

# CITY COUNCIL MEETING

Remote Meeting Via Zoom Conference Call

To register in advance for this meeting, click on the link below or copy and paste it into your web browser:

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You are required to register in advance to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. Please note, this meeting will also be broadcast on the City's YouTube Channel. Public comments for the Council's consideration can be emailed in advance via the City's web site: <https://www.cityofportsmouth.com/citycouncil/contact-all-city-councilors>.

Per NH RSA 91-A:2 III (b) the Chair has declared COVID-19 Outbreak an emergency and has waived the requirement that a quorum be physically present at the meeting pursuant to the Governor's Executive Order 2020-04, Section 8, as extended by Executive Order 2020-24, and Emergency Order #12, Section 3. Members will be participating remotely and will identify their location and any person present with them at that location. All votes will be by roll call.

**DATE: MONDAY, DECEMBER 21, 2020**

**TIME: 7:00PM**

**6:00PM – ANTICIPATED NON-PUBLIC SESSION RE: DISCUSSION OF PENDING LITIGATION – RSA 91-A:3 II (e)** [https://zoom.us/webinar/register/WN\\_gsFqaDUfRyGFgBasXT1Mqw](https://zoom.us/webinar/register/WN_gsFqaDUfRyGFgBasXT1Mqw)

**7:00PM – PORTSMOUTH HIGH SCHOOL HOLIDAY MUSIC PERFORMANCE**

## AGENDA

- I. **WORK SESSION – THERE IS NO WORK SESSION THIS EVENING**
- II. **PUBLIC DIALOGUE SESSION [when applicable – every other regularly scheduled meeting] - POSTPONED**
- III. **CALL TO ORDER [7:00 p.m. or thereafter]**
- IV. **ROLL CALL**
- V. **INVOCATION – Jeff Pelkey, Fire and Police Chaplain**
- VI. **PLEDGE OF ALLEGIANCE**
- VII. **ACCEPTANCE OF MINUTES – MAY 18, 2020 & JUNE 1, 2020**
- VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**
- IX. **PUBLIC COMMENT SESSION – (Via Zoom)**
- X. **PUBLIC DIALOGUE SUMMARY [when applicable] - POSTPONED**
- XI. **PUBLIC HEARINGS AND VOTES ON ORDINANCES AND/OR RESOLUTIONS**
  - A. **Public Hearing/Second Reading of Ordinance amending Chapter 10, Article 6 – Overlay Districts – Flood Plain Overlay District Zoning Maps**
    - **PRESENTATION**
    - **CITY COUNCIL QUESTIONS**
    - **PUBLIC HEARING SPEAKERS**
    - **ADDITIONAL COUNCILOR QUESTIONS AND DELIBERATIONS**

- B. Third and Final Reading of Ordinance amending Chapter 7, Article III, Section 7.330 – No Parking – Chase Drive: northerly side, from Michael Succi Drive to a point 30 feet ~~on either side~~ west of the driveway located at 355 Chase Drive
- C. Third and Final Reading of Ordinance amending Chapter 3, Article IX – Distribution of Single-Use Disposables on City Property – Effective Date: This Ordinance shall take effect on December 31, 2022
- D. Third and Final Reading of Ordinance amending Chapter 3, Article X – Distribution of Single-Use Disposables – Citywide – Effective Date: This Ordinance shall take effect on December 31, 2022
- E. Third and Final Reading of Ordinance amending Chapter 3, Article XI – Face Coverings – Effective Date: This ordinance shall take effect immediately and shall terminate on vote of the City Council to that effect
- F. Third and Final Reading of Ordinance amending Chapter 11, Article II – Sewers, Section 11.203 and Section 11.204 – Waiver from Connection to Public Sewer

## **XII. MAYOR BECKSTED**

- 1. \*Appointments to be Voted
  - Appointment of David MacDonald as a regular member to the Zoning Board of Adjustment
  - Appointment of Corey Clark as a regular member of the Planning Board
  - Appointment of Peter Harris as a regular member to the Planning Board
  - Appointment of Rick Chellman as a regular member to the Planning Board
- 2. \*Reopen Portsmouth 2021 Blue Ribbon Committee City Council Representative
- 3. Ordinance Chapter 1 Section 1.310 requires that, “When making appointments to the Board of Adjustment the Council shall consider as candidate the alternates to the Board as well as other nominations by the Mayor”. For the reason the Council should be aware that Mr. Chase Hagaman is a current member of the Board who has submitted his name for consideration by the Council. The person nominated by the Mayor is David MacDonald

## **XIII. CITY COUNCIL MEMBERS**

### **A. ASSISTANT MAYOR SPLAINE**

- 1. \*Recognition of the People and History of Portsmouth’s North End

### **B. COUNCILOR KENNEDY**

- 1. \*Toyota of Portsmouth (***Sample motion – move to give Toyota of Portsmouth (Jim Boyle) back his land per court agreement***)

#### XIV. APPROVAL OF GRANTS/DONATIONS

- A. \*Acceptance of Donation from Samuel Winebaum for Vaughan Mall Lighting - \$5,000.00  
***(Sample motion – move to approve and accept the donation from Samuel Winebaum for Vaughan Mall Lighting - \$5,000.00)***

#### XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

##### A. CITY MANAGER CONARD

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

1. \*Request for Work Session regarding Peirce Island
2. Request to Name Private Subdivision Road Located off Banfield Road
3. Request to Name New Public Street Located Between Cate Street & Route 1 Bypass
4. 46 Maplewood Avenue – Temporary Construction License

#### XVI. CONSENT AGENDA

- A. Letter from Linda Carter, Big Brothers Big Sisters of New Hampshire, requesting permission to close Pleasant Street on Saturday, September 25, 2021 from 1:00 p.m. – 4:00 p.m. and hold the 12<sup>th</sup> Annual Stiletto Sprint ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Letter from Nick Diana, New Castle 10K, requesting permission to hold the 3d Annual New Castle 10K Road Race from 9:30 a.m. – 11:30 a.m. ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- C. Banfield Woods Development Conservation Easement and Water Access Easement ***(Anticipated action -move to grant authority for the City Manager to accept and execute the water access easement and conservation easement deed and plans on behalf of the City in a form similar to those attached)***
- D. Request for License to Install a Projecting Sign for Owner Larry Booz for The Mercantile Portsmouth for property located at 10 Ladd 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*

**XVII. PRESENTATIONS & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- A. \*Presentation by Health Officer Kim McNamara regarding COVID-19 Update
- B. \*Presentation by Portsmouth Citizens Response Task Force
- C. Email Correspondence (*Sample motion – move to accept and place on file*)

**XVIII. CITY MANAGER’S INFORMATIONAL ITEMS**

- 1. Report Back on Various Items as Requested by Councilor Kennedy and Huda at the December 7<sup>th</sup> City Council meeting
- 2. Letter from Superintendent Zadravec Regarding Single Use Disposables

**XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING**

**XX. ADJOURNMENT [at 10:00 p.m. or earlier]**

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

*\* Indicates verbal report*



## CITY COUNCIL MEETING

MUNICIPAL COMPLEX  
DATE: MONDAY, MAY 18, 2020

PORTSMOUTH, NH  
TIME: 6:00PM [or thereafter]

### Remote Meeting Via Zoom Conference Call

To register in advance for this meeting, click on the link below or copy and paste it into your web browser: [https://zoom.us/webinar/register/WN\\_oOJpcvqRTkKgpurG9EVVNQ](https://zoom.us/webinar/register/WN_oOJpcvqRTkKgpurG9EVVNQ). You are required to register in advance to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. Please note, this meeting will also be broadcast on the City's YouTube Channel. Public comments for the Council's consideration can be emailed in advance via the City's web site: <https://www.cityofportsmouth.com/citycouncil/contact-all-city-councilors>.

Per NH RSA 91-A:2 III (b) the Chair has declared COVID-19 Outbreak an emergency and has waived the requirement that a quorum be physically present at the meeting pursuant to the Governor's Executive Order 2020-04, Section 8, as extended by Executive Order 2020-8, and Emergency Order #12, Section 3. Members will be participating remotely and will identify their location and any person present with them at that location. All votes will be by roll call.

At 6:00 p.m., an Anticipated Non-Public Session was held regarding Collective Bargaining Agreements in accordance with RSA 91-A:3 II (a).

- I. **6:00PM WORK SESSION – THERE IS NO WORK SESSION THIS EVENING**
- II. **PUBLIC DIALOGUE SESSION [when applicable – every other regularly scheduled meeting] – *POSTPONED***
- III. **CALL TO ORDER**

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

#### IV. **ROLL CALL**

Present: Mayor Becksted, Assistant Mayor Splaine (7:38 p.m.), Councilors McEachern, Whelan, Lazenby, Kennedy, Huda, Tabor and Trace

#### V. **INVOCATION**

Mayor Becksted thanked the public for their patience as COVID-19 continues. He said we are looking at public safety at all times.

#### VI. **PLEDGE OF ALLEGIANCE**

Mayor Becksted led in the Pledge of Allegiance to the Flag.

#### VII. **ACCEPTANCE OF MINUTES**

There are no minutes on for acceptance this evening.

#### VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**

There are no Recognitions or Volunteer Committee Reports this evening.

## **IX. PUBLIC COMMENT SESSION**

Mark Brighton – said a 0% increase in the budget is not good enough and he would like to see a budget that goes back to 2019 numbers. He said we need to help our community.

John Akar said he feels the situation with outdoor seating is a great thing and could work for many but will not work for all, therefore it is not a solution. He said we need to do what can be done to help everyone.

Kathleen Cavalaro said we need non-residents to sit on the Task Force. She advised the Council that she has created resources for information and volunteers look like many different things in the City.

**Councilor McEachern moved to suspend the rules in order to take up Items XVII. A. – Presentation by Health Officer Kim McNamara regarding COVID-19 Update; XIII. A. – Portsmouth Citizen Response Task Force; XIII. C. – Permit Fees for Outdoor Services; and XIII. G. – Report Back from City Officials/Staff Committee Re: Restaurants to open with outside dining on May 18<sup>th</sup>. Seconded by Councilor Huda.**

**On a unanimous roll call 9-0, motion passed.**

## **XVII. PRESENTATIONS & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

### **A. Presentation by Health Officer Kim McNamara regarding COVID-19 Update**

Health Officer McNamara reported on outdoor dining applications and the criteria to move forward with this plan. She provided an update on COVID-19 and addressed the Governor's Orders and NH statistics on cases. She advised the City Council that the Governor is looking into a phased approach for reopening.

Councilor Kennedy asked Health Officer McNamara what the involvement is with the Planning Board for reopening businesses in the City. Health Officer McNamara said reopening does not need to go before the Planning Board.

Health Officer McNamara spoke to health and FDA requirements that restaurants will need to comply with in reopening.

Discussion followed regarding new outdoor seating for establishments and each restaurant would need a building permit and staff is handling the process internally with a turnaround time of 1 week. Further discussion was held regarding masks and a mandate for wearing them. Health Officer McNamara stated masks are important to keep everyone safe.

