she would like to look at reducing the 72 hour ability to park at the lot.

Assistant Mayor Splaine said what Councilor Dwyer spoke to can be looked at and find better ways of ensuring this. He said we need to take a look at the Hanover lot and create employee parking there. He said he would like a Work Session on this matter.

Councilor Pearson said she would like to look at this holistically. She said she would like Parrott Avenue lot included in this as we need to know what is happening with the other pay lots as previously requested by Councilor Dwyer.

Councilor Cyr said he would like to know what the ratio of who is parking there currently, those working in downtown or those that live in the downtown. He said we could create a holistic master plan.

Councilor Spear withdrew his motion and Councilor Lown his second to the motion.

Councilor Spear said we could have the Parking and Traffic Safety Committee provide a report back on this matter.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he supports the concept and making sure employee parking is being used. He said it is a select few that get to use the lot because there is no turn over currently.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Dwyer said it is early to make changes but not too early to start talking about changes for when Deer Street Parking Garage comes on line. She would like a Work Session on what are we striving towards and this would be a part of it.

Councilor Spear moved to refer the parking concepts for employees and residents to Parking & Traffic Safety Committee for report back with a work session in the future. Seconded by Councilor Lown.

Councilor Dwyer suggested holding a Joint Work Session between the City Council and the Parking & Traffic Safety Committee on these matters.

City Manager Bohenko said we need to work with the Parking & Traffic Safety to determine what we are going to look at. He said he would like to get a list of things to work on.

Councilor Pearson said between staff and Parking & Traffic Safety Committee and the City Council to have a representative voice their ideas during a discussion on the work and residents downtown.

Councilor Denton thanked Councilor Spear for his approach.

Councilor Cyr said he would like to add the shuttle as part of the discussion and decision making.

Motion passed.

G. COUNCILOR DENTON

1. Section 1.902: Election Candidate Financial Disclosure

Councilor Denton move to direct the City Attorney to draft an amendment to Section 1.902 – ELECTION CANDIDATE FINANCIAL DISCLOSURE to require entities that raise and spend money on candidates to abide by the same requirements as candidates themselves. Seconded by Assistant Mayor Splaine.

Councilor Denton said campaign financial disclosure is important. He said that this is so residents will know what is going on and will not create a distraction.

Councilor Spear asked what an entity is. He thinks disclosure is good but how do you enforce something like this. He feels this will cause more problems than it would solve. He has some people spending a great deal of money and lose an election and some that spend very little and win an election. He does not want a well-meaning group to get caught in not reporting.

Councilor Dwyer said we should take about it more. She said it is spending for an election not a candidate spending by an interest group of \$100.00 or more.

Assistant Mayor Splaine said it is a question of disclosure and the City Attorney could go to the state laws on this matter. He said we should not be fearful of passing something like this. He said some candidates hire people or a campaign manager and people need to know who is spending what on a campaign.

Councilor Lown said he is in favor of having the City Attorney come back with an ordinance. He said that this would be a basic disclosure.

Councilor Perkins said there are costs for transparency to create the report. She said we need to make sure that we know what we are looking at. She does not want anyone to feel discouraged from running for office.

Councilor Dwyer said we need to craft an ordinance that makes sense.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said it is to get groups that spend money on a particular candidate to report the funds expended. He does not see a need for this ordinance and said he does not want to discourage anyone from running for office. He said there is not a problem in the City.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Spear said he does not know what it means “entity” spending money on a candidate.

Councilor Denton move to amend the motion by adding the words after on to “group lists of”. Seconded by Councilor Lown and voted.

Councilor Denton said if a group spending \$100.00 or more they would need to file a report.

Councilor Pearson said on Facebook you can create groups at no costs so why would you not as a candidate do that.

Mayor Blalock passed the gavel to Assistant Mayor Splaine.

Mayor Blalock said he does not support this because it is really not about the money it is about the names providing contributions. He feels that this could discourage people from running for office. He further stated we are trying to solve a problem we don't have right now.

Assistant Mayor Splaine returned the gavel to Mayor Blalock.

Councilor Denton said that this would show the public that an issue does not exist.

Councilor Cyr said he could go either way and would support the public coming forward and speaking on this ordinance during the public hearing process.

On a roll call 7-2, voted to direct the City Attorney to draft an amendment to Section 1.902 – ELECTION CANDIDATE FINANCIAL DISCLOSURE to require entities that raise and spend money on group lists of candidates to abide by the same requirements as candidates themselves. Assistant Mayor Splaine, Councilors Dwyer, Lown, Pearson, Spear, Cyr and Denton voted in favor. Councilor Perkins and Mayor Blalock voted opposed.

XII. MISCELLANEOUS/UNFINISHED BUSINESS

Councilor Spear said the Clean Water Act Item 4 the declaration and goals of the clean water act states it is the national policy that federal financial assistance be provided to construct publicly owned waste treatment works and Item F states it is the national policy that to the maximum extent possible the procedures utilized to implement this act shall encourage the drastic minimization in paperwork. He said we are not receiving these items as stated in the clean water act.

Councilor Pearson announced that a Public Input Session will be held on Tuesday, March 7, 2017 at 6:30 p.m. in the Levenson Room of the Library regarding Public Art for the new Parking Garage. She also stated she would provide a report for the Council regarding the session at the March 20, 2017 City Council meeting.

Assistant Mayor Splaine requested that City Attorney Sullivan provide the Council with a copy of a memorandum he prepared for former Councilor Thorsen regarding public media.

XIII. ADJOURNMENT

At 9:35 p.m., Councilor Lown moved to adjourn. Seconded by Councilor Spear and voted.



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

PORTSMOUTH POLICE DEPARTMENT

MEMORANDUM

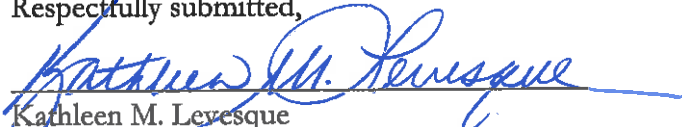
RECEIVED
MAR 14 2017

DATE: MARCH 14TH, 2017
TO: JOHN P. BOHENKO, CITY MANAGER
FROM: KATHLEEN LEVESQUE, ON BEHALF OF BRENNNA CAVANAUGH, CHAIR, PORTSMOUTH
POLICE COMMISSION, AND DAVID J. MARA, CHIEF OF POLICE
RE: DONATION

At a special Police Commission meeting this Thursday, March 16th, at 10:45 a.m., the Commission will vote to accept the second donation in the amount of \$81,813 from the estate of Geraldine Webber and forward to the city council for their action.

We respectfully request this donation be placed on the March 20th, 2017 city council agenda. Please note the attachment contains a chain-of-custody sheet which is not for reprinting, distribution, or public view, as it contains proprietary account information from the estate on the copy of the check.

Respectfully submitted,


Kathleen M. Levesque
Office of the Chief

copies: Board of Police Commissioners


CITY OF PORTSMOUTH

LEGAL DEPARTMENT

MEMORANDUM

DATE: March 15, 2017

TO: MAYOR BLALOCK AND CITY COUNCIL MEMBERS

FROM: ROBERT P. SULLIVAN, CITY ATTORNEY AND JANE FERRINI, ASSISTANT CITY ATTORNEY 

RE: HOUSE VOTE ON HB 481, RELATIVE TO THE USE OF SMALL CAPACITY, LIGHTWEIGHT PLASTIC BAGS BY RETAILERS

The City Manager has asked that the City Council be updated on the status of HB 481. The bill, which would give municipalities the authority to prohibit the use of small capacity lightweight plastic bags, was before the House Municipal and County Government Committee. The Committee voted the bill Inexpedient to Legislate by a vote of 14-6. The House Municipal and County Government Committee Report stated the following:

Rep. Franklin Sterling for the **Majority** of Municipal and County Government. This bill would give the authority to municipalities to prohibit the use of certain plastic bags within their community. The effect of such legislation is not clear, and potential environmental and economic impacts require further study. The majority of the committee believes that this cure might be more detrimental than the problem, and that the bill should not go forward, **as towns are not now empowered to adopt such a sweeping environmental and economical change. Vote 14-6.** Rep. Clyde Carson for the **Minority** of Municipal and County Government. This bill enables towns to regulate the distribution of certain plastic bags. The minority on the committee believes that towns should be able to adopt ordinances to minimize the impact on the environment from plastic bags in their communities.

The bill went to the House Floor for a vote on March 9, 2017 and was voted Inexpedient to Legislative by a vote of 189 to 147.

This vote is the most recent issue for the Council to consider when it deliberates on whether to bring forward an ordinance that bans plastic bags. By way of background, the first time the Council was asked to consider an ordinance to ban plastic bags, the Legal Department rendered a legal opinion that there was no enabling legislation to support the City enacting such an ordinance. The Legal Department then received a

legal opinion from Michael Quinn from the McLane Firm that opined the City had the authority to adopt a plastic bag ordinance under the purview of solid waste regulation (RSA 149-M) but this legal opinion did not specifically address the issue of enabling legislation. Because of these different legal opinions, the City forwarded its opinion along with Attorney Quinn's opinion to the New Hampshire Municipal Association (NHMA) and asked whether the NHMA had any position on the issue. The NHMA provided its legal analysis, and concluded that although the City:

...might have the authority to adopt the plastic bag ordinance under the purview of solid waste regulation, without a clear source of enabling legislation, we are inclined to conclude that it is more likely the city does not have that authority. Because New Hampshire is not a home rule state, without clear enabling legislation, we err on the conservative side to protect the city against potential litigation or other backlash that may result from potentially ultra vires legislation.

The City then held off moving forward on bring forward an ordinance on banning plastic bags because a Senate bill was introduced in 2016 that would permit towns to regulate plastic bags. Unfortunately that Senate bill was defeated in 2016. The Council then instructed the Legal Department to reach out to the New Hampshire Department of Environmental Services (DES) and the Waste Management Division to ask whether the State believed that City could regulate plastic bags through the solid waste ordinance (RSA 149-M). DES replied that it did "not take a position on this matter" and that "it does not have the legal authority to offer an opinion of the type that you have requested" To eliminate any uncertainty, the Legal Department then discussed with the Attorney General the possibility of filing a declaratory judgement action to determine definitively whether the City had the legal authority to adopt a ban on plastic bags. The State was asked to act as a defendant in the case to seek a judicial resolution of the issue. The State declined.

Due to the fact that there was a difference of opinion on whether enabling legislation exists, and further because there were no legal challenges or clear legislative history from the defeat of the Senate bill in 2016 that the Legal Department could reference to support its opinion, the Legal Department supported the most recent request to bring forward an ordinance to ban plastic bags. However, in light of the recent vote by the House that HB 481 was Inexpedient to Legislate based on the Committee Report that concluded towns "are not now empowered to adopt" legislation, it now appears that the Legal Department's original opinion that no enabling legislation currently exists to ban plastic bags is accurate. As in all questions of statutory interpretation, the issue was to determine the intent of the Legislature. That intent now seems clear.

Therefore, the Legal Department advises that any ordinance to ban plastic bags be postponed indefinitely awaiting further developments in the Legislature.

cc: Michael Quinn, Esquire

ORDINANCE#
THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth are hereby amended, by the addition of a new section entitled Chapter 3, Article II, Section 3.208 - **REGULATION OF SINGLE USE CARRYOUT PLASTIC BAGS** which shall read in pertinent part as follows (subsequent to preamble):

PREAMBLE *(Not Part of Ordinance.)*

WHEREAS, a countless amount of single-use carryout plastic bags are distributed by retail establishments in the City each year; and

WHEREAS, most of these single-use carryout bags are made from plastic or other material that does not readily decompose; and

WHEREAS, this ordinance requires stores that decide to make recycled paper carryout bags available to their customers to pass-through the reasonable cost of providing these bags; and

WHEREAS, a minimum cost pass through of \$0.10 per paper bag would cover the reasonable cost to a store of providing the paper bags to its customers; and

WHEREAS, the proceeds from the collection of the paper bag pass-through would be retained by the retailer and this ordinance does not specify how the retailers must expend the monies collected; and

WHEREAS, customers can avoid this cost pass-through by using reusable bags; and

WHEREAS, no portion of the cost pass-through will be provided to the City and consequently, the City will not receive any revenues from the retailers' collection of the paper bag cost pass-through; and

WHEREAS, therefore, the cost pass-through is not a tax or fee to the City; and

WHEREAS, a paper bag cost pass-through is an essential element of the proposed ordinance as it is intended to provide a disincentive to customers to request paper bags

when shopping at regulated stores and to promote a shift towards the use of reusable bags by City consumers; and

WHEREAS, there are several alternatives to single-use carryout plastic bags readily available in the City, including reusable bags produced from sustainable materials; and

WHEREAS, it is the City's desire to lead by example and whenever possible to conserve resources, reduce the amount of greenhouse gas emissions and solid waste, and to protect the public health and welfare including local wildlife, all of which increase the quality of life for the City's residents and visitors.

CHAPTER 3, ARTICLE II, SECTION 3.208 REGULATION OF SINGLE USE CARRYOUT PLASTIC BAGS

A FINDINGS AND PURPOSE

1. The City Council finds and determines that the City is committed to protecting the public health, safety, welfare, and environment, and that in order to meet these goals, it is necessary for the City to promote the public purposes served by this Chapter and adopt the following regulations pursuant to these findings.
2. The City finds that ordinances limiting the use of Single-use Carryout Plastic Bags have been proven to reduce the amount of pollution and improve quality of life for its citizens.
3. The City finds that, except in unusual circumstances, it is feasible and reasonable for parties who provide Single-use Carryout Plastic Bags to easily transition to paper bags and move to a model that charges for paper bag use by consumers.
4. The City recognizes that plastic bags are a public nuisance and affect public health and impact tourism and quality of life to both residents and visitors in the City.

B DEFINITIONS

For purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section only:

“Customer” means any Person obtaining goods from a Store.

“Nonprofit Charitable Reuser” means a charitable organization, as defined in Section 501(c)(3) of the Internal Revenue Code of 1986, or a distinct operating unit or division of the charitable organization, that reuses and recycles donated goods or materials and receives more than fifty percent (50%) of its revenues from the handling and sale of those donated goods or materials.

“Operator” means the person in control of, or having the responsibility for, the operation of a Store, which may include, but not be limited to, the owner of the Store.

“Paper Bag Cost Pass-Through” means the cost which must be collected by retailers from their Customers when providing a Recycled Paper Bag.