City Manager Conard reported that we are reopening City Hall on June 1<sup>st</sup> and we will limit occupancy to 50% with staff returning next week. She said there will be a mask requirement to enter the building.

Councilor Trace said we need to get information out to the residents and customers and businesses need to start making money again.

Discussion followed regarding the set-up of barriers for the outside dining. Deputy Fire Chief Howe reported that there are 12 temporary permits and that they have all been inspected by the Fire Department.

Mayor Becksted suggested using one restaurant as a model for other restaurants looking to add outside dining and barriers. Deputy Fire Chief Howe reported that the department is working with all businesses as best they can and being flexible.

Discussion took place on insurance requirements for the restaurants. Councilor Trace stated we need to use common sense and help businesses.

**Councilor Lazenby moved that the City waive any municipal fees, such as building permit fees, sidewalk café and obstructions associated with the reopening of restaurants for outdoor service in accordance with the Governor's Emergency Order #40, Exhibit C after Columbus Day. Seconded by Councilor Trace.**

City Attorney Sullivan spoke regarding Area Service Agreements and the requirements of the agreements.

Councilor Lazenby asked if CARES Act funding could be used for loss revenues. Assistant City Attorney Ferrini said you can't use that funding for that purpose.

**On a unanimous roll call 9-0, motion passed.**

Assistant Mayor Splaine and Councilor McEachern spoke on the general concept to explore and work with staff on what needs to be done to make this a Citizen Task Force with staff being advisory to the group. He stated the idea is to have 19 people come together that know their fields and what it would take to make things safe. He stated we would use the talents in our community to serve.

Councilor McEachern said this was prompted by people reaching out from the public. He stated we need the community involved to make the roles and we do not want to duplicate efforts but we need to bring the leaders together.

Councilor Kennedy asked if the starting point is beyond the Governors requests. She indicated different schools have different ideas from the CDC and Governor. Councilor McEachern said the Governor's decision and CDC rules do apply, this is advisory and we the committee will not rewrite the rules but look towards the benefits of the community. Councilor Kennedy stated we need to ensure that we don't have any conflicts.

City Manager Conard said there needs to be coordination with her and staff and she wants to be part of the solution and not the problem. She stated that we need to share our progress with the working groups.

Assistant Mayor Splaine stated he would like to add City Manager Conard, Health Officer McNamara and any other staff members necessary to the group. He said we need to bring people to the table and roles that are currently working would not change.

Councilor Huda requested that at each City Council meeting a member of the Committee provide a report to the Council.

Councilor Lazenby said all Task Force members would be part of the residents Task Force and communicate with staff. He stated any one would be able to be appointed at the judgment of Mayor Becksted.

**Assistant Mayor Splaine moved that the City Council directs the assemblage of a Portsmouth Citizen Response Task Force that will include representatives of our business community, restaurant owners and managers, representatives of retailers and hotels, non-profit organizations from the arts community and health services, members of the Economic Development Commission, health care professionals, and citizens-at-large.**

**The nineteen members of the group will include two members of the Economic Development Commission selected by the Chair of the Economic Development Commission, the President of the Chamber Collaborative of Greater Portsmouth or designee, two members of non-profit organizations representing the arts community, appointed by the Mayor; two members of non-profit organizations representing health care organizations, appointed by the Mayor; two other health care professionals, appointed by the Mayor; three individuals representing restaurants, appointed by the Mayor; three individuals representing retail business, appointed by the Mayor; two members representing hotels, appointed by the Mayor; and two additional residents to represent citizens-at-large, appointed by the Mayor.**

**The Chair of the Portsmouth Citizen Response Task Force shall be chosen from among the members who have been appointed by the Mayor. To keep the Portsmouth Citizen Response Task Force as non-political as possible, no elected official may be a member. The group will remain in operation until December 31, 2020, and may be reestablished prior to that time.**

**The members would include the City Manager, and Kim McNamara, Health Officer and any other staff members that may deemed appropriate.**

**The City Council requested that a member of the Committee provide an updated report at each Council meeting.**

**The City Council agreed that the application process take place over a two-week period.**

**Tasks:**

***To recommend to the City management and City Council on decisions related to COVID-19 that affect the business community and organizations in addressing the needs of re-opening, within the confines of health care advisories.***

***To discuss, identify, and then educate Portsmouth businesses and the public about "best practices" and approaches as they re-open, based on health care advisories.***

***To consider further recommendations for the business community for addressing the needs of health care safety.***

***To consider guidelines and enforcement for the wearing of masks by all who work in and visit our businesses.***

***To include and work with citizen and business interests in as inclusive way as possible to provide recommendations and schedules for addressing the needs for protecting the health of our citizens, visitors, and employees.***

***To review the financial impact of the pandemic on businesses in Portsmouth, and provide recommendations for response.***

***The Portsmouth Citizen Response Task Force may call on other Portsmouth City Government staff members for assistance and advice.***

***The Portsmouth Citizen Response Task Force may hold public meetings to hear from members of the community.***

***The Portsmouth Citizen Response Task Force may meet with agencies or boards of neighboring communities and the state for advice.***

***All meetings of the Portsmouth Citizen Response Task Force shall be public at all times.***

**Seconded by Councilor McEachern.**

Mayor Becksted inquired as to policies and procedures and that the Liquor Commission would need to give permission and have a way to assist with streamlining before making policies.

Assistant Mayor Splaine would like to see appointments voted on at the June 1<sup>st</sup> meeting.

**On a unanimous roll call vote 9-0, motion passed.**

### **XIII. CITY COUNCIL MEMBERS**

#### **G. COUNCILOR TRACE**

1. Little League and further Recreation this Summer

Councilor Trace stated the City made a decision regarding little league prematurely without a decision from the Governor. She said little league is making every attempt to keep children safe. She spoke to the two to three weeks to get the outdoor pool ready and that there are guidelines in place to keep us safe. City Manager Conard said none of the decisions have been made lightly. She said if we make a decision to open the pool that decision is based on the information we had available to us.

Health Officer McNamara said the Recreation Department felt there is no way to make the pool safe. She said everything was voted down at the same time. She indicated that we would watch data and reassessments will be done during the summer time. She said there are phases that we do this in and we are keeping this under control. Health Officer McNamara said as of today we need to watch the data and keep the whole community safe.

Councilor Trace said she was not suggesting we reopen baseball or the outdoor pool but we voted these down without people or parents involvement for a more transparent manner. She stated it was inappropriate for the Recreation Department to close little league without hearing from the community.

Councilor Kennedy stated the City Council never voted on this matter. She said we need to reach out to the Governor and CDC on these matters.

Assistant Mayor Splaine said we all know the concerns on summer programs, maybe we should ask the Recreation Board to be a sounding board for them on recreation activities. He suggested outdoor showers with a tent and that a dialogue is needed on this matter. Councilor McEachern said this is a perfect example of the type of communication needed.

Councilor Trace said this is a difficult issue even if the Governor allows outdoor activities, could we do it safely. She stated we should review the matter again if the Governor changes his mind.

Councilor Lazenby said that staff and the little league could work on protocols and look at playing as a smaller group.

Discussion followed on this matter and being proactive.

Councilor Trace requested City Manager Conard and Councilor McEachern for a report back on reopening's for Little League at the next City Council meeting.

At 9:55 p.m., Mayor Becksted declared a brief recess. At 10:05 p.m., Mayor Becksted called the meeting back to order.

**Assistant Mayor Splaine moved to suspend the rules in order to take up Item XVIII. 1. – Draft Great Bay Total Nitrogen General Permit Comments to EPA. Seconded by Councilor Kennedy.**

**On a unanimous roll call vote 9-0, motion passed.**

City Manager Conard said it may take several months before we have information on the permit.

Councilor Kennedy said she would like an overview on Peirce Island and Pease and where we are in the process.

City Manager Conard said we would touch upon those at the work session tomorrow evening.

City Engineer Desmarais said when we reopen we could provide tours of the facilities. He said the EPA might issue something in the next two to three months. He reported that the Wastewater Treatment Plant on Peirce Island is operational. Councilor Trace asked where the nitrogen level is at. City Engineer Desmarais said compliance terms were April 1<sup>st</sup> and the Consent Decree requirements are June 1<sup>st</sup>. He stated right now we are not under compliance with being down around 11 and they are dropping.

## **XI. PUBLIC HEARINGS AND VOTES ON ORDINANCES AND/OR RESOLUTIONS**

- A. Public Hearing and Second Reading of Ordinance amending Chapter 7, Article I, Section 7.105 C – Designated Motorcycle Parking Area

- **PRESENTATION**

Mayor Becksted read the legal notice, declared the public hearing open and called for speakers.

Councilor Kennedy said she had a complaint and residents are worried about the noise and she was under the impression that the spaces would be moved to a side street.

Parking Director Fletcher said the application is set up for Pleasant Street and Market Street. He said we brought the matter back to the Parking, Traffic & Safety Committee for a recommendation.

Public Works Director Rice said the complaint was that we were moving the motorcycles closer to the North Church, but we are not.

With no speakers, Mayor Becksted declared the public hearing closed.

Councilor Lazenby asked whether the location was a consideration when expanding restaurant seating and it gives him pause to move forward on this matter.

Parking Director Fletcher stated we could move to another location.

Councilor Kennedy said if one motorcycle pays you can park multiple bikes in a regular space and maybe we need to look at the motorcycles in the area.

**Councilor Huda moved to approve the second reading of an amendment to Chapter 7, Article I, Section 7.105 C, the Designated Motorcycle Parking Area Ordinance, and schedule a third and final reading at the June 1, 2020 Council meeting. Seconded by Councilor McEachern.**

**On a unanimous roll call vote 9-0, motion passed.**

## **XII. MAYOR BECKSTED**

1. Appointment to be Voted – Robert W. Bogardus appointment to the Recreation Board Senior Subcommittee

**Councilor Huda moved to appoint Robert W. Bogardus to the Recreation Board Senior Subcommittee. Seconded by Councilor McEachern.**

**On a unanimous roll call vote 9-0, motion passed.**



### **XIII. CITY COUNCIL MEMBERS**

#### **D. COUNCILOR KENNEDY**

1. Commitment by the City of Portsmouth to use local business as a Priority when buying products and services for the city

**Councilor Kennedy moved to have all city government departments investigate local businesses for products and services that the city uses for its everyday needs. If a local business can provide the same service or product at a market value that is competitive: then the city should give priority to purchase from that local business. For this motion, local is a product and/or service with a fifty mile radius of Portsmouth. Seconded by Councilor McEachern.**

Councilor Kennedy said we need to look at what products people are looking for. She said we need to take an extra moment and look at local businesses and if they can compete we should encourage them to take this step.

Councilor Tabor asked if this would cause undue burden to the Purchasing Department.

Assistant Mayor Splaine said the legislature did this 15 years ago and it was good for NH products.

**On a unanimous roll call vote 9-0, motion passed.**

#### **E. COUNCILOR HUDA**

1. Revenues, Federal & State Aid

**Councilor Huda moved to request the City Manager and Finance Director provide an update to residents & City Council of the latest data available on incoming (revenues) Federal & State Aid: Both COVID related and all other to include the following:**

- A. All known incoming funds related to the Government Programs that the City is to receive for all departments such as:**
  - **Police – COVID related funds of \$300 week hazard pay for COVID related activities**
  - **Fire - \$32,000.00**
  - **School – State & Federal Aid: School Building Aid, SPED Aid, Grants for IDEA, Medicaid, Special Revenue Food Service Municipal Aid for COVID related Federal Funds, part of the \$1.25M - \$523,000.00**
- B. Status on the April 2020 Month End Reports (1<sup>st</sup> Full Month of Pandemic Effect)**

**Seconded by Councilor Kennedy.**

Assistant City Attorney Ferrini provided descriptions of CARES Act funds. She reported the city is eligible for the maximum of \$522,989.00 for funds not accounted for in the budget currently. She said we could include welfare costs, municipal relief fund, anything not FEMA related, first responders extra pay. She spoke to the various funds for departments.



The City Council discussed ambulance costs which Assistant City Attorney Ferrini explained are health care related costs. Discussion followed on PPE and items included in the grant funding. Finance Director Belanger said she understands that we must provide actual invoices for the expenses and stated that we are not putting expenses in the General Fund but in the Special Revenue Fund to track all funding.

**On a unanimous roll call vote 9-0, motion passed.**

**Councilor Kennedy moved to suspend the rules to continue the meeting beyond 10:30 p.m. Seconded by Councilor McEachern.**

**On a unanimous roll call vote 9-0, motion passed.**

## **XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION**

### **A. CITY MANAGER CONARD**

3. CARES Act Funds
  - Municipal Relief Fund

**Councilor Lazenby moved to authorize the City Manager to apply for, accept and expend any funds received by gift, grant or loan from state, federal other governmental units that become available to the City through CARES Act Flex Funds. Seconded by Councilor Kennedy.**

**On a unanimous roll call vote 9-0, motion passed.**

- First Responder COVID-19 Stipend Fund

**Councilor Lazenby moved to authorize the City Manager to pay the City's qualified first responders a stipend consistent with the terms, conditions and guidance documents of the First Responder COVID-19 Stipend Fund and to apply for, accept and expend any reimbursement for the stipend and payroll taxes received from the First Responder COVID-19 Stipend Fund and the Municipal Relief Fund. Seconded by Councilor Whelan.**

**On a unanimous roll call vote 9-0, motion passed.**

- Provider Relief Funds

**Councilor Lazenby moved to authorize the City Manager to accept or reject CARES Act Provider Relief Funds in the amount of \$31,698.87 pending further guidance on use of funds. Seconded by Councilor Huda.**

Councilor Kennedy expressed concern regarding rejecting any grant funds.

**On a unanimous roll call vote 9-0, motion passed.**

- Emergency Relief Funds

**Councilor Lazenby moved to authorize the City Manager to apply for, accept and expend any funds, including but not limited to FMA funds, through the CARES Act Emergency Relief Fund or any other state or federal funds received by gift, grant or loan that become available to the City. Seconded by Councilor Tabor.**

Councilor Kennedy spoke regarding a timeline to the motion.

**On a unanimous roll call vote 9-0, motion passed.**

### **G. COUNCILOR TRACE**

2. Report Back from City Officials/Staff Committee Re: Restaurants to open with outside dining on May 18<sup>th</sup>

City Manager Conard reported that we are expected to meet revenue levels. Councilor Huda asked if we have an expenditure increase. Finance Director Belanger stated revenues are coming in higher than last year and we expect to know more at the end of May, but we are anticipating a surplus in 2020.

### **F. COUNCILOR TABOR**

1. Zero-Increase Budget

**Councilor Tabor moved that the City Council request of the School Board, Police and Fire Commissions, and of the City Manager, a “what if” exercise for a zero increase budget for their respective FY21 including an explanation of actions to be taken and impact on services. Work to be completed by June 1. Includes further public presentation and discussion with the Council if needed.**

**This exercise would be designed to inform final budget decisions with the best data. It would 1) allow school, fire and police to work with their boards and commissions at their May meetings, and the City Manager and Finance Director to work with department heads, to figure out specific actions needed for each unit to achieve a zero increase budget; 2) in the process develop priorities for services to share with the Council; 3) show what services would be reduced with great specificity so the Council’s final budget decisions in June are well informed and we protect services as much as possible. Seconded by Councilor Kennedy.**

Councilor Tabor said this motion is to develop more information on the budget. He spoke to not expecting a crisis and being nationally effected. He said we need to consider the residents and do our best to not put off questions we have now. He stated this exercise shows priorities and we need to hold the line on spending. He indicated we have the highest quality staff in the state but we need to show we are balancing the needs of taxpayers.

Assistant Mayor Splaine said it is important to get this information and find out what 2% would mean. He said we need to have everyone review their priorities and expenditures.

Councilor Huda spoke in support of the motion and taking a proactive approach rather than reactive.

Discussion followed on budget preparations and expenditures and revenues and whether this would affect next fiscal year.

**On a unanimous roll call vote 9-0, motion passed.**

## **XV. CITY MANAGER'S ITES WHICH REQUIRE ACTION**

### **A. CITY MANAGER CONARD**

#### **1. The One Hundred Club Valet Parking License Renewal**

City Manager Conard reported on the parking license renewal and referred to the map of locations that has been provided.

**Councilor Whelan moved to authorize the City Manager to execute the Valet Parking License Agreement with The One Hundred Club in a form similar to those attached in the City Manager's comments for another year term. Seconded by Councilor Trace.**

**On a unanimous roll call vote 9-0, motion passed.**

City Manager Items 2, 5, and 6 were removed from the consent agenda.

#### **2. Sidewalk Café License for AC Hotel, 229 Vaughan Street**

City Manager Conard advised the City Council that staff is recommending an Area Service License Agreement for this request.

**Councilor Tabor moved to authorize the City Manager to execute the Valet Parking License Agreement with The One Hundred Club in a form similar to those attached in the City Manager's comments for another year term. Seconded by Councilor McEachern.**

**On a unanimous roll call vote 9-0, motion passed.**

#### **4. Approval of Election Support Letter**

Councilor Lazenby thanked Assistant City Attorney Ferrini for her work on this matter.

**Councilor Lazenby moved to approve and execute the election support letter. Seconded by Councilor McEachern.**

Assistant Mayor Splaine asked who the letter would be sent to. Assistant City Attorney Ferrini advised it would be sent to Senator Sherrman, House Majority Leader, Senate Majority Leader, our Legislation Delegation, Secretary of State Gardner and Governor Sununu.

**On a unanimous roll call 9-0 vote, motion passed.**

5. Recommended Modifications to Middle Street / Lafayette Road Bike Lanes for 2020 Season

**Councilor McEachern moved to refer the recommended modifications to the bollard locations, parking spaces, reduced speed limit to the Parking and Traffic Safety Committee. Seconded by Assistant Mayor Splaine.**

Councilor Kennedy said that this is a start and it is clear that we want to get rid of bollards and Parking, Traffic & Safety can look at coming up with a new plan to help everyone.

Assistant Mayor Splaine said he wanted to see an expansion of bike trails. He spoke to the trails on Market Street Extension which do not have bollards.

Councilor Trace spoke regarding the site lines on Islington Street being incorrect.

Councilor Whelan said the Parking, Traffic & Safety will review this matter and no action will be taken without having a report back to the City Council.

Councilor Tabor said he is concerned with a 2,000 stretch where bike lanes go into parked cars.

Councilor Huda said she supports the bike lanes but we should not spend any more funds on studies regarding this matter.

Mayor Becksted said we need to remove the bollards and place the cars to the curb.

**On a unanimous roll call vote 9-0, motion passed.**

6. Bluestone Properties of Rye, LLC Request for 135 Congress Street Parking Lease

City Manager Conard said that staff needs time to consider this request before action takes place.

**Councilor Kennedy moved to refer to the City Manager for a report back. Seconded by Councilor Trace.**

Assistant Mayor Splaine requested a report back on June 1<sup>st</sup>.

Councilor Kennedy said this is public property and parking spaces that are being considered. She said we need to look at this matter thoroughly and looks forward to the report back.

Councilor Trace spoke to discussing this matter with City Attorney Sullivan. She said the spaces are a concern and we need to know where they will be located.

Councilor McEachern said we need to move this to City Manager Conard for report back. He said it is important to note, that in the future there will not be a need for as much parking as there is today.

Assistant Mayor Splaine said he would like to have the motion to include a report back at the June 15<sup>th</sup> meeting.

Councilor Kennedy accepted that date as part of her original motion.

**On a unanimous roll call vote 9-0, motion passed to refer to the City Manager for a report back at the June 15, 2020 City Council meeting.**

## **XVI. CONSENT AGENDA**

- A. Request for License to Install 3 Projecting Signs for owners of Laura Cote & Melanie Bisson, True East Realty, LLC; Melanie Bisson, Generations Home Inc.; and Jason Mills, BCM Advisory Group for property located at 400 Deer Street (400 The Hill)  
***(Anticipated action - move to approve the aforementioned Projecting Sign Licenses as recommended by the Planning Director, and further, authorize the City Manager to execute the License 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***
- B. Letter from Maria Stephanou, Alzheimer's Association, requesting permission to hold the 2020 Annual Seacoast Walk to End Alzheimer's on September 27, 2020  
***(Anticipated action – move to authorize the City Manager to act)***

**Councilor Kennedy moved to adopt the Consent Agenda. Seconded by Councilor Whelan.**

**On a unanimous roll call vote 9-0, motion passed.**

## **XVII. PRESENTATIONS & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- B. Email Correspondence

**Councilor McEachern moved to accept and place on file. Seconded by Councilor Huda.**

**On a unanimous roll call vote 9-0, motion passed.**

- C. Letter from Jeff Goss and Sean Sullivan, the Clipper Tavern, requesting permission for outdoor dining in front of the Clipper Tavern and closure of road

**Councilor Kennedy moved to refer to the City Manager for report back at the June 1, 2020 City Council meeting. Seconded by Assistant Mayor Splaine.**

**On a unanimous roll call vote 9-0, motion passed.**

### **XVIII. CITY MANAGER'S INFORMATIONAL ITEMS**

#### **3. Status Update on Report Back on Impact Fees**

City Manager Conard advised the City Council that there would be a report back on this matter at the June 1, 2020 City Council meeting.

### **XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING**

Assistant Mayor Splaine spoke regarding encouraging people to wear masks and to create a sign advising the need to wear face masks.

The City Council discussed various slogans for the message boards regarding the need to wear masks.

**Councilor Trace moved that the message boards on the entrances into the City have the following message – “A Mask Is All We Ask.” Seconded by Assistant Mayor Splaine.**

**On a unanimous roll call vote 9-0, motion passed.**

Mayor Becksted announced that the Clipper Strong Program is up and running. He said he is pledging \$500.00 and would like to see people match his pledge.

City Manager Conard announced that the Clipper Strong Fund has \$1,900.00 in new funds tonight.