“Person” means any natural person, firm, corporation, partnership, or other organization or group however organized.

“Pharmacy” means any retail store, where prescriptions, medications, controlled or over the counter drugs, personal care products or health supplement goods or vitamins are sold.

“Prepared Food” means foods or beverages which are prepared on the premises by cooking, chopping, slicing, mixing, freezing, or squeezing, and which require no further preparation to be consumed. Prepared Food does not include any raw, uncooked meat product or fruits or vegetables which are chopped, squeezed, or mixed.

“Produce Bag” or “Product Bag” means any bag without handles used exclusively to carry produce, meats, or other food items to the point of sale inside a store or to prevent such food items from coming into direct contact with other purchased items.

“Public Eating Establishments” means a restaurant or take-out food establishment.

“Recycled Paper Bag” means a paper bag provided at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment that contains no old growth fiber and a minimum of forty percent (40%) post-consumer recycled content; is one hundred percent (100%) recyclable; and has printed in a highly visible manner on the outside of the bag the word “Recyclable,” the name and location of the manufacturer, and the percentage of post-consumer recycled content. The Recycled Paper Bag is capable of composting, consistent with the timeline and specifications of the American Society of Testing and Material (ASTM) Standard Specification for Compostable Plastics D6400, as published in September 2004.

“Retail Establishment” means any commercial establishment that sells perishable and nonperishable goods including but not limited to, clothing, food, and personal items directly to the Customer and is located within or doing business within the City. Retail Establishments do not include Public Eating Establishments or Nonprofit Charitable Reusers.

“Reusable Bag” means a bag that has handles that is specifically designed and manufactured for multiple reuse and meets all of the following requirements:

1. Is machine washable or is made of material that can be cleaned or disinfected;
2. Has a minimum lifetime of one hundred twenty-five (125) uses, which for purposes of this subsection, means the capability of carrying a minimum of twenty-two (22) pounds one hundred twenty-five (125) times over a distance of at least one hundred seventy-five (175) feet;
3. If made of a plastic, it must be at least two and one-quarter (2.25) mil thick; (4) does not contain lead, cadmium, or any other heavy metal in toxic amounts, as defined by applicable State and Federal standards and regulations for packaging or reusable bags.

“Single-Use Carryout Plastic Bag” means a bag other than a Reusable Bag provided at the check stand, cash register, point of sale or other point of departure for the purpose of transporting food or merchandise out of the establishment.

Single-Use Carryout Plastic Bags do not include bags without handles provided to the Customer:

1. To transport produce, bulk food, or meat from a produce, bulk food, or meat department within a Store to the point of sale; or
2. To hold prescription medication dispensed from a Pharmacy; or
3. To segregate food or merchandise that could damage or contaminate other food or merchandise when placed together in a Reusable Bag or Recycled Paper Bag.

“Store” means any of the following Retail Establishments located within the City:

1. A full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, that sells a line of dry grocery, canned goods, or nonfood items and some perishable items; or
2. A store of at least 10,000 square feet of retail space that sells any perishable or non-perishable goods including, but not limited to clothing, food, or personal items; or
3. A drug store, Pharmacy, supermarket, grocery store, convenience food store, foodmart, or other entity engaged in the retail sale of a limited line of goods that includes milk, bread, soda, and snack foods; or
4. A store of less than 10,000 square feet of retail space that sells any perishable or non-perishable goods including, but not limited to, clothing, food, or personal items.

C PROHIBITED CARRYOUT BAGS

1. No Store, to include grocery store or Pharmacy, shall provide a Single-Use Carryout Plastic Bag to a Customer, at the check stand, cash register, point of sale, or other point of departure for the purpose of transporting food or merchandise out of the establishment except as provided in this ordinance.

2. No Person shall distribute a Single-Use Carryout Plastic Bag at any City facility, City-managed concession, City-sponsored event, or City-permitted event unless otherwise provided in this Section.

D PERMITTED CARRYOUT BAGS

1. Stores are allowed to distribute only Recycled Paper Bags or Reusable Bags to Customers for the purpose of carrying away goods or other materials from the point of sale, subject to the terms of this Chapter.
2. A Customer shall be charged a minimum of ten cents (\$.10) for each Recycled Paper Bag provided by the Store (the Paper Bag Cost Pass-Through). The sale of each bag shall be separately itemized on the sale receipt.
3. All Stores must keep records of the total number of Recycled Paper Bags provided, the total amount of monies collected for providing Recycled Paper Bags, and a summary of any efforts the Store has undertaken to promote the use of Reusable Bags by Customers in the prior calendar year. Such records must be made available for the City Manager, or his/her designee, to review within a reasonable period of time upon request. These records may be kept at the retailer's corporate office.
4. Nothing in this Chapter prohibits Customers from using bags of any type that they bring to the Store themselves or from carrying away goods that are not placed in a bag, in lieu of using bags provided by the Store.

E EXEMPTIONS

1. A Store may provide a Customer participating in *Special Supplement Nutrition Program for Women, Infants, and Children (WIC)* or *Supplemental Nutrition Assistance Program (SNAP)* with one (1) or more Recycled Paper Bags or Reusable Bags at no cost.
2. Single-use Carryout Plastic Bags may be distributed to Customers by food providers for the purpose of safeguarding health and safety during the transportation of Prepared Foods, including take-out foods and liquids intended for consumption away from the food provider's premises.

F PENALTIES AND ENFORCEMENT

1. If the Public Works Director, or his/her designee determine that a violation of this Chapter has occurred, he/she will issue a written warning notice to the Operator of a Store and the potential penalties that will apply for future violations
2. Upon a second or subsequent infraction of this ordinance, the person in violation shall be subject to a fine of \$100 per occurrence upon conviction.
3. The City Attorney is authorized to file any appropriate legal proceedings, including but not limited to requests for injunctive relief, necessary to prevent violation of this ordinance.

G SEVERABILITY

In the event that any portion of this ordinance is found to be unenforceable for any reason, the remaining provisions shall remain in full force and effect.

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

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

This ordinance shall take effect on the anniversary date 12 months after passage of third reading.

APPROVED

Mayor Jack Blalock

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk

City of Portsmouth

Department of Public Works



MEMORANDUM

TO: John P. Bohenko, City Manager

FROM: Eric Eby, P.E., Parking and Transportation Engineer

DATE: February 28, 2017

SUBJECT: Truck Prohibition Ordinance Revision

In May 2015, residents of Banfield Road brought to the Parking and Traffic Safety Committee their concerns about the volume of truck traffic on their roadway and truck restriction signs that had gone missing. In the summer of 2015, DPW staff installed Truck Restriction signs in conformance with the current ordinances. After the installation of the signs, another Banfield Road resident and business owner has repeatedly voiced concern that the signs are not in compliance with the intent of the truck restriction ordinance. At their July 7, 2016 meeting, the PTS Committee voted to have City staff review the history and intent of the truck restriction ordinance and report back on recommended changes to the ordinance to clarify where and when trucks are excluded. City staff has worked with the City Clerk as well as the City Attorney to research and understand the history and intent of past changes to the ordinance. The last major changes to the truck restriction ordinances took place in December 1996. Prior to December 1996, trucks were prohibited from the entire length of Banfield Road subject to four exceptions. Trucks were also prohibited from Peverly Hill Road unless starting or ending on Peverly Hill Road, Banfield Road or Greenleaf Avenue.

In December 1996, several sections of the truck restriction ordinance were replaced in their entirety with new sections that designated certain streets as through truck routes, which allowed trucks at all times under all conditions; and a list of streets that allowed trucks only for limited use or local deliveries. Limited use was defined as the four exceptions previously listed in the old ordinance. Local deliveries were defined as a trip that began and ended somewhere in the City. With these changes, Banfield Road was listed as a local delivery route and Peverly Hill Road was included as a through truck route.

In February 1997, the City Council voted to restore the deleted sections of the ordinance, but to delete from those sections any reference to Peverly Hill Road. This change also reinstated the truck prohibition for the entire length of Banfield Road. However, when the old ordinance sections were restored, the old section listing the four exceptions was not restored, and the new section listing the limited use exceptions was deleted. In addition, the new list of local delivery routes was **not** deleted but the definition of a local delivery **was** deleted. The only exceptions in the current

ordinance are for local delivery routes, but the definition of a local delivery is not included. Therefore, as currently written, Banfield Road is listed twice, once as prohibiting all trucks and again as allowing trucks for local deliveries.

To remedy this confusing situation, City staff recommends that the current Section 7.704 Local Delivery Routes be deleted, and the old Section 7.703 Exceptions be restored. This will clarify which streets are prohibited to trucks, and the exceptions that are allowed. This would have the effect of prohibiting trucks on the entire length of Banfield Road subject to the four exceptions previously mentioned. No other streets would be affected, as no other street in the local delivery route listing is also listed in the prohibited street listing.

ORDINANCE

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 7, Article VII – TRUCK AND BUS TRAVEL of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

ARTICLE VII: TRUCK AND BUS TRAVEL

Section 7.701: PROHIBITED ON CERTAIN STREETS

Notwithstanding any other provision of this ordinance, no tractor – trailer truck may travel on the following streets at any time for any reason.

1. Maplewood Avenue from Central Avenue to Woodbury Avenue
2. Woodbury Avenue from Dennett Street to Bartlett Street.

Section 7.702: TRUCK TRAFFIC PROHIBITED

It shall be unlawful for any truck with a box, body or platform of over 12 feet in length to use the following streets subject to the exceptions of Section 7.704 of this Article.

1. Adams Avenue
2. Banfield Road
3. Broad Street (between South Street and Jones Avenue).
4. Burkitt Street (between Dennett Street and the Maine/New Hampshire Interstate so-called).
5. Cate Street
6. Chestnut Street (from Congress Street to Porter Street)
7. Circuit Road
8. Cleveland Drive
9. Coolidge Drive
10. Dennett Street (Between Bartlett Avenue to Maplewood Avenue)
11. Dwight Avenue
12. Echo Avenue
13. Edgewood Road
14. Farm Lane
15. Fillmore Road
16. F.W. Hartford Drive
17. Garfield Road
18. Granite Street
19. Grant Avenue
20. Greenleaf Avenue (between Peverly Hill Road and the Rt. 1 Bypass)
21. Harding Road
22. Hayes Place

23. Hoover Drive
24. Mangrove Street
25. Maplewood Avenue (from Central Avenue to Woodbury Avenue)
26. McKinley Road
27. Myrtle Avenue (between Dennett St. and the Maine/New Hampshire Interstate so-called)
28. Nixon Park
29. Pickering Street
30. Polk Avenue
31. Profile Avenue
32. Ranger Way
33. Rockhill Avenue
34. Sherburne Road
35. Taft Road
36. Taylor Lane
37. Thornton Street (between Woodbury Avenue and Bartlett Street)
38. T.J. Gamester Avenue
39. Truman Place
40. Van Buren Avenue
41. Wilson Road
42. Woodbury Avenue, between Market Street and Bartlett Street

Section 7.03 BUS TRAFFIC PROHIBITED ON CERTAIN STREETS

Notwithstanding any other provision of this ordinance, no bus may travel on the following streets at any time for any reason.

1. Ceres Street (all public sections).

Section 7.704: ~~LOCAL DELIVERY ROUTES—EXCEPTIONS TO PROHIBITION OF TRUCK TRAFFIC~~

~~A. The following streets are designated to serve as local delivery routes. Their status is determined based upon: 1) their intersection with a through truck route, 2) their importance in ensuring residential deliveries, 3) their importance in ensuring deliveries to business or industrial uses where no other access is practical.~~

~~Heritage Avenue in its entirety;~~

~~Constitution Avenue in its entirety;~~

~~Banfield Road from intersection of Heritage Avenue to intersection of Peverly Hill Road;~~

~~Peverly Hill Road in its entirety;~~

~~Route 33 at the intersection of Route 33 and Borthwick Ave/Greenland Rd to South St to Lafayette Road;~~

~~South Street from Lafayette Road to Sagamore Avenue;~~

~~Sagamore Avenue from intersection of South Street to City line with Rye;
Wentworth Road in its entirety;~~

~~Lafayette Road from intersection with US Route 1 and US Route 1 ByPass to
Middle St;~~

~~Woodbury Avenue from intersection US I-95 off ramp to intersection with Dennett
St.;~~

~~Dennett Street from Woodbury Avenue to intersection of Bartlett Street;~~

~~Bartlett Street to Islington Street;~~

~~Islington Street in its entirety;~~

~~Daniel Street in its entirety;~~

~~Congress Street in its entirety;~~

~~State Street from intersection of Middle Street to Memorial Bridge;~~

~~Marcy Street in its entirety;~~

~~New Castle Avenue in its entirety;~~

~~Market Street from intersection of Russell Street to Hanover Street;~~

~~Hanover Street from Market Street to Maplewood Avenue;~~

~~Deer Street from Maplewood Avenue to Market Street; and,~~

~~Russell Street in its entirety.~~

The following are exceptions to the prohibition against truck traffic on the streets set forth in Section 7.702:

- A. The operation of trucks upon any street where necessary to the conduct of business at the destination point accessible only through use of streets where truck traffic is prohibited as set forth in Section 7.702.**
- B. Emergency vehicles: The operation of emergency vehicles upon any street in the City.**
- C. Public Utilities, Etc.: The operation of trucks owned or operated by the City, Public Utilities, any contractors, subcontractors or materialman, while engaged in the repair, maintenance or construction of streets, street improvements or street utilities within the City.**

D. Residential Home Delivery Vehicles: The operation of delivery trucks actually engaged in making residential deliveries.

Section 7.705: ENFORCEMENT

The ~~City Manager~~ **Public Works Department** shall cause those streets which are listed in 7.702 to be posted to give notice that this Ordinance is in effect. Where applicable, the ~~City Manager~~ **Public Works Department** shall coordinate sign posting with the New Hampshire Department of Transportation.

The Chief of Police shall cause enforcement of this Ordinance to occur through local, county and state law enforcement sources.

~~A plan of through truck routes and local delivery routes shall be kept on file at the City Clerk's Office and the Portsmouth Police Department.~~

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

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

This ordinance shall take effect upon its passage.