### **XX. ADJOURNMENT**

**At 12:15 a.m., Councilor Kennedy moved to adjourn. Seconded by Councilor McEachern.**

**On a unanimous roll call 9-0, motion passed.**



KELLI L. BARNABY, MMC/CNHMC  
CITY CLERK

## **CITY COUNCIL MEETING**

MUNICIPAL COMPLEX  
DATE: MONDAY, JUNE 1, 2020

PORTSMOUTH, NH  
TIME: 6:00PM [or thereafter]

### Remote Meeting Via Zoom Conference Call

To register in advance for this meeting, click on the link below or copy and paste it into your web browser: [https://zoom.us/webinar/register/WN\\_oOJpcvqRTkKqpurG9EvvNQ](https://zoom.us/webinar/register/WN_oOJpcvqRTkKqpurG9EvvNQ). You are required to register in advance to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. Please note, this meeting will also be broadcast on the City's YouTube Channel. Public comments for the Council's consideration can be emailed in advance via the City's web site: <https://www.cityofportsmouth.com/citycouncil/contact-all-city-councilors>.

Per NH RSA 91-A:2 III (b) the Chair has declared COVID-19 Outbreak an emergency and has waived the requirement that a quorum be physically present at the meeting pursuant to the Governor's Executive Order 2020-04, Section 8, as extended by Executive Order 2020-8, and Emergency Order #12, Section 3. Members will be participating remotely and will identify their location and any person present with them at that location. All votes will be by roll call.

At 6:00 p.m., an Anticipated Non-Public Session was held regarding McIntyre RSA 91-A:3 II I.

### **III. CALL TO ORDER**

At 7:15 p.m., Mayor Becksted called the meeting to order.

### **IV. ROLL CALL**

**PRESENT:** Mayor Becksted, Assistant Mayor Splaine, Councilors McEachern, Whelan, Lazenby, Kennedy, Huda, Tabor and Trace (7:22 p.m.)

### **V. INVOCATION**

Mayor Becksted asked everyone to join in a moment of silent prayer and asked that our thoughts and prayers be with the family of George Floyd.

### **VI. PLEDGE OF ALLEGIANCE**

Mayor Becksted led in the Pledge of Allegiance to the Flag.

### **VII. ACCEPTANCE OF MINUTES – MARCH 2, 2020**

**Councilor McEachern moved to accept and approve the minutes of the March 2, 2020 City Council meeting. Seconded by Councilor Tabor.**

**On a unanimous roll call vote 8-0, motion passed.** (Councilor Trace was not present for the vote).

## IX. PUBLIC COMMENT SESSION

Gerald Duffy said he watched the budget meeting and the department's review of their anticipated budgets. He spoke to amount of money being spent on outside counsel regarding the McIntyre. He said if funds are to be spent on outside counsel you should make them transparent. He stated that the residents are interested in the post office returning to the downtown.

Marc Stettner spoke regarding third reading of the motorcycle parking ordinance and his recommendation that the fee be set at \$.50 for all bikes which is reasonable.

Representative David Meuse spoke in support of Assistant Mayor Splaine's motion on mask wearing. He urged the City Council to create an ordinance similar to the City of Nashua. He said everyone needs to do the right thing and wear masks.

Josh Denton spoke in support of the "Farm to Table" program in the schools and the need for it to remain. He outlined the benefits of the program and how students learn to grow food and how important that is for everyone.

Diane Woelke spoke to the health and well-being of women and children when it concerns PFAS. She outlined some of the medical issues linked to PFAS with one being gestational diabetes.

Ted Jankowski spoke to bids being separated for the multi-purpose recreation fields and the stormwater treatment project. He said PFAS has been found in the high school turf field and urged the City Council to consider this information before voting on this matter.

Melissa Paly spoke to using artificial turf for the new fields. She said there is a question whether PFAS is in artificial turf materials. She spoke to the run off from the proposed new wastewater treatment facility into Sagamore Creek.

**Assistant Mayor Splaine moved to suspend the rules to bring Item XVII A. – Presentation by Health Officer Kim McNamara regarding COVID-19 Update. Seconded by Councilor McEachern.**

**On a unanimous roll call vote 9-0, motion passed.**

## XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

### A. Presentation by Health Officer Kim McNamara regarding COVID-19 Update

Health Officer McNamara reported that the State has installed a Dash Board containing various information on COVID. She addressed outdoor dining and seating in the City. She indicated we need to be cautious as we begin to start reopening and having visitors from out of state coming into the City. She addressed the importance to maintain social distancing and discussion was held with the Council regarding face coverings or masks.



Assistant Mayor Splaine said mask wearing and social distancing is important for everyone. He said masks should be worn over a person's mouth and nose. Kim spoke to the differences in masks and the need to wear them properly.

Discussion followed regarding masks and the importance of ventilation. City Manager Conard said we have a reopening policy and spoke to staff manning our doors but we still served 242 visitors. She reported that most people come in with their own mask.

## **XI. PUBLIC HEARINGS AND VOTES ON ORDINANCES AND/OR RESOLUTIONS**

- A. Public Hearing and Adoption of Resolution Authorizing a Supplemental Appropriation from the Water Fund Unrestricted Net Position and from the NH Drinking Water and Groundwater Trust Fund for the Purchase of the Bellamy Reservoir Source Water Protection Land Conservation Easement in the amount of Five Hundred Seventy-Four Thousand, Three Hundred Dollars (\$574,300.00) is to be appropriated from the Water Fund using \$287,300.00 from unrestricted net position and a grant of up to \$287,000.00 from the NH Drinking Water and Groundwater Trust Fund

- **PRESENTATION**

Water Resource Manager Pratt provided a brief presentation on the easement to purchase the Bellamy Reservoir Source Water. He pointed out the proposed easement by use of a map. He stated in 2018 the City purchased a 72 acre easement for around the reservoir which is a completely forested area. He reported the owner wants to keep 5 acres out of the 112 acres to allow for a future sale to build a home. He said this benefits the owner and the City because it reduces the cost of the easement. Mr. Pratt advised the Council that the appraisal is \$530,000.00 with the 5 acre lot taken out.

- **CITY COUNCIL QUESTIONS**

The City Council spoke to supporting the resolution which will allow the protection of the area and Bellamy Reservoir Source Water.

Mayor Becksted read the legal notice, declared the public hearing open and called for speakers.

- **PUBLIC HEARING SPEAKERS**

Marc Stettner spoke in support of the Resolution.

With no further speakers, Mayor Becksted declared the Public Hearing closed.

- **ADDITIONAL COUNCIL QUESTIONS AND DELIBERATIONS**

There were no additional questions by the Council.

**Councilor Lazenby moved to adopt the resolution as presented. Seconded by Assistant Mayor Splaine.**

**On a unanimous roll call vote 9-0, motion passed.**

- B. Third and Final Reading of Ordinance amending Chapter 7, Article I, Section 7.105 C – Designated Motorcycle Parking Area

Councilor Huda asked if this needs to be discussed with the Tuscan Market item. Mayor Becksted said that is a separate issue.

**Assistant Mayor Splaine moved to suspend the rules to allow Marc Stettner to speak on the Ordinance. Seconded by Councilor Whelan.**

**On a unanimous roll call 9-0, motion passed.**

Assistant Mayor Splaine recommended that the issue of a fee be referred to the Fee Committee for report back. He said the \$.50 per hour appears to be a reasonable fee.

Councilor McEachern asked Mr. Stettner if Boston allows multiple motorcycles in one parking spot. Mr. Stettner said Boston has large parking spots for more than one bike to park and Portland you can fit bikes side by side in one spot.

Parking Director Fletcher spoke regarding that there is no ordinance or policy for not charging for parking in the spot. He said you can put 4 bikes in one space and pay by plate number. He stated if one bike does not have a paid receipt you could write multiple tickets. Councilor Kennedy asked if we could designate other parts of the City for motorcycles to park.

Discussion followed regarding free parking for veterans.

**Councilor Lazenby moved to adopt the third and final of an amendment to Chapter 7, Article I, Section 7.105 C, the Designated Motorcycle Parking Area Ordinance. Seconded by Councilor Tabor.**

**Assistant Mayor Splaine moved to refer the Ordinance to the Fee Committee for a report back to the City Council. Seconded by Councilor Kennedy.**

City Attorney Sullivan said you cannot roll the veterans provision into the ordinance as it would reference all parking spaces.

**On a roll call vote 8-1, motion to refer the Ordinance to the Fee Committee for a report back to the City Council passed. Assistant Mayor Splaine, Councilors McEachern, Whelan, Kennedy, Huda, Tabor, Trace and Mayor Becksted voted in favor. Councilor Lazenby voted opposed.**

## XII. MAYOR BECKSTED

### 1. Citizen Response Task Force Appointments

The following individuals were selected by Mayor Becksted to serve on the Citizen Response Task Force.

President of Chamber Collaborative of Greater Portsmouth or designee:

- Valerie Rochon or Designee

Non-Profit Organization representing the Arts Community:

- Deb Anthony, Gather
- Russ Grazier, PMAC

Non-Profit Organization representing Health Care Organizations:

- Kathe Lynch
- Mary Morin

Health Care Professionals:

- Bianca Monteiro
- Ann Birner

Representing Restaurants:

- Joe Scarlotto
- John Golumb
- Jeff Goss

Retail Business:

- Karen Bouffard
- Jim Lee

Hotel Industry

- Mark Stebbins
- James Petersen

Citizens-at-large

- Nathan Moss
- Martha Fuller Clark

Economic Development Commission Representatives

- Sarah Lachance
- Alan Gold

City Staff

- Karen Conard, City Manager
- Kim McNamara, Health Officer

Councilor McEachern said Samantha Finigan is a retail business owner and would like Mayor Becksted to consider her application for appointment to the Task Force.

Assistant Mayor Splaine said the work of the committee will be several months and if someone steps down Mayor Becksted should be able to appoint someone to fill the vacancy.

2. Osprey Landing JCM Management Company

Mayor Becksted said he was contacted by JCM Management Company and how difficult it is for kids to keep cool during hot days with the pool being closed. He suggested that the Fire Department schedule something creative on hot days for the children with flushing hydrants at Osprey Landing and other neighborhoods.

3. Cooling Stations

Mayor Becksted suggested that City Manager Conard, Fire Chief Germain and Police Chief Merner work on opening cooling stations when needed and allow social distancing.

### XIII. CITY COUNCIL MEMBERS

#### A. ASSISTANT MAYOR SPLAINE

1. Face Coverings or Masks

**Assistant Mayor Splaine moved that the City Council respectfully advises residents and visitors to wear face coverings or masks when the social-distancing guideline of six feet or more recommended by the Centers for Disease Control is not possible. To protect their employees and customers, the City Council also respectfully urges all businesses to advise people entering their buildings to wear face coverings or masks as much as is practical when social-distancing guidelines are not possible. that the City Council respectfully advises residents and visitors to wear face coverings or masks when the social-distancing guideline of six feet or more recommended by the Centers for Disease Control is not possible. To protect their employees and customers, the City Council also respectfully urges all businesses to advise people entering their buildings to wear face coverings or masks as much as is practical when social-distancing guidelines are not possible. Seconded by Councilor Lazenby.**

Assistant Mayor Splaine said we all want to see us return to normal. He stated we don't want to see numbers rise and officials indicate the numbers have gone down because we have been separating. He spoke to the importance of wearing masks. He said he understands that we have the message board signs but we need a formal position from the City Council advising people and businesses to wear masks.