APPROVED:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk



DEPARTMENT OF THE ARMY
HEADQUARTERS AND HEADQUARTERS COMPANY 3643D BRIGADE SUPPORT BATTALION
803 MCGEE DRIVE
PORTSMOUTH, NH 03801

NGNH-BSB-HHC

08 March 2017

MEMORANDUM FOR THE HONORABLE MAYOR JACK BLAYLOCK AND
PORTSMOUTH CITY COUNCIL MEMBERS

SUBJECT: Event permit to conduct Best Warrior Competition using RTE 1A, 1B

1. To the Honorable City Mayor Jack Blaylock and council members. The New Hampshire Army National Guard would like to conduct our annual Best Warrior Competition foot march on 9 April 2017 from Ft. Constitution to Wallis Sands State Park and return to Ft. Constitution. It is a 4 hour event starting at 930am to 1:30 pm. The foot March will be conducted on the side of the roads along RTE 1A, 1B and back to 1A. See attached map.
2. The event will involve approximately 25 Soldiers carrying a 35lbs ruck suck and wearing military gear to include carrying a replica of an M16 rifle. The weapon is plastic and has no firing capabilities or bolt mechanism in it. There will be 10 support personnel every two miles at checkpoints along the route to insure soldiers do not deviate from the event path. Soldiers and detail personnel will be wearing a reflective safety vest or belt.
3. Respectfully request written authorization for use of roads or facilities from approving agencies.
4. The undersigned person is the point of contact robert.p.valarese.mil@mail.mil or 603-866-1775

Digitally signed by
VALARESE,ROBERT.PAUL.1.005025268
DN: cn=US, o=US, Government, ou=D&D,
ou=PR, ou=USA,
cn=VALARESE,ROBERT.PAUL.1.005025268
Date: 2017.03.08 15:28:11 -0500

ROBERT P. VALARESE
1SG, NHARNG
BN S3 NCOIC



DEPARTMENTS OF THE ARMY AND AIR FORCE
NEW HAMPSHIRE NATIONAL GUARD
JOINT FORCE HEADQUARTERS
1 MINUTEMAN WAY
CONCORD, NH 03301-5607

March 8, 2017

City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801
ATTN: Honorable Jack Blaylock, Mayor
Portsmouth City Council

Re: Letter of Self-Insurance

Honorable Sir and Councilors,

The New Hampshire Army National Guard (NHARNG) informs me that you have requested a proof of insurance in connection with the NHARNG's Best Warrior Competition road march event in Portsmouth, NH, which will involve the usage of a public road(s). Our Soldiers will be using the public road(s) on 9 April 2017.

This letter is to inform you that the New Hampshire National Guard is "self-insured" to the extent that it is an entity of The United States, and an agency of The State of New Hampshire. Any and all claims which arise from the stated activity shall be administered in accordance the claims process made available under the laws of the United States (Federal Tort Claims Act, Title 28 United States Code, Sections 1346(b), 2401, 2671-2680) and the laws of the state of New Hampshire. Because the governmental entities are self-insured we are prohibited from purchasing liability insurance.

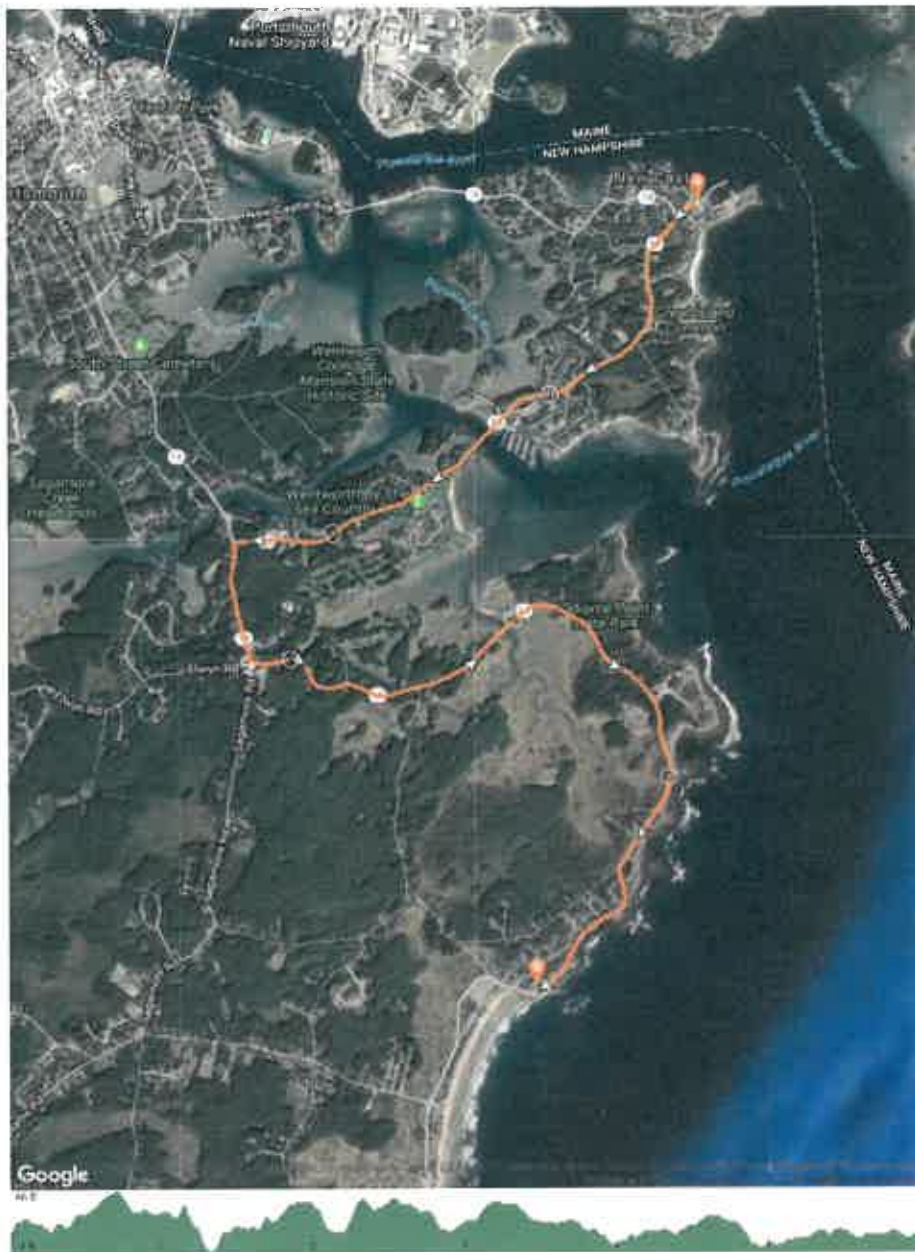
Please accept this letter as certification of our proof of insurance. If you have any questions please do not hesitate to contact my office at 603-227-1592.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Chang".

Jeffrey S. Chang, MAJ, NHNG
Legal Advisor to the Adjutant General

plotaroute.com - Ruck March (6.010 miles)



SEACOAST HALF MARATHON

Caring for the coast, one step at a time



March 1, 2017

received
3/10/17

Mayor Blalock and the Portsmouth City Council
Portsmouth City Hall
1 Junkins Ave
Portsmouth, NH 03801

Dear Honorable Mayor Blalock and the City Council,

This is to request your approval to hold the 12th annual Seacoast Half Marathon on Sunday, November 12, 2017. We expect to have 1,200 participants on race day. 'Competitive walkers' will start at 8:00am, and the runners will start at 8:30. The 13.1 mile course starts and finishes at Portsmouth High School and travels through Rye and New Castle, as well as parts of Portsmouth. We avoid the 'downtown' area of Portsmouth to help minimize traffic interruptions. Each year, we work with the Police departments in Portsmouth, Rye and New Castle to minimize the impact of the race on local communities, and to maximize the safety for the racers. Our plan is to use the same race course we have used for 10 of the past 11 years. (Course map attached.)

The Seacoast Half Marathon chooses a different local non-profit organization as its beneficiary each year. Past beneficiaries include New Heights, Cross Roads House, Womenade, Great Bay Services, Big Brothers Big Sisters of the Greater Seacoast, Families First, Sexual Assault Support Services/Child Advocacy Center, Chase Home for Children, the Seacoast Mental Health Center, and the Seacoast Family Food Pantry. In the first 11 years of the race, we contributed almost \$900,000 to the race beneficiaries. This year's beneficiary is Cross Roads House, which is our first repeat beneficiary - they last served that role in 2008. Our goal this year is to raise and donate a minimum of \$85,000 to support the great and, unfortunately, necessary work that Cross Roads House does. In addition to our beneficiary, other local non-profit organizations have staffed our 'water stops,' and those enthusiastic groups each receive \$500 for their efforts on race day. This is not a 'for-profit' race, so after race expenses are paid, all of the revenue raised from the race is donated.

The Seacoast Half Marathon has sold out every year. And each year, the race attracts runners and walkers from 16-20 states across the nation, plus a small handful of people from outside the country. So local hotels, retailers and restaurants also benefit from the people who visit Portsmouth for this road race on Veteran's Day weekend.

We thank your office and the Council for your support of the Seacoast Half Marathon in past years, and hope that you will provide your support again for this year's race.

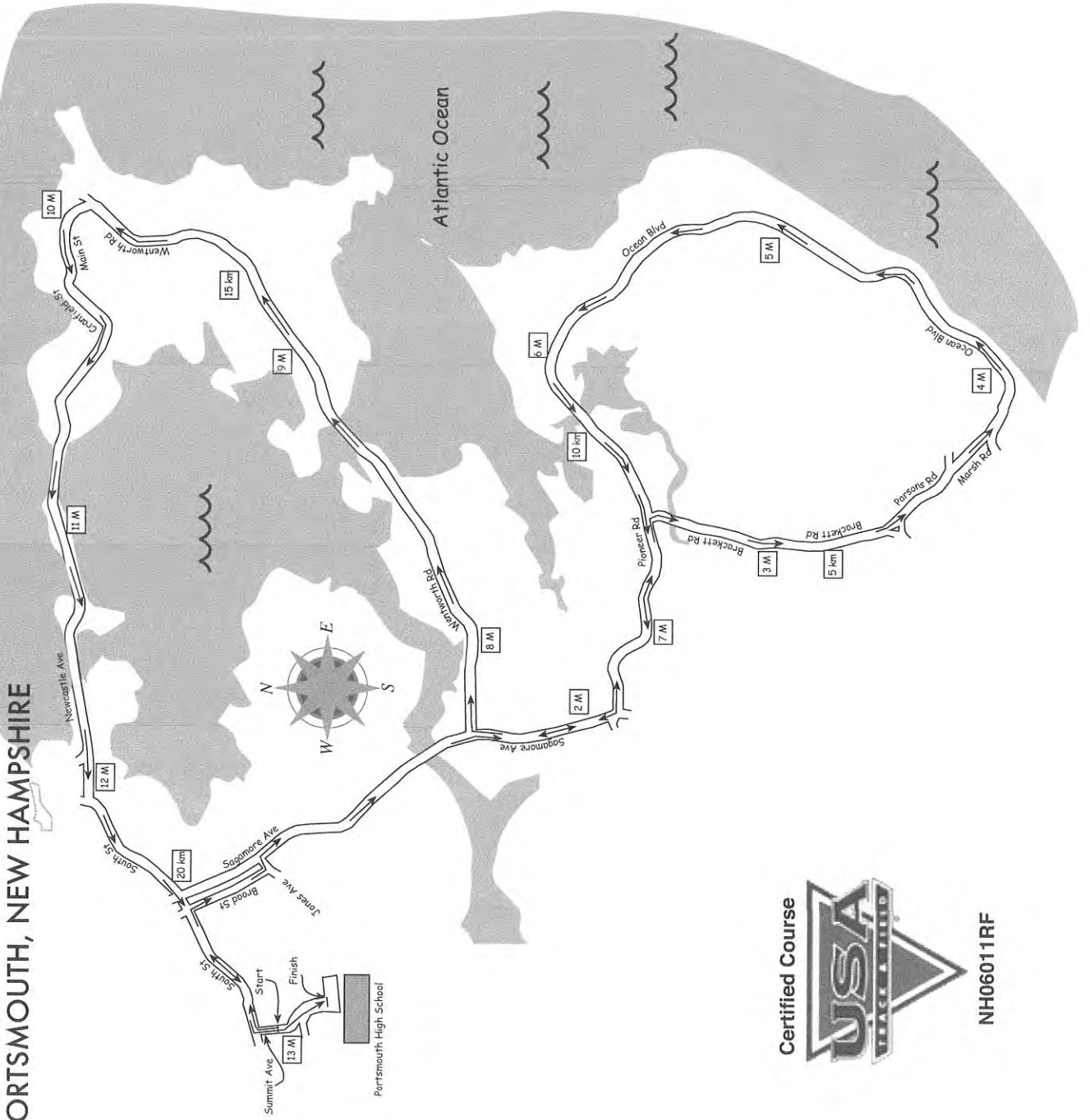
Sincerely,

A handwritten signature in blue ink, appearing to read "Jay Diener".

Jay Diener
Co-race director, Seacoast Half Marathon
206 Woodland Rd
Hampton, NH 03842
603.758.1177
shmracedirector@gmail.com

SEACOAST HALF-MARATHON

PORTSMOUTH, NEW HAMPSHIRE



Certified Course



NH06011RF

AIDS RESPONSE
Seacoast
Care and Prevention

MAR 15 2017

March 13, 2017

John Bohenko, Portsmouth City Manager
Portsmouth City Council
1 Junkins Ave.
Portsmouth, NH 03801



Dear Mr. Bohenko and Portsmouth City Council:

The purpose of this letter is to seek permission from the Portsmouth City Council to conduct our 21st Annual Seacoast AIDS Walk and Dog Walk on Sunday, May 7, 2016 from 10:00 AM to 5:00 PM. The walk will begin at 2PM and end around 5PM in the lower parking lot at the Portsmouth Municipal Complex. Approximately 100 persons will be in attendance. In addition, we would like permission to place 5 temporary 2' by 4' a-frame signs to mark the route. The route will be the same as last year – a map has been enclosed for your review.

AIDS Response Seacoast greatly appreciates the City of Portsmouth's support in past years. The Annual Seacoast AIDS Walk has become an increasingly popular and successful event for ARS and we rely upon it to increase awareness about HIV/AIDS and our mission in the Seacoast communities we serve.

If you have any questions please do not hesitate to contact me. Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard B. Wagner'.

Richard B. Wagner
Executive Director

2017 Seacoast AIDS Walk

Sunday May 7, 2017



The 2016 Seacoast AIDS Walk begins and ends at the Portsmouth Municipal Complex on Junkins Avenue, Portsmouth NH. Doggie Bags will be provided prior to departure and there will be refuse and water stops along the way.

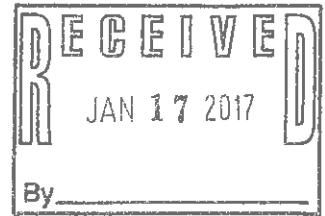
The walk in a nutshell:

Right on Junkins, left on Pleasant, left on State, left on Middle, cross Middle at cross walk, right on Aldrich, right on Islington, straight through Congress and Daniel, through parking lot and through center island, down stairs, cross State St. onto Marcy, walk along the sidewalk beside Strawbery Banke, right on Hancock, through the park, then left on Junkins.

Please use Caution, Stay on the Sidewalks, and use the Cross-Walks. Be Safe and Have Fun

Portsmouth City Attorney
Mr. Bob Sullivan
Portsmouth City Hall

11 Jan 2017



Dear Sir:

I am appealing to you for assistance in a quit claim extension on my property at 85 Woodworth Ave in accordance with chapter 231:51 as I have been informed that a contractor is in the process of obtaining land for building on Moffatt Rd. a paper road that abuts my property and I feel that I should have first claim to the extension of my land by 20 feet as allowed by law. I have owned this property for 26 years and have paid for and done any clean up and repair of this area for this time. I would also ask that the frontage of my property on Woodworth Ave be extended for the same reasons.

Thank you for any assistance you may provide in this matter,

A handwritten signature in cursive script, appearing to read "Raymond and Maryrose Richer".


Raymond and Maryrose Richer
85 Woodworth Ave
Portsmouth N H 03801
603 430 9344

**CITY OF PORTSMOUTH
PORTSMOUTH, NH 03801**

Office of the City Manager

Date: March 16, 2017

To: Honorable Mayor Jack Blalock and City Council Members

From: John P. Bohenko, City Manager 

Re: City Manager's Comments on March 20, 2017 City Council Agenda

Presentation:

1. **Energize 360 Seacoast NH Campaign Kick-off.** Councilor Josh Denton, Liaison to the Sustainability Committee has requested that a presentation be made to the City Council on Monday evening regarding the Energize 360 Seacoast NH Campaign Kick-off.

Steve Workman who will be representing the not-for-profit Seacoast Area Renewable Energy Initiative (SEAREI [pronounced Sea - Ray]) will talk for 3-5 minutes during the presentation on the Energize 360 Seacoast NH Campaign itself, whose kick-off throughout the region is from March 20 - 27. The information he presents should be similar to the information he presented to the Sustainability Committee last month. The program is an improved version of the successful KEYS (Kittery, Eliot, York, & South Berwick) Region campaign that ended this past January. The Energize 360 Seacoast NH campaign allows for free solar array quotes and energy audits for interested residents and then allows for tiered group pricing for those that sign up.

SEAREI has already submitted an RFP from which Revision Energy was selected as the prime and Yankee Thermal the sub in their contract with SEAREI. Residents from several communities ranging from Portsmouth to Dover to Durham can then have Revision Energy do a free solar array audit and Yankee Thermal do a limited free home energy audit (full audit costs money). The residents then have until June to shop around with the quote's they received and decide if they want to go with Revision Energy & Yankee Thermal, someone else, or nobody. If they decide to go with Energize 360 Seacoast NH and Revision Energy for solar, the more people that sign up for solar arrays, the higher tier cost savings everyone (Portsmouth, Dover, Durham, ...) receive. Any contract signed

will be directly between the residents and either revision Energy or Yankee Thermal, NOT the City of Portsmouth or SEAREI.

Residents from the KEYS Region that participated saw a 5% savings. Granted 5% savings are not enough to get most residents to invest in solar, but the free audits and possible 5% discount maybe enough to get some to invest, and the more people that invest in solar, the cheaper it should become for everyone else. Of note residents that opt to sign up during the campaign window do not have to wait for the window to close for installation and should be grandfathered in prior to any net-metering changes being made at the state level.

Acceptance of Grants and Donations:

1. **Acceptance of Fire Department Donations.** At the March 15, 2017 monthly Fire Commission meeting, the Board of Fire Commissioners voted to approve and accept disbursement checks from the Estate of Geraldine W. Webber in the amounts of \$105,687.00 and \$81,813.000. The Fire Commission submits these donations to the City Council for the Council's consideration and approval.

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

2. **Acceptance of Police Department Donation.** [Attached under Section VII of the Agenda is a memorandum](#), dated March 14, 2017, from Kathleen M. Levesque, Executive Assistant, Office of the Police Chief, regarding the acceptance of a donation. At the March 16, 2017 monthly Police Commission meeting, the Board of Police Commissioners approved and accepted the following donation:

- a. Donation of a disbursement check in the amount of \$81,813.00 from the Estate of Geraldine W. Webber.

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 donation to the Portsmouth Police Department, as presented. Action on this matter should take place under Section VII of the Agenda.

Items Which Require Action Under Other Sections of the Agenda:

1. First Reading of Proposed Ordinance Amendments.

- 1.1 **First Reading of Proposed Ordinance amending Chapter 3, Article II, Section 3.208, Regulation of Single-use Carryout Plastic Bags (Tabled from March 6, 2017 City Council Meeting).** As you are aware at the March 6th City Council meeting, the first reading for the [attached proposed ordinance amending Chapter 3, Article II Section 3.208, Regulation of Single-use Carryout Plastic Bags](#) was [tabled](#). As requested by the City Council, I am bringing back for first reading the proposed Ordinance which was substantially drafted by the Surfrider Foundation-New Hampshire Chapter. It has been subject to minimal modifications of form by the City Legal Department in order that the Surfrider ordinance would be consistent with existing City ordinances. In addition, the City Legal Department has inserted a severability provision into the ordinance so that if a court should find any section of the ordinance to be unenforceable, the remaining provisions would still have full force and effect.

In addition, I have [attached a memorandum from City Attorney Robert Sullivan and Assistant City Attorney Jane Ferrini](#) regarding House Vote on HB 481, Relative to the Use of Small Capacity, Lightweight Plastic Bags by Retailers. Their memorandum outlines concerns relative to the adoption of this Ordinance at this time. They are recommending that the Ordinance to ban plastic bags be postponed indefinitely awaiting further developments in the Legislature.

Action on this matter requires one of the following motions:

- 1) *Either pass first reading of the proposed Ordinance, or*
- 2) *Table the proposed Ordinance indefinitely.*

Action on this matter should take place under Section VIII of the Agenda.

- 1.2 **First Reading of a Proposed Ordinance amending Chapter 7, Article VII, Section 7.704 and 7.705 to clarify the Prohibition of Truck Traffic on Banfield Road.** As a result of the March 6, 2017 City Council meeting, I am bringing back for first reading the [attached proposed Ordinance](#) amending Chapter 7, Article VII, Section 7.704 and 7.705 to clarify the Prohibition of Truck Traffic on Banfield Road. At the February 2, 2017 Parking and Traffic Safety Committee meeting, there was a vote to amend Chapter 7, Article VII, by deleting the current Section 7.704 Local Delivery Routes and restore the old Section 7.703 Exceptions. [Attached is a memorandum from Eric Eby, Parking and Transportation Engineer](#), regarding this matter. As recommended by Eric Eby, Parking and Transportation

Engineer, I am requesting the City Council authorize me to bring an Ordinance at the March 20, 2017 City Council meeting.

I recommend the City Council move to pass first reading and schedule a public hearing and second reading of the proposed Ordinance at the April 3, 2017 City Council meeting, as presented. Action on this matter should take place under Section VIII of the Agenda.

City Manager's Items Which Require Action:

1. **Proposed amendment to exempt signs and other elements related to public parking in private parking lots from specific zoning standards when authorized under a permit from the Department of Public Works.** At its March 6, 2017 meeting, the City Council passed third reading on an ordinance relating to signs for public parking in a private parking lot. This ordinance was enacted as an amendment to the City Ordinances, Chapter 7, Article I – Parking Meters, and requires that any sign located at the entrance to a private parking lot receive a permit from the Department of Public Works (DPW).

[Attached is a memorandum from Planning Director Rick Taintor](#) identifying the reasons to amend the Zoning Ordinance to implement exemptions for signs and other elements related to public parking in private parking lots from specific zoning standards when authorized under a permit from DPW.

In addition, the [attached proposed Ordinance](#) contains the following three provisions:

- Item A exempts site elements from HDC review when public parking in a private lot is authorized under a permit from the DPW.
- Item B exempts directional information signs from the requirement for a sign permit when public parking in a private lot is authorized under a permit from DPW.
- Item C corrects an existing conflict in the standards for an “information sign”. Currently, the definition of the term “information sign” sets the maximum sign area at 2 square feet which Section 10.1222 exempts such a sign if it is up to 4 square feet in area. The proposed amendment would establish 4 square feet as the maximum for both provisions.

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

2. **Appointments to Rockingham Metropolitan Organization (MPO) Technical Advisory Committee.** The Rockingham Metropolitan Organization (MPO) is a federally designated entity that administers the urban transportation planning process for the 27 communities of the Rockingham Planning Commission. This organization is staffed by the Rockingham Planning Commission and has two standing committees on which each of the

communities has representation. The Transportation Advisory Committee (TAC) has one appointed member from each community, and the Policy Committee is composed of community appointed RPC commissioners and regional, state, and federal partners.

The purpose of the TAC is to provide technical advice and recommendations to the Policy Committee concerning transportation issues that impact the region. Specifically, this often involves prioritizing transportation improvements, reviewing studies, and providing input to NHDOT and other agencies.

The TAC appointment is for a period of 3-years. Juliet Walker, Assistant Planning Director is the current appointee and has been serving in that capacity since 2014. For the term beginning July 1, 2017, the Planning Department requested that that Juliet Walker Assistant Planning Director, continue in her current capacity, and further that Eric Eby, Transportation and Parking Engineer, be added as an Alternate representative.

I recommend the City Council move to approve the aforementioned appointments to the Rockingham Metropolitan Organization Technical Advisory, as presented.

3. **Request a Work Session for Monday, March 27, 2017.** I have discussed with the Mayor scheduling a Work Session regarding an Update and Review of the Master Plan ([a copy of the Master Plan is in the inside cover of your packet](#)). In addition, we would like to review the process for identifying re-uses and/or improvements for the Bridge Street, Vaughan Mall, and Worth Lot. I am requesting that the City Council establish a Work Session on Monday, March 27, 2017 at 6:30 p.m., in the Eileen Dondero Foley Council Chambers regarding the aforementioned items.

I recommend the City Council move to establish a Work Session for Monday, March 27, 2017 at 6:30 p.m., in the Eileen Dondero Foley Council Chambers, as presented.

4. **Request to Establish a Public Hearing Re: Proposed Bonding of up to Five Million (\$5,000,000) Dollars for Phase I Dondero School Improvements.** [Attached is a letter from Superintendent Steve Zadavec](#) requesting that the City Council approve the authorization to bond up to Five Million (\$5,000,000) Dollars for the Phase I improvements to Dondero School. This item has been identified in the FY2018 Capital Improvement Plan. Superintendent Zadavec would like to receive authorization on this expenditure in order to begin construction this summer while the students are on break. This is similar to the way Phase II Little Harbour School Improvements project which took place and has seemed to work out very well. I am requesting that a public hearing be held at the April 3, 2017 City Council meeting regarding this matter.

I recommend the City Council move to establish a public hearing on Monday, April 3, 2017 for bonding of up to Five Million (\$5,000,000) Dollars for Phase I of the Dondero School Improvements.

5. **Report Back Re: Islington Street Project Burying Underground Utilities.** Department of Public Works staff will make a brief presentation to the City Council regarding the Council's request to investigate the possibility of burying utilities as part of the Islington Street corridor design project. As shown in the [attached memorandum](#), based on initial information provided by the project consultants from other similar projects in the area, the cost to bury the overhead utilities would add an additional \$1M to the design costs, and an additional \$4.6M to \$7.6M in construction costs. In addition to the cost, it would likely be necessary to obtain easements from landowners to locate transformers, control cabinets and other items on the ground, as there is little city land available for these items in the corridor. Due to these high costs and logistical hurdles, staff recommends that burying of the overhead utilities not be included in the project, and will seek an endorsement of this recommendation from the City Council.

I recommend the City Council move to endorse moving forward with design and bidding without inclusion of underground utilities along the Islington Street corridor.

Informational Items:

1. **Events Listing.** For your information, [attached is a copy of the Events Listing](#) updated after the last City Council meeting on March 6, 2017. In addition, this can be found on the City's website.
2. **Electronic Communication by City Councilors during Council Meetings.** As requested by Assistant Mayor Splaine, [attached is a memorandum from City Attorney Robert Sullivan](#) regarding Electronic Communication by City Councilors during Council Meetings. The City Attorney opined on this matter on December 2, 2015 as noted in memorandum.
3. **Cooperative Alliance for Seacoast Transportation (COAST) Bus Stops.** [Attached for your information](#) is a memorandum from Juliet Walker, Assistant Planning Director, regarding COAST bus stops.
4. **Household Hazardous Waste Collection Day.** Please note your calendars that Household Hazardous Waste Collection Day will be held on Saturday, April 29, 2017. I will keep you advised of additional details regarding this day.
5. **Proposed Ordinance Re: Financial Disclosure.** For your information, the proposed Financial Disclosure Ordinance is still being worked on by Councilor Josh Denton and City Attorney Robert Sullivan and it will be presented at the April 3, 2017 City Council meeting.

MEMORANDUM

TO: John P. Bohenko, City Manager
FROM: Rick Taintor, Planning Director *RT.*
DATE: March 14, 2017
RE: Proposed Zoning Ordinance amendment to exempt signs and other elements related to public parking in private parking lots from specific zoning standards when authorized under a permit from the Department of Public Works

At its March 6, 2017, meeting the City Council passed third reading on an ordinance relating to signs for public parking in a private parking lot. This ordinance was enacted as an amendment to the City Ordinances, Chapter 7, Article I – Parking Meters, and requires that any sign located at the entrance to a private parking lot receive a permit from the Department of Public Works.