Councilor Kennedy said we received many emails on this matter and it was clear in her conversations that people do not have a problem wearing masks inside public places.

Councilor McEachern said he heard the same as Councilor Kennedy, there is a broad consensus to support indoor mask wearing.

City Manager Conard read the Governors orders on wearing masks and enforcement.

City Attorney Sullivan spoke to our authority on this matter and that the Attorney General has indicated a private business is free to restrict customers as long as it does not deal with race or religion, etc.

Discussion between the City Council continued on the wearing of masks and social distancing which included those individuals that cannot wear a mask due to medical issues.

Councilor Huda said she hesitates because the City Council is taking on more than an advisory method on this matter.

Councilor Lazenby said he appreciates Assistant Mayor Splaine bringing the topic up. He said he would like to see more teeth in the motion. He stated the emails are balanced with their views for and against but there will be more variables. He said there has been a major impact on the economy and businesses would benefit from clarification from the City on this matter. He indicated he likes the ordinance that the City of Nashua has.

Mayor Becksted said it will become confusing for the Health Officer. He spoke to not requiring a mandate because you will have people test this and he would like to continue with the sign boards.

**On a roll call vote 7-2, motion passed. Assistant Mayor Splaine, Councilors McEachern, Whelan, Lazenby, Kennedy, Tabor and Trace voted in favor. Councilor Huda and Mayor Becksted voted opposed.**

## **B. COUNCILOR WHELAN**

### **1. Update on Islington Street Construction Project**

Councilor Whelan spoke regarding the bump out near White Heron which was voted on by the City Council. He said it was signed off by Parking, Traffic & Safety, and the Police Department.

City Manager Conard said that Parking, Traffic & Safety would revisit this matter.

**Councilor Kennedy moved to refer the Islington Street bump out to Parking, Traffic & Safety for report back to the City Council.**

Councilor McEachern said he would like to know if the White Heron was looking to put out tables and chairs.

Councilor Whelan said this matter was voted on before COVID-19.

**On a roll call vote 8-1, motion passed. Assistant Mayor Splaine, Councilors Whelan, Lazenby, Kennedy, Huda, Tabor, Trace and Mayor Becksted voted in favor. Councilor McEachern voted opposed.**

**C. COUNCILOR McEACHERN**

1. Report Back on Recreation Board

Councilor McEachern said the Recreation Board meeting was well attended and discussion was held regarding guidelines for youth sports and the guidelines by the Governor. He stated the board was impressed by Kathe Lynch and the guidelines for Little League. He also stated the pool was discussed and that issue may come back to the City Council which would require a budget conversation. He said that Recreation Director Wilson is being asked to trim a great deal of money and opening the pool would be a good recommendation. Discussion followed on ideas for opening the indoor pool and reopening summer activities.

Mayor Becksted said a lengthy discussion was held on the infill for the fields.

2. Outdoor Sidewalk Café License Efficiency

Councilor McEachern spoke with the owner of La Carreta who has gone through the licensing process and receive approval and is now waiting for the approval by the City Council.

**Councilor McEachern moved to grant the City Manager temporary authority to approve Area Service Agreements and Café License approvals through Columbus Day. Seconded by Councilor Lazenby.**

City Attorney Sullivan said the City Council adopted a policy for an agreement to be reviewed by staff. He said the process involves looking at the private use of sidewalks and insurance requirements for approval by the City Council. He said the area of La Carreta is partial on their own property and city property as well.

Councilor McEachern removed the motion. He asked if we could meet to decide the issue, expedite the matter or call a special meeting to approve the licenses.

Mayor Becksted expressed concern with the City Council not having a say on these permits because there is no way the Council could meet once a week on these requests.

Councilor Huda said she would like to see the licenses pass with approval from the boards. She said a temporary license could be granted until the City Council can meet on these requests.

Councilor McEachern asked if that was a friendly amendment.

*Councilor McEachern moved to grant the City Manager authority for the approval of Site Area Agreements until the next City Council meeting. No second received.*

City Manager Conard said it does not seem right to give her the power and then for the City Council to take away the power.

Councilor Lazenby said he trusts the City Manager and staff and supports the main motion.

Assistant Mayor Splaine said it makes sense to stick with the original motion.

Councilor Trace said she supports the motion and would like to see it take effect tomorrow.

Councilor McEachern restated his motion to grant City Manager temporary authority to approve Area Service Agreements and Café License approvals through Columbus Day.

**On a roll call vote 8-1, motion passed. Assistant Mayor Splaine, Councilors McEachern, Whelan, Lazenby, Kennedy, Tabor, Trace and Mayor Becksted voted in favor. Councilor Huda voted opposed.**

At 10:12 p.m., Mayor Becksted declared a brief recess. At 10:24 p.m., Mayor Becksted called the meeting back to order.

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

1. Acceptance of Community Development Block Grant - \$533,053.00

City Manager Conard said before the Council is the annual request for CDBG of \$533,053.00 which will become available in FY21. She said these funds are not related to COVID-19.

**Councilor Lazenby moved to accept and expend a Community Development Block Grant in the amount of \$533,053.00 from the U.S. Department of Housing and Urban Development. Seconded by Councilor McEachern.**

**On a unanimous roll call vote 9-0, motion passed.**

#### **XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION**

##### **A. CITY MANAGER CONARD**

1. Sidewalk Café License Approvals
  - La Carreta – 172 Hanover Street
  - Tuscan Kitchen – 14 Market Square

Councilor Kennedy pulled all items out of the Consent Agenda under the City Manager for separate actions by the City Council.

- La Carreta – 172 Hanover Street

City Manager Conard said that staff has reviewed the request and recommended approval of the application and reported the seating would be placed at the Vaughan Mall.

**Councilor McEachern moved to authorize the City Manager to enter into an Area Service Agreement with La Carreta for outdoor alcohol service on City Land for the 2020 season subject to City Council Policy No. 2012-02, and further subject to all Governor's orders relating to the COVID-19 pandemic. Seconded by Councilor Lazenby.**

**On a unanimous roll call vote 9-0, motion passed.**

- Tuscan Kitchen – 14 Market Square

**Councilor Lazenby moved to authorize the City Manager to enter into an Area Service Agreement with Tuscan Kitchen for outdoor alcohol service on City land for the 2020 season subject to City Council Policy No. 2012-02, and further subject to all Governor's orders relating to the COVID-19 pandemic. Seconded by Councilor McEachern.**

Mayor Becksted said he feels this is a big ask because visitors will not be able to use the space due to the need for a fence with the serving of alcohol. He said this would take away the character and open space which would change the entire downtown area.

Councilors Kennedy and Trace said they agree with Mayor Becksted and expressed concerns. They each spoke to this being the center of the City and anyone can sit there. She said that this would take away from public space for this one restaurant. She asked the City Attorney if this is granted to put up a fence does that mean that they have a foot in the door for outdoor seating next year. City Attorney Sullivan said that this is a policy issue for the City Council.

Councilor McEachern said he is in favor of creating more open space downtown. He said we want to support businesses during this time and this enables a business to continue to operate.

Councilor Huda said she agrees with Mayor Becksted and Councilors Kennedy and Trace. She said installing a fence changes everything for her and she would not support the motion.

Discussion followed among the City Council as to whether to grant authority and help this business during these times or deny the request due to the issue of a fence and that whether the seating would be allowed only to patrons or to the public as well.

Councilor McEachern said we need to act in the best interest of the businesses and downtown.

Assistant Mayor Splaine stated we are at a tough point and are losing jobs. He stated we know what has happened to other businesses and we need to make sure the businesses can come back for the next few months.

**On a roll call vote 4-5, motion failed. Assistant Mayor Splaine, Councilor McEachern, Lazenby, Tabor vote in favor. Councilors Whelan, Kennedy, Huda, Trace and Mayor Becksted voted opposed.**



## 2. Establish June 8<sup>th</sup> Budget Work Session

City Manager Conard requested to establish a Budget Work Session on June 8<sup>th</sup>.

**Councilor Tabor moved that the City Council schedule a Budget Work Session on June 8, 2020. Seconded by Councilor Lazenby.**

Assistant Mayor Splaine said we need this work session to look further at line items and at the numbers at the end of June.

Mayor Becksted said we would do this work session and on June 15<sup>th</sup> we could look to adopt the budget but it could go further out in time if needed.

**On a unanimous roll call vote 9-0, motion passed.**

## 3. Summary and Analysis of Bids for the Multi-Purpose Recreation Fields and Stormwater Treatment Project

City Manager said this was a report back not to reopen the issue as the City Council has acted on this matter.

Discussion by the City Council was held regarding a safe shell alternative for the Multi-Purpose Athletic Fields and Regional Stormwater Treatment Project.

Mayor Becksted said he is not sure we would get another chance for an artificial turf field. He stated we need to be smart with the money we have expended \$500,000.00 on consultants to get to this place.

Public Works Director Rice said we have gone to great lengths to make sure this is a safe shelled for crumb rubber has been deemed a safe product.

Councilor Tabor said we could use the money saved by not using safe shell for a score board. Public Works Director Rice said money would go towards the lighting but not pay the entire costs. He said we do not have enough budget to cover it all.

Assistant Mayor Splaine said natural fields are not an experimental product however, we do not know how safe an artificial turf would be for our children.

Councilor McEachern said we are waiting on the Recreation Board. He stated he is not opposed to crumb rubber but it does not have the same characteristics and there is a performance difference and it will come at a cost. He stated this is a good alternative and the Recreation Board recommended both and he wants to see the fields built.

Councilor Huda said she agrees with Assistant Mayor Splaine and wants to be clear on what we are voting on. She asked are we voting on the use of crumb rubber or safe shell.

Councilor Lazenby asked Public Works Director Rice if natural use has been tested not to contain PFAS. Public Works Director Rice said specifications required that it be PFAS free.

Discussion followed on the process to replace the field when it comes to its end of life and what will be done with the old materials.

**Councilor Tabor moved to proceed forward with safe shell alternative for the Multi-Purpose Athletic Field and Regional Stormwater Treatment Project. Seconded by Councilor Trace.**

Assistant Mayor Splaine said he would like to explore and use a natural field.

**Assistant Mayor Splaine move to delay action on this for 30 days and allow for a natural field. Seconded by Councilor Huda.**

Councilor McEachern said he learned a lot about the product safe shell and supports moving that forward. He said he knows what a lack of action is for our children. He stated we need to move forward on this matter.

Assistant Mayor Splaine withdrew his motion and Councilor Huda withdrew her second.