Signs on private property are also regulated Article 12 of the Zoning Ordinance. In order to avoid duplication of reviews and potential conflicts between different City ordinances and department, it is recommended that signs relating to public parking on private lots be exempt from zoning regulation if the public parking use is allowed through a permit from DPW. This exemption would apply both to signs at the entrance to the lot and to any signs in the interior of the lot that relate to public parking.

In addition to the sign standards, the Zoning Ordinance also provides for Historic District Commission review of new structures (including ticket kiosks and freestanding signs) in the Historic District. Therefore, it is also recommended that such structures be exempt from HDC review if the public parking use has been allowed through a permit from DPW.

I have attached a proposed amendment to the Zoning Ordinance to implement these exemptions. The proposed amendment contains three provisions:

- Item A exempts site elements from HDC review when public parking in a private lot is authorized under a permit from the Department of Public Works.
- Item B exempts directional or informational signs from the requirement for a sign permit when public parking in a private lot is authorized under a permit from DPW.
- Item C corrects an existing conflict in the standards for an “information sign”. Currently, the definition of the term “information sign” sets the maximum sign area at 2 square feet while Section 10.1222 exempts such a sign if it is up to 4 square feet in area. The proposed amendment would establish 4 square feet as the maximum for both provisions.

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

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

A. In Article 6 – Overlay Districts, Section 10.630 – Historic District, subsection 10.633.20 – Exemptions from Certificate, insert a new item (27) as follows:

(27) Parking ticket kiosks, freestanding signs and other site elements related to public parking in private parking lots when authorized under a permit from the Department of Public Works.

B. In Article 12 – Signs, Section 10.1222 – Signs Not Requiring a Permit, amend Section 10.1222.20 to read as follows:

10.1222.20 Directional signs or information signs with a sign area up to 4 square feet, located so as not to create a traffic safety hazard or to block line of sight from a motor vehicle. ~~A directional sign with a sign area greater than 4 square feet requires a sign permit.~~ **A directional or information sign pertaining to public parking in a private parking lot that has been authorized under a permit from the Department of Public Works is exempt regardless of sign area.**

C. In Article 12 – Signs, Section 10.1290 – Sign Definitions, amend the definition of “Information sign” by changing the words “2 square feet” to **“4 square feet.”**

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

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

This ordinance shall take effect upon its passage.

APPROVED:

Jack Blalock, Mayor

ADOPTED BY COUNCIL:

Kelli L. Barnaby, City Clerk



PORTSMOUTH SCHOOL DEPARTMENT

OFFICE OF THE SUPERINTENDENT OF SCHOOLS

STEPHEN ZADRAVEC
SUPERINTENDENT OF SCHOOLS

GEORGE SHEA
ASSISTANT SUPERINTENDENT

STEPHEN T. BARTLETT
BUSINESS ADMINISTRATOR

MAR 13 2017

March 13, 2017

Portsmouth City Hall
1 Junkins Avenue
Portsmouth, New Hampshire 03801

Attention: Mr. John P. Bohenko, City Manager

Subject: Elementary School Upgrades

Dear John,

The Portsmouth School Board's Elementary Facilities Committee has reviewed the plans and scope for Phase 1 of the facility improvements at Dondero School scheduled to begin this summer. These plans include asbestos removal, sprinkler system installation, energy efficiency upgrades, and other system upgrades and classroom improvements. Much like the work at Little Harbour School, this renovation will take place in two phases, primarily during the summer of 2017 and the summer of 2018.

The School Board is requesting approval from the City Council for the \$5,000,000 scheduled for FY 18 in the Capital Improvement Plan. I would be happy to provide any other information necessary to complete this request. We thank you and the City Council, in advance, for your support of this capital project.

Sincerely,

Stephen Zdravec, Superintendent

Cc: Ms. Judie Belanger, Finance Director
Mr. Stephen Bartlett, Business Administrator

"THE PURPOSE OF THE PORTSMOUTH SCHOOLS IS TO EDUCATE ALL STUDENTS BY CHALLENGING THEM TO BECOME THINKING, RESPONSIBLE, CONTRIBUTING CITIZENS WHO CONTINUE TO LEARN THROUGHOUT THEIR LIVES."

City of Portsmouth

Department of Public Works



MEMORANDUM

TO: John P. Bohenko, City Manager

FROM: Eric B. Eby, P.E., Parking and Transportation Engineer

DATE: March 16, 2017

SUBJECT: Cost To Bury Overhead Utilities along Islington Street Corridor

As a follow-up to the February 6, 2017 City Council meeting, City staff presented at the Ward 2 Public Meeting and gauged public support for burying utilities. The support was mixed and not conclusive.

As previously reported regarding the Islington Street corridor improvement project design effort, the City's consultants were tasked with determining the feasibility and approximate costs of relocating overhead utility lines (electric, telephone, cable, fire alarm, etc.) under the roadway from Maplewood Avenue to Spinney Road. Attached is a memo from Underwood Engineers, the utilities consultant for the project. The memo outlines the anticipated magnitude of costs for burying overhead utilities along the Islington Street corridor at \$4.6M to \$7.6M, based on similar work in Newmarket. While the burying of overhead utilities is feasible, a full utility design and the project bid as an alternate is required to determine an actual construction cost. The additional cost for the utility design would be approximately \$1M.

The utility design would include a considerable amount of coordination and investigation for each property that is currently connected to the overhead utilities. The majority of the design effort would be performed by Underwood, who would need to identify conduit and equipment corridors, secure easements and/or land acquisitions where necessary to locate transformers and control cabinets, develop opinions of costs, and coordinate work, meetings and document preparation with each utility company. Eversource and Fairpoint would also have to provide the City with their preliminary schematics of conduits, transformers, control cabinets, and installation of conductors and other similar items. It would likely be necessary to hire an electrician to go house to house to document the existing overhead utility connections, identify tie-in locations and code issues and to provide a better estimate for work needed at each building.

As a comparison, the current cost of the preliminary Islington Street corridor design is \$500,000, with a rough construction cost estimate of \$8M - \$10M. Adding the extra work of burying the overhead utilities could increase the costs of the project in the range of 50 to 100 percent. Given the significant additional cost, staff does not recommend pursuing this alternative.



25 Vaughan Mall, Unit 1
Portsmouth, NH, 03801-4012
Tel: 603-436-6192 Fax: 603-431-4733

MEMORANDUM

FILE: 2029.00

TO: Gregg Bakos, VHB
DATE: 10/5/16
FROM: Phil MacDonald, Keith Pratt, Underwood Engineers
RE: Underground Utilities –Opinions of Cost
Islington Street Project

Purpose

This memorandum is intended to provide a range or magnitude of costs that can be anticipated to install electric, telephone, cable and fire system alarm utilities below ground on Islington Street. It should be noted that estimated cost is based on similar work undertaken in Newmarket, NH and is not project specific to Islington Street and a site specific study of the Islington Street corridor will be needed to better define underground utility cost.

Magnitude of Anticipated Costs

The Town of Newmarket installed utilities underground on Main Street, completed in 2009. The cost of the work in Newmarket was approximately \$1,100 per ft. (2009 cost) – Attachment A. Based on cost incurred in Newmarket and adjusting for inflation, a cost of \$1,100/LF to \$1,700/LF can be expected for the Islington Street corridor. Based on a project length of 5,100 feet on Islington Street (Maplewood Avenue to Spinney Road) an additional budget of **\$5.6M to \$8.6M** can be expected if the City wishes to incorporate underground utilities into the Islington Street project.

Underground Utility Study and Planning

Pending City approval of funding, a utility study for underground utilities is needed to further define cost and impacts. Since R-O-W width is limited, easements and/or land acquisitions can be expected for siting transformers and control cabinets. Property agreements will also be required to extend building connections onto private properties. A utility study would include mapping of primary and secondary electric, telephone and cable lines, building feeds, transformer and meter locations and budgets for the necessary work on private properties to complete building connections. The utility study would also include a determination of the size and number of conduits for electric (Eversource), telephone (Fairpoint) and cable (Comcast) and orientating these utilities with other utilities (sewer, water drainage and gas lines). A budget for study and planning will need to be established for Eversource, Fairpoint, VHB and sub-consultants, if the City wishes to incorporate underground utilities within the Islington Street project. A utility study should proceed as soon as possible if the City wishes to continue consideration of underground utilities on Islington Street.

ATTACHMENT "A"

Underground Utilities - Summary of Cost
Newmarket, NH

COMPLETED 2009

Unit	Unit Cost
ft.	\$1,105 (2009)
Ea.	\$55,254 ^s
Meter	\$27,627
Unit	\$9,472 ^s

3000
60
120
350

Project length (ft.):
Connections:
Meters (estimated)
Units/Users (estimated)

Vendors	Item Desc.	Cost
Severino Trucking	Conduit (Elect., Tel, Cable, Fire, Lights)	\$738,606
Severino Trucking	Structures (Vaults, Enclosures, Pedestals, Cabinets)	\$194,320
Severino Trucking	Incidental (Mobe, Paving, Ledger, Police, Traffic Control, etc.)	\$314,107
(U/E, PSNH, Verizon, PSNH, Regan)	Planning, Project development & Engineering	\$400,000
PSNH	Electric (Poles, System Modifications, Conductors, Construction Admin.)	\$759,429
Fairpoint	Telephone	\$612,016
Comcast	Generally, Comcast is required to provide conductors at no added cost	\$0
Regan Electric	Electrician (Connections, Private hookups, etc.)	\$56,383
NextGen	Fire Alarm	\$6,626
Police Details	Paving	\$57,356
Pike/Sinclair	Misc. Venders (elect. Fixtures, etc.)	\$2,209
Misc. Venders		\$16,338
	Sub Total	\$3,157,391
	Total (estimated 5%)	\$157,870
	Total	\$3,315,260

~ \$1,100/ft (2009)
~ \$1,500/ft (2018)

Town Administration, easements, resolution with property Owners, etc. (estimated 5%)

Notes on Cost:

- 1 Cost is project specific and will vary depending on how buildings are fed, cooperation from private property owners, etc.
- 2 Cost will be reduced for single phase only
- 3 The number of main transmission lines impact cost (look at wires on poles)
- 4 Incidentals also project specific (shared cost, traffic, other utilities)
- 5 Connections are misleading dependant on multi unit facilities/industrial connections

Event Listing by Date

Starting Date: 3/ 6/2017
Ending Date: 12/31/2017

Start End	Type Description	Location	Requestor	Vote Date
3/18/2017 3/18/2017	ROAD RACE	Starting at Peirce Island	St. Patrick School - Clover R	11/21/2016
3/26/2017 3/26/2017	ROAD RACE	Starts at Traip Academy in Kittery, ME thru town Donald Allison is the contact for this event.	Eastern States 20 Mile	12/ 5/2016
4/ 8/2017 4/ 8/2017	WALK	Little Harbour School This event begins and ends at Little Harbour School. Begins at 10:00 a.m.	National Multiple Sclerosis So	11/21/2016
4/23/2017 4/23/2017	ROAD RACE	Route 33 - Greenland Road LOCO Sports, LLC is the coordinator of this race. This race is being sponsored by Portsmouth Mercedes-Benz Start time: 8:00 a.m.	LOCO Sports	3/ 6/2017
5/ 6/2017 5/ 6/2017	WALK	Little Harbour Elementary School Jenelle Dolan, Development Specialist is the contact for this event. Tel. 978-729-5849	March of Dimes	7/11/2016
5/ 7/2017 5/ 7/2017	EVENTS	Pleasant Street - State Street - Market Square Barbara Massar is the contact for this event. This event begins at Noon to 4:00 p.m.	Children's Day - Pro Portsmout	9/ 6/2016
5/ 7/2017 5/ 7/2017	RIDE	Start at Redhook Brewery Melissa Walden, Associate of Development is the contact. This event begins at 7:00 a.m. at Redhook Brewery.	American Lung Association	10/ 3/2016
5/13/2017 5/13/2017	FUND	Ridges Court Ridges Court - Street Closure from 9:00 a.m. to 4:00 p.m. for the Music Hall's 26th Annual Kitchen Tour from 9:00 a.m. to 4:00 p.m. Contact: Ashleigh Tucker Pollock, Special Events Manager & Rental Coordinator 603-766-2202	Music Hall	2/ 6/2017
5/13/2017 5/13/2017	RACE	Strawbery Banke Contact: Carolyn Ostrom, NH Community Relations, Specialist - 617-501-2728 costrom@vtnhkomen.org Ed Harvey, Race Director 603-862-1246 Edmund.Harvey@unh.edu	Susan G. Komen Foundation	8/15/2016
5/28/2017 5/28/2017	FUND	Portsmouth High School Lilia-Potter-Schwartz is the contact for this event. This is a triathlon at begins at Portsmouth High School	Education to All Children	12/ 5/2016
5/28/2017 5/28/2017	ROAD RACE	Redhook Brewery - Pease Tradeport	Runner's Alley	12/19/2016
6/10/2017 6/10/2017	FESTIVAL	Market Square Barbara Massar is the contact for this event. This event begins at 9:00 a.m. to 4:00 p.m.	Market Square Day - Pro Portsm	9/ 6/2016