**On a unanimous roll call vote 9-0, motion passed.**

## **XVI. CONSENT AGENDA**

- A. Letter from Jay Diener, Seacoast Half Marathon, requesting to hold the 15<sup>th</sup> annual Seacoast Half Marathon on Sunday, November 8, 2020 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Letter from Thomas Haslam, St. John's Lodge #1 requesting permission to hold the annual St. John's Sunday Parade on Sunday, June 21, 2020 ***(Anticipated action – move to refer to the City Manager with Authority to Act)***

**Councilor Tabor moved to adopt the Consent Agenda. Seconded by Councilor McEachern.**

**On a unanimous roll call vote 9-0, motion passed.**

## **XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS**

- B. Email Correspondence

**Councilor Lazenby moved to accept and place on file.**

**On a unanimous roll call vote 9-0, motion passed.**

- C. Letter from Tom Morgan regarding Floodplain Overlay Zone adopted on December 16, 2019

Councilor Trace said she read Mr. Morgan's letter and the value of his home would be affected because someone did not send out letters in a timely manner. She asked the City Attorney what would be the recourse in a similar position if the owner did not know about the change in floodplain. City Attorney Sullivan said the recourse is with the City Council.

City Manager Conard said 10 opportunities were provided for the public to speak back in 2019 with other meetings as well as public informational sessions. She stated she would provide a report back at the next meeting.

Councilor Kennedy said there was no information and would like a report back on how we would inform residents. She stated that the federal government has not taken action and she would like to see letters sent to home owners on this matter.

Councilor Trace said they used 2015 federal maps and not an updated version. She has many questions on the process used and feels it is flawed.

Mayor Becksted said he would also like to look back at this matter and review the ordinance again.

- D. Letter from Marc Stettner regarding Designated Motorcycle Moped Parking Area

**Councilor Lazenby moved to accept and place the letter on file. Seconded by Councilor Whelan.**

**On a unanimous roll call vote 9-0, motion passed.**

## **XVIII. CITY MANAGER'S INFORMATIONAL ITEMS**

1. Update from the Public Realm Venues Work Group

City Manager Conard said this recommendation is something the City Council could act on.

Councilor McEachern said he would like to adopt some of the suggestions now and does not appear to offer any relief on Pleasant Street. He said if a business would like to ask to have seating in a parking spot or modifications to the street it would go to the Citizen Response Task Force and come back to the City Council.

Planning Director Walker said that this was developed looking at other communities and professional organizations in our back ground. She said there are some proposals that could work.

Assistant Mayor Splaine would like a letter sent by the City Manager and Mayor Becksted to all Task Force members to schedule a meeting at the beginning of next week.

Councilor McEachern said the areas considered for closure would be:

- Closure of a portion of Ceres Street
- Closure of one side of Pleasant Street between Court Street and State Street and convert to one-way traffic only
- All or partial closure of portions of Market Street and Congress Street
- Closure of the public parking lot at the corner of Hanover Street and Market Street

Councilor McEachern would like action on this by the June 15<sup>th</sup> City Council meeting.

Councilor Lazenby said he would like to see the Task Force come forward with a policy for consideration at the June 15<sup>th</sup> City Council meeting.

Councilor Huda asked staff if there are any of these that you would recommend to the Task Force. Planning Director Walker said she does not know if there was one proposal that was better than the other.

Fire Chief Germain said staff wants to leave this to the Task Force and make sure there are safe roads.

2. Report Back from Planning Board on Impact Fees

City Manager Conard reported that the fees were proposed by Councilor Kennedy.

Councilor Kennedy said she would like to hold off on discussing these fees until Councilor Huda and Councilor Tabor can report back on behalf of the Fee Committee.

**Councilor Kennedy moved to refer Impact Fees to the Fee Committee for report back. Seconded by Councilor Huda.**

**On a unanimous roll call vote 9-0, motion passed.**

3. Report Back on Little League and Summer Recreation.

City Manager Conard outlined the Governor's rules on this matter.

4. Household Hazardous Waste Day

City Manager Conard announced that Household Hazardous Waste Day will be held on June 6<sup>th</sup>.

**XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING**

Councilor Tabor requested City Manager Conard to provide a revenue update at the June 8, 2020 Budget Review Work Session.

City Manager Conard stated a more in-depth review would be provided. She reported that we will meet revenue estimates with an increase of 2% excluding property taxes.

The topic of resident engagement by the Police Department was discussed.

Mayor Becksted requested City Manager Conard report back on money that was saved in the fourth quarter for all departments and whether money was spent and what was it spent on.

**XX. ADJOURNMENT**

**At 12:15 a.m., Councilor Lazenby moved to adjourn. Seconded by Councilor Kennedy.**

**On a unanimous roll call vote 9-0, motion passed.**

A handwritten signature in black ink that reads "Kelli L. Barnaby". The signature is written in a cursive, flowing style.

KELLI L. BARNABY, MMC/CNHMC  
CITY CLERK

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, December 21, 2020 at 7:00 p.m., at the Portsmouth Municipal Complex in the Eileen Dondero Foley Council Chambers, Portsmouth, NH, on the proposed Ordinance amending Chapter 10, Article 6 – Overlay Districts – Flood Plain Overlay District Zoning Map. Due to the current State of Emergency related to COVID-19, the public hearing on December 21, 2020 will be conducted remotely via zoom conference call. Details regarding how to access the zoom meeting will be published on the Agenda.

KELLI L. BARNABY, MMC/CNHMC  
CITY CLERK

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, December 21, 2020 at 7:00 p.m., at the Portsmouth Municipal Complex in the Eileen Dondero Foley Council Chambers, Portsmouth, NH, on the proposed Ordinance amending Chapter 10, Article 6 – Overlay Districts – Flood Plain Overlay District Zoning Map. Due to the current State of Emergency related to COVID-19, the public hearing on December 21, 2020 will be conducted remotely via zoom conference call. Details regarding how to access the zoom meeting will be published on the Agenda.

KELLI L. BARNABY, MMC/CNHMC  
CITY CLERK

PM-0062556

**Proposed Zoning Ordinance Amendments  
Flood Plain District**

THE CITY OF PORTSMOUTH ORDAINS

That the Ordinances of the City of Portsmouth, Chapter 10 — Zoning Ordinance, Article 6 – Overlay Districts, be amended as follows (deletions from existing language ~~stricken~~; additions to existing language **bolded**; remaining language unchanged from existing):

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A. In Section 10.613.10 (a), update the study and map reference dates by deleting ~~May 17, 2005~~ and adding **January 29, 2021**.

---

B. In Section 10.622.20 – Terms Defined for the Flood Plain District, revise the definition of New Construction as follows:

**New construction**

**A structure for which the start of construction commenced on or after the effective date of this flood plain management regulation and includes any subsequent improvements to such structure. ~~A structure for which the start of construction commenced on or after the January 1, 2020 and includes any subsequent improvements to such structure.~~**

---

G. In Section 10.628 – Construction Standards in Special Flood Hazard Areas amend paragraph 10.628.10 as follows:

10.628.10 In Zones A and AE, any new construction or substantial improvement shall **be reasonably safe from flooding and:**

---



# Federal Emergency Management Agency

Washington, D.C. 20472

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

IN REPLY REFER TO:  
115-I

July 29, 2020

The Honorable Rick Becksted  
Mayor, City of Portsmouth  
City of Portsmouth  
City Hall  
1 Junkins Avenue  
Portsmouth, New Hampshire 03801

Community: City of Portsmouth,  
Rockingham County,  
New Hampshire  
Community No.: 330139  
Map Panels Affected: See FIRM Index

Dear Mayor Becksted:

On August 19, 2014, you were notified of proposed modified flood hazard determinations affecting the Flood Insurance Rate Map (FIRM) and Flood Insurance Study (FIS) report for Rockingham County, New Hampshire (All Jurisdictions). The statutory 90-day appeal period that was initiated on September 2, 2014, when the Department of Homeland Security's Federal Emergency Management Agency (FEMA) published a notice of the proposed flood hazard determinations for your community in the *Portsmouth Herald* and *Foster's Daily Democrat*, has elapsed.

FEMA received no valid requests for changes in the proposed flood hazard determinations. Therefore, the determination of the Agency as to the flood hazard information for your community is considered final. FEMA will publish a notice of final flood hazard determinations in the *Federal Register* as soon as possible. The modified flood hazard information and revised map panels for your community will be effective as of January 29, 2021, and will revise the FIRM that was in effect prior to that date. For insurance rating purposes, the community number and new suffix code for the panels being revised are indicated above and on the maps and must be used for all new policies and renewals. Final printed copies of the report and maps will be mailed to you before the effective date.

The modifications are pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Public Law 93-234) and are in accordance with the National Flood Insurance Act of 1968, as amended (Title XIII of the Housing and Urban Development Act of 1968, Public Law 90-448), 42 U.S.C. 4001-4128, and 44 CFR Part 65. Because of the modifications to the FIRM and FIS report for your community made by this map revision, certain additional requirements must be met under Section 1361 of the 1968 Act, as amended, within 6 months from the date of this letter. Prior to January 29, 2021, your community is required, as a condition of continued eligibility in the National Flood Insurance Program (NFIP), to adopt or show evidence of adoption of floodplain management regulations that meet the standards of Paragraph 60.3(c) of the NFIP regulations. These standards are the minimum requirements and do not supersede any State or local requirements of a more stringent nature.

It must be emphasized that all the standards specified in Paragraph 60.3(c) of the NFIP regulations must be enacted in a legally enforceable document. This includes the adoption of the effective FIRM and FIS report to which the regulations apply and the modifications made by this map revision. Some of the standards should already have been enacted by your community. Any additional requirements can be met by taking one of the following actions:

1. Amending existing regulations to incorporate any additional requirements of Paragraph 60.3(c);



2. Adopting all the standards of Paragraph 60.3(c) into one new, comprehensive set of regulations;  
or
3. Showing evidence that regulations have previously been adopted that meet or exceed the minimum requirements of Paragraph 60.3(c).

Communities that fail to enact the necessary floodplain management regulations will be suspended from participation in the NFIP and subject to the prohibitions contained in Section 202(a) of the 1973 Act as amended.

A Consultation Coordination Officer (CCO) has been designated to assist your community with any difficulties you may be encountering in enacting the floodplain management regulations. The CCO will be the primary liaison between your community and FEMA. For information about your CCO, please contact:

Kerry Bogdan  
Chief, Risk Analysis Branch  
Federal Emergency Management Agency  
99 High Street, 6th Floor  
Boston, Massachusetts 02110  
(617) 956-7576

To assist your community in maintaining the FIRM, we have enclosed a Summary of Map Actions (SOMA) to document previous Letter of Map Change (LOMC) actions (i.e., Letters of Map Amendment [LOMAs], Letters of Map Revision [LOMRs]) that will be superseded when the revised FIRM panels referenced above become effective. Information on LOMCs is presented in the following four categories: (1) LOMCs for which results have been included on the revised FIRM panels; (2) LOMCs for which results could not be shown on the revised FIRM panels because of scale limitations or because the LOMC issued had determined that the lots or structures involved were outside the Special Flood Hazard Area as shown on the FIRM; (3) LOMCs for which results have not been included on the revised FIRM panels because the flood hazard information on which the original determinations were based are being superseded by new flood hazard information; and (4) LOMCs issued for multiple lots or structures where the determination for one or more of the lots or structures cannot be revalidated through an administrative process like the LOMCs in Category 2 above. LOMCs in Category 2 will be revalidated through a single letter that reaffirms the validity of a previously issued LOMC; the letter will be sent to your community shortly before the effective date of the revised FIRM and will become effective 1 day after the revised FIRM becomes effective. For the LOMCs listed in Category 4, we will review the data previously submitted for the LOMA or LOMR request and issue a new determination for the affected properties after the revised FIRM becomes effective.