Event Listing by Date

Starting Date: 3/ 6/2017

Ending Date: 12/31/2017

Start End	Type Description	Location	Requestor	Vote Date
6/10/2017 6/10/2017	ROAD RACE Barbara Massar is the contact for this event. The road race starts at 9:00 a.m. in Market Square	Starts in Market Square	Market Square Road Race - Pro	9/ 6/2016
6/17/2017 6/17/2017	RACE Rain Date of June 18, 2017	Pleasant Street	Big Brothers Big Sisters of Ne	9/19/2016
6/24/2017 6/24/2017	MUSIC Barbara Massar is the contact for this event. This event begins at 5:00 p.m. to 9:30 p.m.	Market Square - Pleasant Street	Summer in the Street Music Ser	9/ 6/2016
7/ 1/2017 7/ 1/2017	MUSIC Barbara Massar is the contact for this event. This is part of the Summer in the Streets series begins at 5:00 p.m. and ends at 9:30 p.m.	Pleasant Street	Pro Portsmouth - Summer in the	9/ 6/2016
7/ 8/2017 7/ 8/2017	FESTIVAL Barbara Massar is the contact for this event. This event is part of the Summer in Street Series. It begins at 5:00 to 9:30 p.m.	Downtown - Pleasant Street	Pro Portsmouth - Summer in the	9/ 6/2016
7/15/2017 7/15/2017	BIKE TOUR Contact: Chris Vlangas 1-800-757-0203 Event begins at 7:30 a.m. from Shapleigh Middle School in Kittery.	From Kittery, ME to Route 1B to Rye back to Kitter	Cystic Fibrosis Foundation	11/21/2016
7/15/2017 7/15/2017	FESTIVAL Barbara Massar is the contact for this event. This event is part of the Summer in the Streets begins at 5:00 p.m. to 9:30 p.m.	Downtown - Pleasant Street - between State Street	Pro Portsmouth - Summer in the	9/ 6/2016
7/21/2017 7/23/2017	ART EXH Lennie Mullaney is the contact for this event. This is the annual Wet Paint-out Weekend. The event takes place throughout greater Portsmouth Artists register at NHAA.	Throughout the City	NH Art Association	1/23/2017
7/22/2017 7/22/2017	MUSIC Barbara Massar is the contact for this event. This is part of the Summer in the Streets series which begins at 5:00 p.m. and ends at 9:30 p.m.	Pleasant Street	Pro Portsmouth - Summer in the	9/ 6/2017
7/29/2017 7/29/2017	MUSIC Barbara Massar is the contact for this event. This event is part of the Summer in the Streets series which begins at 5:00 p.m. and ends at 9:30 p.m.	Pleasant Street	Pro Portsmouth - Summer in the	9/ 6/2016
8/19/2017 8/19/2017	BOAT This is the 7th annual Round Island Regatta	Peirce Island Boat Launch	Gundalow Company - Round Islan	3/ 6/2017

Run: 3/16/17
10:49AM

Event Listing by Date

Page: 3

Starting Date: 3/ 6/2017

Ending Date: 12/31/2017

Start End	Type Description	Location	Requestor	Vote Date
8/26/2017 8/26/2017	BIKE TOUR Contact: Emily Christian, Logistics Manager - 781-693-5154	Along the Seacoast	National Multiple Sclerosis So	2/ 6/2017
9/16/2017 9/16/2017	WALK Ken La Valley, Chair is the contact for this event. This evening begins at 10:00 a.m. to Noon at Little Harbour School. Registration begins at 8:30 a.m.	Little Harbour School	American Foundation for Suicid	3/ 6/2017
9/17/2017 9/17/2017	RACE Jennie Halstead, Executive Director if the contact. This race begins at 7:30 a.m. with registration Start of the race: 9:00 a.m.	Portsmouth Middle School	My Brest Cancer Support	12/ 5/2016
9/23/2017 9/24/2017	FESTIVAL Contact: Bruce MacIntyre This is a two day event - Saturday events starting at 10:00 a.m. and ending at 10:00 p.m. Sunday events starting at 1:00 p.m. and ending at 5:00 p.m.	Congress Street, Market Square	Portsmouth Maritime Folk Festi	2/ 6/2017
9/24/2017 9/25/2017	RIDE	Along Route 1A	Granite State Wheelmen, Inc.	11/21/2016
9/24/2017 9/24/2017	WALK Kelly Bosco is the contact for this event. Tel. (603) 606-6590 ext. 2151 kbosco@alz.org	Little Harbour School	Alzheimer's Association	1/23/2017
12/10/2017 12/10/2017	RACE Thomas M. Bringle, Director of Development is the contact for this event. Tel. (603) 724-6080 or tbringle@arthritis.org	Little Harbour School	Arthritis Foundation	1/23/2017


**CITY OF PORTSMOUTH
LEGAL DEPARTMENT
MEMORANDUM**

DATE: December 2, 2015

TO: JOHN P. BOHENKO, CITY MANAGER

FROM: ROBERT P. SULLIVAN, CITY ATTORNEY

RE: ELECTRONIC COMMUNICATION BY CITY COUNCILORS DURING
COUNCIL MEETINGS



City Councilor Jack Thorsen has several times raised the issue both at the Council level and in discussions with myself of what ramifications might flow from the use of electronic communication devices by City Councilors during Council meetings. It is noted that citizens who watch the Council meetings either in person or on television have reported that it is plainly evident that one or more Councilors are using electronic devices such as laptop computers and cell phones during the course of City Council deliberation on agenda items.

In our discussions Councilor Thorsen and I have recognized that it is entirely possible that use of electronic devices for communication by Councilors during meetings could be entirely inconsequential and carry no ramification at all. Examples of this situation would be a Councilor receiving a request from a spouse to bring home a quart of milk or a Councilor checking the score of a Patriots game.

However, Councilor Thorsen and I have also recognized that there could be situations in which such electronic communication by Councilors raised serious issues. These issues would seem to be of two separate categories. First, it is possible for certain use of electronic devices for communication purposes during the Council meetings to create violations of the Right-to-Know law, RSA 91-A. Secondly, it is not difficult to foresee a situation in which unregulated use of electronic devices during the meetings by Councilors could adversely affect the decorum of meetings and the effective working relationship between Councilors during deliberation on issues. Beyond these two main categories of issues are obvious collateral matters, such as whether or not e-mails or texts sent or received by Councilors during Council meetings related to City business ought to be public records which should be made available for any member of the public to review. Similarly, if a Councilor during a meeting resorts to an online research tool such as Google in assisting that Councilor to reach a decision, ought not the websites reviewed by that Councilor become part of the public record of the Council meeting?

On the first of these issues, the Right-to-Know law question, the statute speaks in several places to the issues under discussion. The foundation comment would be:

“91-A:1 Preamble. – Openness in the conduct of public business is essential to a democratic society. The purpose of this chapter is to ensure both the greatest possible public access to the actions, discussions and records of all public bodies, and their accountability to the people.”

Private electronic communication carried on by any member of the Council during deliberation on a matter before the Council would raise obvious questions as to whether the spirit, if not the actual letter, of this provision was being met.

More specifically, in RSA 91-A:2 III (c) it is written that:

“Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting, and shall be audible or otherwise discernable to the public in attendance at the meeting's location”.

If even two Councilors were communicating electronically across the Council table about an issued to be decided by the Council, a serious issue arises under this provision of the statute. If five (5) or more Councilors were doing so, there seems to be little question that a Right-to-Know violation would be occurring. Whether or not the actual text of the communication between Councilors thus becomes a public record would have to be determined on a case by case basis by reviewing the actual communications. A comment about the score of the Patriots game would probably not be a public record, whereas a text relating to the merits of the question before the Council would very likely be such a public record.

As noted above the second broad category of issues relate to the maintenance of decorum in Council meetings and keeping open communication between Councilors as they perform their work for the City. This issue is less legal in nature and more a matter of Council policy. However, it seems axiomatic that all Councilors, the Council itself and the citizens of the City benefit from the rational, orderly and open conduct of meetings. To the extent that private electronic communications by or among Council members during meetings negatively affect that concept, it would appear that the City Council would have an interest in avoiding that result. As noted, however, any Council decision along these lines is not so much a legal question as one of policy which needs to be decided by the members of the Council themselves.

CONCLUSION

It appears that the issues raised by Councilor Thorsen have both legal and policy implications of substance. It would be my recommendation that the resolution of those issues be accomplished by means by a Council Rule or Policy defining the use by City Councilors of electronic communication devices during meetings. The creation of such a Council Rule or Policy would not be expected to be a simple task. The adoption of a new rule or Policy would call for the Council to exercise judgment over matters which are not clearly defined and with which reasonable members of the City Council might differ between themselves. Nonetheless, if the Council wished to address the issues raised by Councilor Thorsen there seems to be no other viable approach. The Legal Department can provide assistance with regard to the Right-to-Know law requirements of such a Rule or Policy, but there will remain a determination which must necessarily be made by the Council itself.

cc: Jack Thorsen, City Councilor



MEMORANDUM

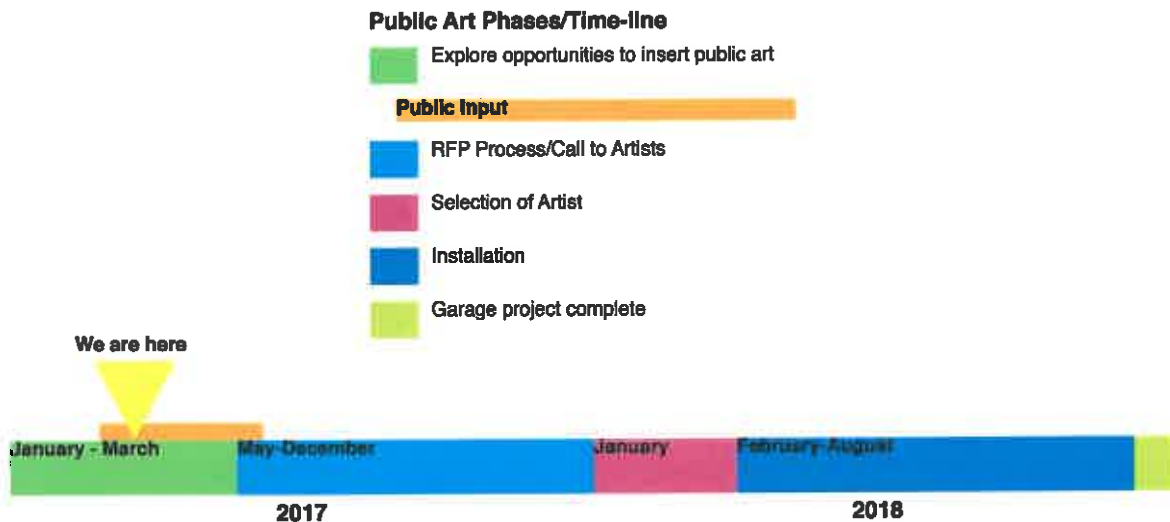
TO: JOHN P. BOHENKO, CITY MANAGER
FROM: JULIET T.H. WALKER, ASSISTANT PLANNING DIRECTOR *JTW*
SUBJECT: LETTER TO CITY COUNCIL REGARDING COAST BUS STOPS
DATE: 3/2/2017

As the City's representative to the COAST Board of Directors and as current Chair of that Board, I would like to assure the City Council that the City and COAST continue to have a strong and supportive partnership as we have for many years. In that partnership, we work collaboratively to make sure that the rider experience is comfortable and convenient and continually work to improve the overall service in Portsmouth.

Whenever a rider has specific concerns about the service, we encourage them to reach out directly to COAST and/or myself so that those concerns can be addressed expeditiously. The letter included in the City Council meeting packet for the March 20, 2017 meeting does not identify a specific location of concern, but seems to speak broadly to poor signage and lack of benches or shelters at bus stops. The Planning Department and COAST staff are continuing to work to add shelters and improve bus stop signage throughout the City. A few years ago, we did a city-wide inventory of bus locations, identifying where shelters are needed and/or bus stops should be re-located. We consult this inventory whenever there is new private development subject to Site Plan Review or whenever the City is undertaking a road improvement project along a COAST route.

While the signage is provided by COAST, it is generally the City's responsibility to provide and maintain the bus stops and shelters and to provide a location for the signage if necessary. Furthermore, in many cases, the bus stops are located within the NHDOT right-of-way, in which case coordination is also required with the state agency to make any improvements or additions on that agency's land.

I would be happy to answer any further questions or concerns from the City Council regarding this matter.



Milestones to Date:

- I. Creation of the Project Planning Committee (PPC)
- II. Project phasing/timeline
- III. Landing page on the ArtSpeak website
- IV. Review of building design concept, assessment of public art opportunities
- V. Held two committee meetings
- VI. Held one public input session

Next Steps:

- I. Review feedback from public input session to inform the RFP
- II. Work on the creation of the RFP and post the call to artists

Considerations:

- I. Site walk in the fall with artists
- II. PCC recommendations will be made to new City Council

MISCELLANEOUS/UNFINISHED BUSINESS

LEGISLATIVE SUBCOMMITTEE REPORT

Members: Mayor Blalock, Assistant Mayor Splaine, Councilors Dwyer and Spear

1. Policy on distribution of City testimony to City Council on pending bills before the Legislature.

In addition to continuing to provide City testimony on pending bills before the Legislature to the City Council and our Portsmouth Delegates through email, all City testimony will be included as Informational Items on the Agenda from the Mayor and distributed in the Agenda packet. The City's testimony will also be posted to the City's website.

2. Update on testimony submitted by Judie Belanger, Director of Finance & Administration, regarding HB 144, a bill relative to Rockingham County Fiscal Year change.
3. The Legislative Subcommittee has requested that the City's existing Principles for Legislative Positions be amended to include additional principles in order for the Mayor and City Staff to be able to offer testimony in a timely manner on bills of interest to the City. The Legislative Subcommittee requests that the City Council adopt the Principles for Legislative Positions as amended (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):
 1. Advocate to maintain local authority
 2. Authorize local options
 3. Support revenue streams to aid municipalities, specifically those that name Portsmouth or will directly support Portsmouth
 4. Advocate for municipal representation on state committees
 5. Support incentives for regional cooperation
 6. Support plans to fund/support infrastructure
 7. Support incentives for sustainability
 8. Support directing revenues to the purposes for which they are raised
 9. Support measures that increase the efficiency of local government operations

10. Maintain and improve **health**, life and safety issues **including protecting the safety of our First Responders**
11. **Encourage citizens to vote and support eliminating barriers to voting**
12. **Rely on locally generated financial data for decisions relating to local taxes and assessments**
13. **Protect local decision making about zoning**
14. **Require the State to honor existing financial commitments to communities before new financial commitments are awarded, e.g. infrastructure reimbursements**
15. **Support the civil rights of individuals and oppose discrimination against any individual because of age, sex, race, creed, color, marital status, familial status, physical or mental disability, national origin, sexual orientation or gender identity**
16. **Do not privilege nonresidents over residents**
17. **Use expertise and research in decision making**
18. **Support incentives relative to the construction of affordable housing**

4. Summary of recent House and Senate votes and Committee Reports.

In an effort to inform the City Council on the status of how the House and Senate voted on March 8th and 9th on bills of interest to the City, the Legislative Subcommittee has provided the attached summary to the Council for informational purposes.

This suggested plan as described by the County will have a substantial financial burden on the all Rockingham County Communities. In discussion with the City's Bond Counsel, Portsmouth has been advised that our community, and all communities in Rockingham County, do not have the authority to borrow on behalf of another entity (the County) changing their fiscal year cycle. This will force all communities to either utilize unassigned fund balance or raise taxes significantly for the one year. For Portsmouth, this will result an approximate 61¢ tax rate increase in FY20.