The FIRM panels have been computer-generated. Once the FIRM and FIS report are printed and distributed, the digital files containing the flood hazard data for the entire county can be provided to your community for use in a computer mapping system. These files can be used in conjunction with other thematic data for floodplain management purposes, insurance purchase and rating requirements, and many other planning applications. Copies of the digital files or paper copies of the FIRM panels may be obtained by calling our FEMA Mapping and Insurance eXchange (FMIX), toll free, at 1-877 FEMA MAP (1-877-336-2627). In addition, your community may be eligible for additional credits under our Community Rating System if you implement your activities using digital mapping files.

If you have any questions regarding the necessary floodplain management measures for your community or the NFIP in general, we urge you to call the Director, Mitigation Division of FEMA in Boston, Massachusetts at (617) 956-7506 for assistance. If you have any questions concerning mapping issues in general or the enclosed SOMA, please call our FMIX at the toll free number shown above. If you have any questions concerning mapping issues in general, please call our FMIX at the toll free number shown above. Additional information and resources your community may find helpful regarding the NFIP and floodplain management, such as *The National Flood Insurance Program Code of Federal Regulations*, *Answers to Questions About the National Flood Insurance Program*, *Frequently Asked Questions Regarding the Effects that Revised Flood Hazards have on Existing Structures*, *Use of Flood Insurance Study (FIS) Data as Available Data*, and *National Flood Insurance Program Elevation Certificate and Instructions*, can be found on our website at <https://www.floodmaps.fema.gov/lfd>. Paper copies of these documents may also be obtained by calling our FMIX.

Sincerely,



Luis Rodriguez, P.E., Director  
Engineering and Modeling Division  
Federal Insurance and Mitigation Administration

Enclosure:

Final SOMA

cc: Community Map Repository  
Robert Marsilia, Building Inspector, City of Portsmouth  
Juliet Walker, Planning Director, City of Portsmouth  
Karen S. Conrad, City Manager, City of Portsmouth  
Peter Britz, Environmental Planner, City of Portsmouth  
Kerry Bogdan, Chief, Risk Analysis Branch, FEMA Region I  
Alex Sirotek, Regional Service Center, Compass Region I  
Jennifer Gilbert, ANFI, CFM, NFIP State Coordinator, New Hampshire Office of Strategic Initiatives

## Juliet T.H. Walker

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**From:** Gilbert, Jennifer <jennifer.r.gilbert@osi.nh.gov>  
**Sent:** Friday, September 25, 2020 8:38 AM  
**To:** Juliet T.H. Walker; Peter L Britz; Karen Conard  
**Cc:** Robert T. Marsilia  
**Subject:** Portsmouth FEMA Map Adoption and Ordinance Amendments Request  
**Attachments:** Portsmouth Floodplain Ordinance Amendments.docx; Portsmouth Subdivision and Site Plan Review Regulations.docx

Dear City of Portsmouth Officials,

I am following up on our past emails regarding the new Rockingham County FEMA Flood Insurance Rate Maps (FIRMs) and Flood Insurance Study (FIS) that will become **effective on January 29, 2021**. The new FIRMs and FIS are available now through FEMA's Map Service Center ([msc.fema.gov](https://msc.fema.gov)) under the Pending Products section. FEMA will also be sending you a hard copy set closer to the effective date.

It is very important for your municipality to review, understand, and implement the below required tasks to remain in good standing in FEMA's National Flood Insurance Program (NFIP). As the NFIP Coordinating Office for New Hampshire, the Floodplain Management Program staff at the NH Office of Strategic Initiatives (NHOSI) is available to assist your municipality and answer questions regarding this process and the new FIRMS and FIS.

As part of the FEMA's mapping process, all NFIP communities must have compliant floodplain regulations and must adopt the new FIRMs and FIS prior to them becoming effective. I have detailed below what your municipality must do to have compliant regulations and what must be done to adopt the new FIRMs and FIS **no later than two weeks before January 29, 2021**. Once NHOSI staff receives the municipality's required documentation, we will review and submit it to FEMA for their review and approval.

### City Council Amendments including Map Adoption Needed to Floodplain Ordinance

I have attached the amendments that are requested to be made to the floodplain regulations in the municipality's zoning ordinance, which includes adoption of the new FIRMs and FIS. These amendments must be completed and submitted **no later than two weeks before January 29, 2021**.

- Following adoption, please submit as soon as possible a certified copy of the amended floodplain ordinance to my attention.

### Planning Board Amendments to Subdivision and Site Plan Review Regulations

- I have attached the amendments that are being requested for the Planning Board to adopt in the municipality's site plan review regulations to be compliant and suggested changes to the subdivision regulations.
- Please adopt and revise these regulations and send a certified copy of the applicable sections of these regulations to my attention **no later than two weeks before January 29, 2021**.

Please let me know by email ([jennifer.gilbert@osi.nh.gov](mailto:jennifer.gilbert@osi.nh.gov)) or phone (603-271-1762) if you have any questions or need any assistance. I will be checking in periodically to check on your community's progress in meeting these deadlines.

### Upcoming Webinar Series

- As a reminder, NHOSI will be holding the first webinar of a four-part series for community officials **next Tuesday, September 29, 2020 from 10 to 11:30 am** called *Flood Maps are Changing: What That Means for your Community*. Your community was contacted by Samara Ebinger of my office via email on September 9<sup>th</sup> with details about the series.

- During the first webinar, we will be discussing the map adoption process I outline above, and other topics related to the changing maps.

Sincerely,

Jennifer

**Jennifer Gilbert**

Senior Planner | Floodplain Management Program Coordinator  
New Hampshire Office of Strategic Initiatives (OSI) – Division of Planning  
107 Pleasant Street, Johnson Hall, 3rd Floor, Concord, NH 03301  
Main - 603-271-2155 | Direct - 603-271-1762 | [jennifer.gilbert@osi.nh.gov](mailto:jennifer.gilbert@osi.nh.gov)  
[www.nh.gov/osi/planning/](http://www.nh.gov/osi/planning/)

## Amendments needed to Portsmouth's Floodplain Management Regulations

### 10.613 Overlay District Locations

10.613.10 The Flood Plain District (FP) consists of:

(a) all lands designated as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its "Flood Insurance Study for the County of Rockingham County, NH" dated January 29, 2021 May 17, 2005 or as amended, together with associated Flood Insurance Rate Maps (FIRM) dated January 29, 2021 May 17, 2005 or as amended, which are declared to be part of this Ordinance and are hereby incorporated by reference; and

### 10.622.20 Terms Defined for the Flood Plain District

#### New construction

~~A structure for which the start of construction commenced on or after the January 1, 2020 and includes any subsequent improvements to such structure.~~

A structure for which the start of construction commenced on or after the effective date of this flood plain management regulation and includes any subsequent improvements to such structure. Improvements and repairs of these structures, regardless of the nature or value of the work, must not be allowed to alter any aspect that was originally required for compliance with the floodplain management requirements.

**Commented [GJ1]:** The first sentence of this definition is what is required to be included in the ordinance. The second sentence adds additional clarity to the subsequent improvements reference. Please let me know if this second sentence helps address the City's original concerns.

### 10.628 Construction Standards in Special Flood Hazard Areas and Extended Flood Hazard Areas

10.628.10 In Zones A and AE, any new construction or substantial improvement shall be reasonably safe from flooding and:

(a) be designed (or modified) and adequately anchored to prevent floatation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;

**FLOODPLAIN NOTICE  
PORTSMOUTH PLANNING DEPARTMENT  
PORTSMOUTH, NEW HAMPSHIRE**

**FLOODPLAIN PROPERTY OWNER:**

«Owner\_Name»  
«Owner\_Name\_2»  
«Owner\_Address»  
«City», «State» «Zip»

**NOTICE IS HEREBY GIVEN** that the Planning Board and City Council will be holding public hearings on zoning amendments related to the adoption of the updated Federal Emergency Management Agency (FEMA) flood maps, which become effective on January 29, 2021. As the owner of property that is either entirely or partially within the City’s Floodplain District, you are hereby notified that these amendments will apply to properties located in the Floodplain District and are required by FEMA to keep the City in compliance with the National Flood Insurance Program. This program requires that the City maintain an up-to-date floodplain ordinance to ensure that federal flood insurance policy holders are covered in the event of a flood.

The **Planning Board public hearing** on the Zoning Amendments is scheduled for **November 19, 2020**, starting at **7:00pm** via Zoom Conference Call. The City Council public hearing is tentatively scheduled for December 7, 2020, but will be confirmed in November. Due to the current state of emergency related to COVID-19, the public hearings will be available via the Zoom platform. Provisions will be available for members of the public to participate in the meeting by telephone and/or video conference. You are required to register to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. Registration information will be provided on the meeting agenda when it is posted to the meeting web page <https://www.cityofportsmouth.com/planportsmouth/events/planning-board-meeting-37>. For technical assistance, please contact the Planning Department by email ([planning@cityofportsmouth.com](mailto:planning@cityofportsmouth.com)) or phone (603) 610-7216.

The proposed Zoning Ordinance amendments required by FEMA are summarized below. The City’s entire Zoning Ordinance can be viewed online at [www.cityofportsmouth.com/planportsmouth/land-use-and-zoning-regulations#zoning](http://www.cityofportsmouth.com/planportsmouth/land-use-and-zoning-regulations#zoning). Refer to Section 10.620 Floodplain District.

- A. In Section 10.613.10 (a), update the study and map reference dates by deleting May 17, 2005 and adding January 29, 2021.
- B. In Section 10.622.20 – “Terms Defined for the Flood Plain District”, delete the current definition of New Construction and update as follows:

**New construction**

*A structure for which the start of construction commenced on or after the effective date of this flood plain management regulation and includes any subsequent improvements to such structure.*

- C. In Section 10.628 – Construction Standards in Special Flood Hazard Areas amend paragraph 10.628.10 as follows by adding the text shown in italics below:

10.628.10 In Zones A and AE, any new construction or substantial improvement *shall be reasonably safe from flooding...*

**Additional information related to the FEMA flood maps.**

The FEMA flood maps are updated periodically to show a more accurate picture of flood risk. The maps, based on new flood hazard analyses and better topographic data, are important tools that can help protect lives and properties in our community.