RSA 31:94 addresses how communities may transition to a July to June fiscal year, specifically financing the 18 month budget. RSA 31:94-d entitled **Debt During Transition Period** allows the **County** to incur debt in an amount not to exceed 1/3 of all taxes assessed for a period of not more than 20 years. The City would support HB 144 if it was amended to require the County to bond for the debt during the transition period due to the change in fiscal year because it would lessen the impact of the tax burden for the City and all the communities in Rockingham County because the payment would be spread over the payback period of the bond. For example; a ten year, \$24 million bond at 3.75% would result in an additional County obligation for Portsmouth of approximately \$320,000 per year or 7¢ on the tax rate. This would be far less burdensome to the taxpayer than a 61cent increase in the tax rate that would become due in FY20.

For the reasons set forth above, the City of Portsmouth urges this Committee to vote Inexpedient to Legislate on HB 144 unless there is an amendment to require the County to bond the debt.

Thank you for your consideration.

BILL STATUS AFTER HOUSE AND SENATE VOTES MARCH 8TH AND 9TH 2017

Human Resources

HB 542-FN, relative to retired members employed in a part-time position by retirement system employers.

HOUSE VOTE: INEXPEDIENT TO LEGISLATE.

Rep. John Sytek for Executive Departments and Administration. This bill would require the payment of the employer's portion of the retirement cost on the wages of any New Hampshire Retirement System (NHRS) retiree working part-time for a participating employer (such as a town or a school district). However, the wages of a non-NHRS retiree would not trigger a similar cost to the employer. Because of some fairness issues involved and because this situation is addressed in another bill, HB 561, which the committee passed, the sponsor agreed that this bill was unnecessary. Committee Recommendation: ITL. **Vote 20-0.**

HB 543-FN, relative to part-time employment by a retiree for a retirement system employer.

HOUSE VOTE: INEXPEDIENT TO LEGISLATE.

Rep. John Sytek for Executive Departments and Administration. This bill would prevent a New Hampshire Retirement System retiree from part-time employment with that retiree's pre-retirement employer. The committee felt that this was unreasonably restrictive. For example, a school could not use a retired teacher as a substitute. Apart from the impact on the retiree, the school and its students would be deprived of the services of a knowledgeable, experienced substitute. Committee Recommendation: ITL. **Vote 20-0.**

HB 561-FN, relative to contributions by employers of part-time employees receiving retirement system pensions and relative to enforcement of provisions concerning retired members working part-time after retirement.

HOUSE VOTE: OUGHT TO PASS WITH AMENDMENT.

Rep. John Sytek for Executive Departments and Administration. This bill, as amended, does two things. First, it provides a mechanism for the New Hampshire Retirement System (NHRS) to take action against an employer or retired employee who exceeds part-time hours limits. At the present time, the NHRS has no recourse in such cases. Second, it addresses a situation by which a participating employer might try to avoid paying the employer's cost of retirement contribution for a full-time employee. Such stratagems might include dividing a full-time position into two or more part-time positions or filling a full-time position (when vacated) with a so-called part-time or interim employee. The bill provides that in such cases the employer must pay the employer portion for any positions that involve substantially similar

responsibilities and duties. Committee Recommendation: OUGHT TO PASS WITH AMENDMENT. Vote **20-0**.

Environment, Water

HB 484, establishing a commission on the seacoast cancer cluster investigation.

HOUSE VOTE: OUGHT TO PASS WITH AMENDMENT.

Rep. Martin Bove for Health, Human Services and Elderly Affairs. Representative Martin Bove for Health, Human Services and Elderly Affairs. This bill proposes to form a commission to address a pediatric cancer cluster in a 5 town area of the Seacoast of New Hampshire. The cancer cluster consists of 2 rare cancers, rhabdomyosarcoma and pleuropulmonary blastoma (PPB) in children. HB 484 addresses this localized problem which represents a public health emergency - the first identified ever in the State of New Hampshire by the Department of Health and Human Services. We have to act quickly to attempt to identify a cause. If we can avoid only one more case of a child getting cancer this commission would be a success.

Committee Recommendation: OUGHT TO PASS WITH AMENDMENT. Vote **21-0**.

HB 342, establishing a commission to study the transition of certain regulatory authority to the department of environmental services from the Environmental Protection Agency.

HOUSE VOTE: OUGHT TO PASS.

Rep. Stephen Darrow for Environment and Agriculture. This bill seeks to establish a commission to study the transition of certain regulatory functions from the Environmental Protection Agency (EPA) to the New Hampshire Department of Environmental Services (NHDES). The current regulatory authority that the bill pertains to is contained within the federal National Pollutant Discharge Elimination System (NPDES). The NPDES permit program addresses water pollution by regulating the discharge of pollutants into the waters of the United States. This bill would examine only one part of the program, the municipal separate storm sewer system general permit (MS4) which applies to 60 communities in New Hampshire. The shift from EPA to NHDES would allow our towns and cities to work directly with the local NHDES instead of the federal EPA. This would result in more accurate data being used and more timely responses. In fact, most states already do this. New Hampshire is one of only four states who do not currently have this authority. Committee Recommendation: OUGHT TO PASS. Vote **17-0**.

HB 431, establishing a commission to study long term goals and requirements for drinking water in the seacoast area.

HOUSE VOTE: OUGHT TO PASS WITH AMENDMENT.

Rep. James McConnell for Resources, Recreation and Development. People in New Hampshire take pride in the quality of their drinking water and many in our state have their own private

wells. Development and chemical contamination of our groundwater threaten this important natural resource. The Haven Well in Portsmouth was shut down in May 2014 when levels of perfluorinated chemicals (PFCs) were detected over 12 times the EPA advisory limit. Adults and children in day cares who drank water from the Haven Well have PFC levels in their blood up to six times that of similar populations. The Haven Well shutdown has left the City of Portsmouth with an emergency buffer or only one percent in its water supply. Groundwater contamination from the Coakley Landfill threatens water supplies in Rye, Greenland, North Hampton, and Hampton. There is a dire need for regional drinking water planning between seacoast communities. This bill establishes a study commission for community water suppliers and municipalities to protect drinking water resources and identify possible threats. In addition, a goal of this study commission is to plan for mutual aid between municipalities for water infrastructure, drought planning, and firefighting. No one testified in opposition to this bill and the committee realizes the dire need to address these issues. The amendment accelerates the reporting date from 2020 to 2018 and expands the membership of the commission to include additional seacoast municipalities. Committee Recommendation: OUGHT TO PASS WITH AMENDMENT. Vote **19-0**.

HB 485, relative to standards for emerging contaminants in drinking water.

HOUSE VOTE: OUGHT TO PASS WITH AMENDMENT. REFERRED TO FINANCE. HEARING 3/10, EXECUTIVE SESSION 3/15

Rep. James McConnell for Resources, Recreation and Development. We all know the Governor specifically mentioned safe drinking water and protecting our most vulnerable in his budget address to the House and Senate. This bill would provide the state with the tools necessary to follow through on the Governor's goals enabling the state to move quickly to adopt Ambient Water Quality Standards for emerging contaminants that are more protective of public health than federal standards. Information about chemistry and toxic effects of emerging contaminants can develop rapidly. The science on public health effects from exposure to emerging contaminants sometimes evolves more quickly than the federal government can react. The committee heard testimony from scientific and healthcare experts supporting the need for the state to be proactive in protecting fetal development and our young children from exposures to toxic chemicals. The amendment redrafts the bill to remove terms like "most conservative standard" which were either not well defined or had questionable attainability. Committee Recommendation: OUGHT TO PASS WITH AMENDMENT. Vote **19-0**.

HB 585-FN-LOCAL, abolishing fluoridation in water.

TABLED

Rep. Frank McCarthy for Municipal and County Government. This bill and other similar bills have been before the committee in the past and require mandates to communities over what

they do with their drinking water. The bill would prohibit the introduction of fluoride into any drinking water statewide. It would remove the local option based on a belief that fluoride is harmful. There are currently ten municipalities serving 289,300 people that fluoridate their drinking water. The Department of Health and Human Services states this bill may increase state expenditures related to the Medicaid program. The department further states that, according to current medical and dental practice and recommendation, systemic fluoride is considered best practice for the prevention of tooth decay and infection for children aged 12 and under. If 10 percent of the 33,784 Medicaid recipients living in areas that currently fluoridate their water were to receive fluoride supplements, the Medicaid costs would increase annually by about \$642,000. Committee Recommendation: ITL. Vote **19-1**.

HB 511, Create a committee to study creating a public health oversight program.

HOUSE VOTE: OUGHT TO PASS WITH AMENDMENT.

Rep. Mindi Messmer for Health, Human Services and Elderly Affairs. This bill is a response to constituent requests for Department Health and Human Services to pro-actively act to determine whether threats to public health from environmental exposures exist. This is a state-wide measure to address constituents exposed in Merrimack/Litchfield and Pease and address a statewide emerging contaminant threat. The bill also seeks to establish protocols to educate doctors and other healthcare professionals on health effects, diagnostic and treatment approaches for exposures to environmental exposures. Committee Recommendation: OUGHT TO PASS WITH AMENDMENT. Vote **21-0**.

Right to Know

HB 460, relative to minutes under the right-to-know law.

HOUSE VOTE: OUGHT TO PASS WITH AMENDMENT.

Rep. Jason Janvrin for Judiciary. This bill as amended provides that a committee or board of the state or any of its subdivisions must, when a member perceives a violation of any part of RSA 91-a, note in the minutes of that meeting that the member objected to the perceived violation. If the meeting is in non-public session, the same objection must appear in the public minutes of the body and cannot be sealed. The bill further provides that the person or persons who object are then immune to penalty under RSA 91-A:8 if the body over rules the objection and the violation continues even when the objecting party continues to participate in the meeting. This is very similar to an objection in a court of law. When the objection is overruled, the objecting party may take "exception" and continue participating in the meeting without penalty. Committee Recommendation: OUGHT TO PASS WITH AMENDMENT. Vote **11-2**.

HB 170, relative to posting notice and minutes of public meetings on the public body's website.

HOUSE VOTE: OUGHT TO PASS WITH AMENDMENT

Rep. Kurt Wuelper for the **Majority** of Judiciary. This bill sought to require posting of public meeting notices and minutes on the internet. The committee agreed this is a good idea, but felt that such a requirement would be an unfunded mandate. As amended, the bill requires only that if public bodies do post to the internet, they do so consistently. We believe this will enhance the public's access to these postings and stimulate use of the internet for these purposes. Committee Recommendation: OUGHT TO PASS WITH AMENDMENT. Vote **13-1**.

Rep. Timothy Horrigan for the **Minority** of Judiciary. The minority agrees that it is a good idea to post notices and minutes on a public body's web site. However, the minority recognizes that not all communities have web sites which can be easily and securely updated. Even larger communities which have information technology departments may have issue with data security and data integrity.

HB 524 relative to the definition of "emergency" for purposes of a quorum under Right to know law

PASSED WITH AMENDMENT

Rep. Robert Hull for the **Majority** of Judiciary. Recommended Ought to Pass. This bill as amended seeks to place a definition on the word "emergency" within existing law at RSA 91-A:2, III (b). Current law allows a public body to operate without a quorum present based only upon the declaration of an emergency by the chairman or presiding officer of that body, without more. Currently the word "emergency" is undefined and as such is subjective, and can be used to justify operating without a quorum for any reason. This bill clarifies the definition of "emergency" to include only instances of immediate peril to the public health or safety. The majority of the committee felt that in order to allow public business to be conducted without a quorum present, there must be extraordinary circumstances that exist as justification. Committee Recommendation: PASSED WITH AMENDMENT Vote **9-8**.

Rep. Timothy Horrigan for the **Minority** of Judiciary. RSA 91-A:2, III (b) currently requires a majority of a public body to be present in person (rather than by telephone) for a quorum except when there is an emergency. The current law defines an emergency as any situation when immediate action is imperative. If passed, this bill would additionally require immediate peril to health or safety. The minority felt that immediate action should be taken whenever it is needed regardless of whether or not there is a disaster going on at the time.

HB 417-FN, expanding the right-to-know law to certain motor vehicle records.

HOUSE VOTE: OUGHT TO PASS WITH AMENDMENT.

Rep. Steven Smith for Transportation. This bill allows access to municipal auditors of key data points to verify municipal financial transactions. An oversight in RSA 260:14 makes no provision for municipalities using a contracted auditor to fulfill their duty under RSA 41:9. The committee amendment changes the scope of the records to only four data points and restricts access further than the original bill to only municipal auditors while retaining criminal penalties for

further disclosure. Committee Recommendation: OUGHT TO PASS WITH AMENDMENT. Vote **14-0**.

Municipal

Accessory Dwellings

HB 265, relative to accessory dwelling units.

HOUSE VOTE: OUGHT TO PASS WITH AMENDMENT.

Rep. Carolyn Matthews for Municipal and County Government. This bill cleans up language in the Accessory Dwelling Unit (ADU) bill that was passed last year (SB 146) and will become effective June 1st this year. It is necessary to help municipalities who are in the process of changing their zoning ordinances prior to the effective date. This bill removes the mandate that ADUs must be allowed in manufactured housing and condominiums and townhouse type dwellings, but allows municipalities to include ADUs in these dwellings if they wish. The amendment defines “manufactured housing” and condominiums by referencing statute, and prohibits condominium conveyances of ASU’s unless allowed by the municipality. Committee Recommendation: OUGHT TO PASS WITH AMENDMENT. Vote **19-1**.

HB 292, relative to a jury trial for the execution of a tax lien.

HOUSE VOTE: INEXPEDIENT TO LEGISLATE.

Rep. Kurt Wuelper for Judiciary. The bill intends to allow jury trials over tax liens. The committee felt that the tax burden for potentially hundreds of tax lien jury trials would be excessive to the taxpayers. There are currently several ways to appeal tax liens. Committee Recommendation: ITL. Vote **14-0**.

HB 394, relative to public employees testifying before legislative committees.

TABLED

Rep. Lucy Weber for Legislative Administration. This bill would have prohibited all public employees from testifying at the legislature during working hours unless one of three conditions had been met: 1) the committee chair specifically requested the public employee to testify, and the chair’s written request was provided to the committee clerk, or 2) the public employee was explicitly authorized to represent the employer in the matter testified about, and written documentation of the authorization was given to the committee clerk, or 3) the public employee used personal or vacation time to testify, and written verification of the use of personal or vacation time was provided to the committee clerk. The bill would apply to every public employee at every level, state, county and local. Committee members noted a number of concerns about the bill. First, because of the definition used of “public employee,” there was

concern that some directly appointed public employees might not actually be covered by the wording of the bill. Second, in a number of cases, there is a degree of ambiguity as to who qualifies as the employer from whom authorization may be obtained. Third, there was concern about how to ascertain what the “working hours” of any given employee were. Finally, as to the local entities, committee members believe that this is a matter of policy to be decided entirely at the local level, not by mandate from the legislature. Committee Recommendation: ITL. Vote **12-0**.

HB 371-LOCAL, relative to bond requirements for public works contracts.

HOUSE VOTE: OUGHT TO PASS WITH AMENDMENT.

Rep. Karen Ebel for Public Works and Highways. This bill, which is replaced in its entirety by the amendment, would raise the cap pursuant to which the state is required to obtain a surety bond for public works contracts from \$35,000 to \$75,000. Additionally, the amendment removes the requirement for political subdivisions, such as municipalities, to obtain surety bonds for public works contracts entirely. The committee recognized that there were certain financial benefits to increasing the bonding cap for the state. The committee further recognized that municipalities should be trusted to make their own decisions as to when surety bonds will be required. If a municipality does decide to bond for a public works contract it must comply with the RSA:447. Committee Recommendation: OUGHT TO PASS WITH AMENDMENT. Vote **19-0**.

Gender Identity Discrimination

HB 478, prohibiting discrimination based on gender identity.

TABLED

Rep. Jerry Knirk for Health, Human Services and Elderly Affairs. This bill prohibits discrimination on the basis of gender identity under Chapter 354-A which empowers the Human Rights Commission. It extends to gender identity the same protections against discrimination which exist for age, sex, sexual orientation, race, creed, color, marital status, familial status, physical or mental disability or national origin. These are protections against discrimination in housing, employment practices and public accommodations. Chapter 354-A already provides appropriate religious exemptions. The committee heard strong testimony from the transgender community and the business, legal and enforcement communities and faith leaders that this bill will provide needed strong protections. Recommended Ought to Pass. **Vote 15-2**.

Plastic Bags

HB 481, relative to the use of small capacity, light weight plastic bags by retailers.

HOUSE VOTE: INEXPEDIENT TO LEGISLATE.

Rep. Franklin Sterling for the **Majority** of Municipal and County Government. This bill would give the authority to municipalities to prohibit the use of certain plastic bags within their community. The effect of such legislation is not clear, and potential environmental and economic impacts require further study. The majority of the committee believes that this cure might be more detrimental than the problem, and that the bill should not go forward, as towns are not now empowered to adopt such a sweeping environmental and economical change. Committee Recommendation: ITL. Vote **14-6**.

Rep. Clyde Carson for the **Minority** of Municipal and County Government. This bill enables towns to regulate the distribution of certain plastic bags. The minority on the committee believes that towns should be able to adopt ordinances to minimize the impact on the environment from plastic bags in their communities.

Education

HB 429, relative to the authority of the judiciary to review provisions of certain education statutes.

HOUSE VOTE: INEXPEDIENT TO LEGISLATE.

Rep. Kathleen Hoelzel for Legislative Administration. This bill would allow the legislature to define which children are educable and which are not. Such decisions would not be reviewable by the courts. One principal of democracy, especially as it relates to fundamental rights is that an aggrieved person has an opportunity to seek redress through the courts. This bill would undermine that basic tenet of democracy. This bill is an effort to cut, eliminate or otherwise defund public education and eviscerate the Claremont decisions. Committee Recommendation: ITL. Vote **14-0**.

HB 174, limiting jurisdiction of the superior courts over certain adequate education statutes and adequate education grants.

HOUSE VOTE: INEXPEDIENT TO LEGISLATE.

Rep. Sandra Keans for the **Majority** of Judiciary. The majority of the committee believes that this bill would fundamentally change the historical balance between the three branches of government: the executive, the legislative and the judicial. It has been a hallmark of our democracy that when folks are being harmed by a legislative action that they go to the courts to determine the constitutionality of that action. Committee Recommendation: ITL. Vote **11-4**.

Rep. Kurt Wuelper for the **Minority** of Judiciary. For over 200 years the General court defined an adequate education and its funding levels until, by the Claremont and Londonderry decisions, the Supreme Court put itself in charge by creating mandates that, we believe, are found nowhere in the Constitution and have been a constant source of litigation. The minority believes HB174 will reclaim the legislature's right to control education policy and funding and restore proper constitutional order.

Tax, Budget, Assessing

HB 121, relative to the maximum optional fee for transportation improvements charged by municipalities when collecting motor vehicle registration fees.

HOUSE VOTE: OUGHT TO PASS.

Rep. Franklin Sterling for Municipal and County Government. Municipalities currently have the option to add an amount up to a maximum of \$5.00 to the cost of motor vehicle registrations for transportation related infrastructure improvements. The maximum amount was set in 1997 and has been used by many municipalities to improve their town roads and bridges as well as provide transportation amenities for their residents. Some communities don't use this at all and it is entirely up to the legislative body to allow it in the amount specified, and only for reasons specified. It is felt that allowing an increase from \$5 to a maximum of \$10 would be reasonable when compared to overall cost increases since 1997. The bill would help offset some of the associated construction cost escalators realized over the past two decades. These are local dollars used for local projects approved by the legislative body. This is true local control. This bill does not increase any fee as it is not mandatory, but simply sets a cap. Committee Recommendation: OUGHT TO PASS. Vote **19-1**.

HB 316, relative to a statewide property tax exemption for commercial and industrial construction.

HOUSE VOTE: OUGHT TO PASS.

Rep. Frank McCarthy for Municipal and County Government. This is a business and tax base growth bill. It allows a community to exempt some commercial and industrial construction costs from being assessed for taxes. The exemption shall specify the annual percentage, but cannot exceed 50 percent per year, for a maximum period of ten years following the new construction. This allows a municipality to attract growth or new businesses with a tax break. Although it will not result in a total increase in the final tax revenues in the first year, it will still increase total collected taxes. Once adopted by the local legislative body, the percentage rate and duration of the exemption shall be granted uniformly within that municipality to all projects for which a proper application is filed. Committee Recommendation: OUGHT TO PASS. Vote **19-0**.

HB 411-LOCAL, relative to calculation of collection dates for local property taxes.

HOUSE VOTE: INEXPEDIENT TO LEGISLATE.

Rep. Jane Beaulieu for Municipal and County Government. This bill modifies dates of calculation of property taxes and creates problems with different municipalities who have different fiscal years and differing annual meetings. The bill specifies that property values used for tax purposes would be the assessed valuations determined in the prior year so that budgets can be adopted using known values. The bill would not account for assessed values of new construction or renovations which would grant those property owners a one year exemption resulting in the remaining tax payers bearing the burden of budget increases. Changes due to market shifts or economic recessions would be delayed by a year and applied in a year where not needed. This bill appears to conflict with the purpose and intent of the mandatory minimum 5-year revaluation currently mandated of all communities. The bill also introduces conflicts in dates when tax bills are due and other issues too numerous to list in this commentary. This bill is not enabling and would mandate that all communities comply with the new process. Committee Recommendation: ITL. Vote **20-0**.

HB 503-LOCAL, relative to notice to property owners regarding changes in assessments of property values for tax purposes.

HOUSE VOTE: INEXPEDIENT TO LEGISLATE.

Rep. Jane Beaulieu for Municipal and County Government. Properties in municipalities are re-assessed when building permits are issued, or on a routine basis based on local options. Between major revaluation efforts, some properties receive review and their assessments may change with the property owner when tax bills are issued. This bill would require a municipality to notify the property owner that the property assessed value has changed and provide details related to that. This bill is an unfunded mandate. Committee Recommendation: ITL. Vote **20-0**.

HB 254, relative to membership on the assessing standards board.

HOUSE VOTE: INEXPEDIENT TO LEGISLATE

Rep. Mark Proulx for the **Majority** of Executive Departments and Administration. This bill proposes an unnecessary change to the Assessing Standards Board membership. This board is very well balanced, including three public members, four assessors from towns and cities of varying sizes, two members of the House of Representatives, two Senators, three municipal governing body officials and the Commissioner of the Department of Revenue Administration. With this make up, the board is able to work through the issues placed before it in an efficient manner. No changes are necessary. Committee Recommendation: ITL. Vote **16-4**.

Rep. J.R. Hoell for the **Minority** of Executive Departments and Administration. The bill updates the membership of the Assessing Standards Board, by removing two of the current members that are assessors and adding several additional members from the broader group of taxpayers. The committee heard from a number of unique commercial property holders that they are under-represented on the current Assessing Standards Board. The minority believes that this bill should have been modified to add to the membership of the board without removing the current members as those commercial and resident voices would be an improvement to the overall makeup of the board.

HB 574-FN, increasing the limit on contributions to the community development finance authority for which an investment tax credit may be taken.

HOUSE VOTE: OUGHT TO PASS WITH AMENDMENT

Rep. Timothy Lang for the **Majority** of Ways and Means. The Community Development Finance Authority tax credit program links historical and/or not for profit projects with local businesses to foster community development. This is done by exchanging a 75% tax credit against business donations to the historical or not for profit project. The amendment increases the limit on contributions from \$5 million to \$6 million which can be used as an available tax credit investment into our local communities to support building, renovating, and improvements in our local historical buildings or not for profit programs. Committee Recommendation: OUGHT TO PASS WITH AMENDMENT. Vote **19-3**.

Rep. Charlie Burns for the **Minority** of Ways and Means. The primary intent of the bill is to increase the availability of tax credits in order to stimulate community development. While the minority does not object to the intent or the amount of the proposed tax credits, it believes that this money comes out of the General Fund and therefore should be a decision of the Finance Committee.

HB 323, relative to the powers and duties of the assessing standards board.

HOUSE VOTE: PASSED WITH AMENDMENT

The bill gives the Department of Revenue Administration DRA the ability to use the most recent edition of the Uniform Standards of Professional Appraisal Practices USPAP. The USPAP defines the procedure for how new assessments are done. It will be incorporated into the DRA's assessment review process. Committee Recommendation: OUGHT TO PASS WITH AMENDMENT. Vote **20-0**.

Medicaid

HB 638-FN-LOCAL, repealing the New Hampshire health protection program.

HOUSE VOTE: INEXPEDIENT TO LEGISLATE.

Rep. William Marsh for the **Majority** of Health, Human Services and Elderly Affairs. New Hampshire cannot afford this bill. Per the fiscal note, it would cost almost \$493,000,000 in FY 2018. It would further comprise the already tenuous finances of a number of New Hampshire Hospitals and providers, it would deny health care to a large segment of New Hampshire citizens, and compromise our response to the opioid crisis. Committee Recommendation: ITL. Vote **13-6**.

Zoning

HB 131, relative to the costs for notice of changes in a zoning district.

HOUSE VOTE: OUGHT TO PASS WITH AMENDMENT.

Rep. Richard Tripp for Municipal and County Government. As amended, this bill provides that the petitioner for zoning amendments to the planning board shall be responsible for the cost of noticing 100 or fewer abutters of the public hearing on the amendment. Committee Recommendation: OUGHT TO PASS WITH AMENDMENT. Vote **17-3**.

HB 617-FN, relative to jury trials for imposition of fines in zoning violations.

HOUSE VOTE: OUGHT TO PASS WITH AMENDMENT.

Rep. Michael Sylvia for Judiciary. This bill as amended removes a provision from RSA 676:17, I which allows planning and zoning boards to negate a person's right to a jury trial. In cases where a possible violation continues and fines are applied for each subsequent day after receiving notice, the current statute provides that each day be treated as a separate offense. By doing so, an alleged violator could be subjected to fines easily surpassing \$1500 in total. Our constitution provides in Article 20 that for cases (causes) in which the value in controversy is greater than \$1500, the parties have a right to trial by jury. This bill does not change the amount of the fines or the further fines for subsequent days of a continuing violation. It simply assures the possibility of a jury trial should the issue not be resolved and the fines total more than \$1500. Committee Recommendation: OUGHT TO PASS WITH AMENDMENT. Vote **8-7**.

Meals and Rooms

HB 534-FN, relative to reporting of meals and rooms tax revenue by the department of revenue administration.

HOUSE VOTE: INEXPEDIENT TO LEGISLATE.

Rep. Patrick Abrami for Ways and Means. This bill calls for all room, meals, and car rental operators to report meals and rooms tax collected by the town and city in which it is collected. The intent of the bill is for each town and city to have knowledge of the meals and rooms revenue collected by establishments within its boundaries. The committee identified two major

issues which are problematic. The first is that the Department of Revenue Administration cannot report any grouping of taxpayers of 10 or less because of confidentiality reasons. Many small towns in New Hampshire will not meet this threshold. The second problem is that operators that own establishments in multiple towns are allowed to file a consolidated tax filing form. This means the rooms and meals tax revenue would be reported in one town even though it was collected in multiple municipalities. It was determined that the hospitality industry who supports the consolidated reporting feels it would be a burden to report meals and rooms tax revenue by municipality. With this, the committee voted unanimously that this bill was inexpedient to legislate. Committee Recommendation: ITL. Vote **19-0**.

HB 539-FN-A-LOCAL, relative to the distribution of occupancy revenues under the meals and rooms tax to towns and cities.

HOUSE VOTE: INEXPEDIENT TO LEGISLATE.

Rep. Edith Tucker for Ways and Means. This bill would require the Department of Revenue Administration to distribute a portion of the revenue collected from rooms under the meals and rooms tax to towns and cities in proportion to the amount generated in each. It also repeals the option to consolidate reporting of these taxes. The practicalities of this significant change require more work. Committee Recommendation: ITL. Vote **23-0**.

SENATE

SENATE VOTE: SB 94-FN-A, making a capital appropriation for affordable housing.

TABLED

Made capital appropriations to Housing Finance Authority for deposits in the affordable housing fund to provide financing or state matching funds for affordable housing.

SENATE VOTE: SB 30, defining woodland buffers and relative to such woodland buffers for the purposes of the shoreland protection act.

PASSED WITH AMENDMENT

Defined woodland buffers, adjustment dimensions of woodland buffers.

SENATE VOTE: SB 174-L, relative to municipal parking surcharges and parking maintenance and operations.

TABLED

Bill expands provision pertaining to public parking facilities to include repair of existing parking facilities.