If you are receiving this notice, your property *may* be located in a high-risk flood zone (i.e., a flood zone that starts with the letter “A”) on the new maps. We recommend that you review the pending maps to confirm if any insurable building(s) for your property are located in one of these zones using the NH Flood Hazards Viewer (<http://bit.ly/368IBfJ>).

If you have a Federally-backed mortgage or loan and your home or business (or other insurable building) is within the high-risk flood zone, then by Federal law, your lender must require you to carry flood insurance when the new maps become effective. Your lender will officially make the determination of your property’s flood insurance requirement.

There may be cost-saving options available for insurance, some of which may need to be in place before the maps become effective. We highly encourage you to contact your insurance agent at your earliest convenience to learn about your flood insurance options. Be advised that most standard homeowner’s insurance policies do not include coverage for damage due to flooding.

Even if you do not have a mortgage, or if you are a renter, the purchase of flood insurance is still highly recommended. Keep in mind that just 1 inch of floodwater in a home can cause as much as \$25,000 in damage. Visit [www.floodsmart.gov](http://www.floodsmart.gov) to learn more.

If a Letter of Map Amendment (LOMA) was previously issued for your property that removed it from a high-risk flood zone, it may or may not be valid after January 29, 2021. FEMA has re-evaluated each LOMA in the area to determine if it will remain in effect. Property owners with LOMAs are highly encouraged to read FEMA’s fact sheet about this process (<https://rb.gy/v56bl0>) for other important information. Additional information about the Portsmouth map amendments is also available on the City’s web page -- <https://www.cityofportsmouth.com/planportsmouth/floodplain-regulations>.

For general questions about FEMA flood maps, flood insurance, and LOMA revalidation, please contact the FEMA Mapping and Insurance eXchange helpline at 1-877-336-2627 or by e-mail at [FEMAMapSpecialist@riskmapcds.com](mailto:FEMAMapSpecialist@riskmapcds.com). For questions about flood insurance and specific options available for your property, please contact your local insurance agent.

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 7, Article III, Section 7.330 - **NO PARKING** 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 III: TRAFFIC ORDINANCE**

**Section 7.330: NO PARKING**

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

18. Chase Drive: : **northerly side, from Michael Succi Drive to a point 30 feet** ~~on either side west~~ of the driveway located at 355 Chase Drive.

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:

\_\_\_\_\_  
Rick Becksted, Mayor

ADOPTED BY COUNCIL:

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



CUTTS AVE

BRIGHAM LN

Section 7.330: NO PARKING

18. Chase Drive:  
northerly side, from Michael Succi Drive to a point 30 feet  
~~on either side~~ west of the driveway located at 355 Chase Drive.

CHASE DR

MICHAEL SUCCI DR

MARKET ST

MARKET ST

**No Parking  
Portsmouth, New Hampshire**

Map prepared by Portsmouth Department of Public Works, 2 June 2020  
Map document: U:\Projects\0263 Parking Traffic & Safety\Traffic and Parking Ordinance Changes\2020

0 35 70 140 Feet



ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 3, Article IX, **EFFECTIVE DATE** 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 IX: DISTRIBUTION OF SINGLE-USE DISPOSABLES ON CITY PROPERTY**

**EFFECTIVE DATE:**

**This ordinance shall take effect on ~~December 31, 2020~~ December 31, 2022.**

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:**

\_\_\_\_\_  
Mayor Rick Becksted

**ADOPTED BY COUNCIL:**

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

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, December 7, 2020 at 7:00 p.m., at the Portsmouth Municipal Complex in the Eileen Dondero Foley Council Chambers, Portsmouth, NH, on the proposed Ordinance amending Chapter 3, Article IX – Distribution of Single-Use Disposables on City Property - Effective Date: This ordinance shall take effect on December 31, 2022. Due to the current State of Emergency related to COVID-19, the public hearing on December 7, 2020 will be conducted remotely via zoom conference call. Details regarding how to access the zoom meeting will be published on the Agenda.

KELLI L. BARNABY, MMC/CNHMC  
CITY CLERK

LEGAL NOTICE  
NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, December 7, 2020 at 7:00 p.m., at the Portsmouth Municipal Complex in the Eileen Dondero Foley Council Chambers, Portsmouth, NH, on the proposed Ordinance amending Chapter 3, Article IX – Distribution of Single-Use Disposables on City Property - Effective Date: This ordinance shall take effect on December 31, 2022. Due to the current State of Emergency related to COVID-19, the public hearing on December 7, 2020 will be conducted remotely via zoom conference call. Details regarding how to access the zoom meeting will be published on the Agenda.  
KELLI L. BARNABY, MMC/CNHMC  
CITY CLERK

714-0000530

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 3, Article IX, **EFFECTIVE DATE** 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 IX: DISTRIBUTION OF SINGLE-USE DISPOSABLES ON CITY PROPERTY**

**EFFECTIVE DATE:**

**This ordinance shall take effect on ~~December 31, 2020~~ December 31, 2022.**

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:**

\_\_\_\_\_  
Mayor Rick Becksted

**ADOPTED BY COUNCIL:**

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

ORDINANCE # 12-2019

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 IX, Section 3.901 – **DISTRIBUTION OF SINGLE-USE DISPOSABLES ON CITY PROPERTY** which shall read in pertinent part as follows:

CHAPTER 3

PUBLIC HEALTH

**ARTICLE IX: DISTRIBUTION OF SINGLE-USE DISPOSABLES ON CITY PROPERTY**

**3.901: PURPOSE**

The City of Portsmouth recognizes that limiting the distribution of single-use disposables through source reduction is necessary to protect human health, to preserve the natural environment, and to conserve precious and dwindling natural resources through the proper and integrated management of solid waste.

**3.902: DEFINITIONS**

For the purpose of this Section, the following definitions apply:

*Composting Facility*: any solid waste compost facility certified to properly perform that function by the Director of Public Works of the City of Portsmouth.

*Cost Pass-Through*: the cost which must be collected by retailers from their Customers when providing a Single-Use Carryout Bag or a Single-Use Cup.

*Customer*: any Person obtaining goods from a Store.

*Food Service Establishment*: any restaurant, take-out food establishment, or any other business that is required to obtain a valid food service license from the Public Health Department of the City of Portsmouth. Food Service Establishments do not include Nonprofit Food Establishments.

*Medical Facility*: a business or nonprofit that has a primary purpose of providing medical services.

*Nonprofit Charitable Reuser*: a charitable organization 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. To be considered a Nonprofit Charitable Reuser, the entity must meet the terms of section 501(c)(3) of the U.S. Internal Revenue Code (26 U.S.C. 501(c)(3)).

*Nonprofit Food Establishment*: a charitable entity that prepares or serves food directly to the Customer or otherwise provides food or meals for consumption by humans. The term includes central food banks, soup kitchens, and nonprofit food delivery services. To be considered a Nonprofit Food Establishment, the entity must meet the terms of section 501(c)(3) of the U.S. Internal Revenue Code (26 U.S.C. 501(c)(3)).

*Operator:* 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.

*Person:* any natural person, firm, corporation, partnership, or other organization or group however organized.

*Pharmacy:* any Store where prescriptions, medications, controlled or over the counter drugs, personal care products or health supplement goods, or vitamins are sold.

*Prepared Food:* 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:* 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. A Produce Bag is not a form of Single-Use Plastic Bag.

*Retail Establishment:* 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 Food Service Establishments, Nonprofit Charitable Reusers, or Pharmacies.

*Reusable Plastic Bag:* a sewn woven or non-woven nylon, polypropylene, polyethylene-terephthalata, or Tyvek bag capable of being used one hundred (100) times, is machine washable, and has stitched or woven handles that are not fused. A Reusable Plastic Bag is a form of Reusable Bag.

*Reusable Bag:* a bag capable of being used one hundred (100) times, is machine washable, and has stitched or woven handles that are not fused. Usable Bags include Reusable Plastic Bags.

*Single-Use Carryout Bag:* a bag made of plastic, paper, or other material that is provided by a Store 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 Store. Single-Use Carryout Bags include Single-Use Plastic Bags and Single-Use Recycled Paper Bags. Single-Use Carryout Bags do not include Produce bags, Reusable Bags, or bags without handles provided to the Customer to hold prescription medication dispensed from a Pharmacy.

*Single-Use Compostable Plastic Container:* a container that is composed of one hundred percent (100%) Polylactic Acid and distributed for the purpose of transporting Prepared Food on a single occasion inside or outside of a Store. A Single-Use Compostable Plastic Container is a form of a Single-Use Plastic Container.

*Single-Use Compostable Plastic Cup:* a cup composed of one hundred percent (100%) Polylactic Acid and is distributed for the purpose of transporting a beverage on a single occasion inside or outside of a Store. A Single-Use Compostable Plastic Cup is a form of a Single-Use Plastic Cup.

*Single-Use Compostable Plastic Straw:* a disposable tube that is composed of one hundred percent (100%) Polylactic Acid and is distributed to transfer a beverage from a cup or container to the mouth of a person drinking the beverage on a single occasion. A Single-Use Compostable Plastic Straw is a form of a Single-Use Plastic Straw.

*Single-Use Container:* a container that is distributed for the purpose of transporting Prepared Food on a single occasion inside or outside of a Store.

*Single-Use Cup:* a cup that is distributed for the purpose of transporting a beverage on a single occasion inside or outside of a Store.

*Single-Use Plastic Bag:* a bag that is made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, and is 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 Store. A Single-Use Plastic Bag is a form of a Single-Use Carryout Bag.

*Single-Use Plastic Container:* a container that is made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, and is distributed for the purpose of transporting Prepared Food on a single occasion inside or outside of a Store. A Single-Use Plastic Container is a form of a Single-Use Container.

*Single-Use Plastic Cup:* a cup that is made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, and is distributed for the purpose of transporting a beverage on a single occasion inside or outside of a Store. A Single-Use Plastic Cup is a form of a Single-Use Cup.

*Single-Use Polystyrene Container:* a container composed of synthetic aromatic hydrocarbon polymers that is made from the monomer styrene and distributed for the purpose of transporting Prepared Food on a single occasion inside or outside of a Store. A Single-Use Polystyrene Container is a form of a Single-Use Container.

*Single-Use Polystyrene Cup:* a cup composed of synthetic aromatic hydrocarbon polymers that is made from the monomer styrene and distributed for the purpose of transporting a beverage on a single occasion inside or outside of a Store. A Single-Use Polystyrene Cup is a form of a Single-Use Cup.

*Single-Use Plastic Straw:* a disposable tube made predominantly of plastic derived from either petroleum or a biologically based polymer, such as corn or other plant sources, that is distributed to transfer a beverage from a cup or container to the mouth of a person drinking the beverage. A Single-Use Plastic Straw is a form of a Single-Use Straw.

*Single-Use Recycled Paper Bag:* 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 Single-Use 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. A Single-Use Recycled Paper Bag is a form of a Single-Use Carryout Bag.

*Single-Use Straw:* a disposable tube that is distributed to transfer a beverage from a cup or container to the mouth of a person drinking the beverage on a single occasion. Single-Use Straws include a straw made from both plastic materials and non-plastic materials such as paper, pasta, sugar cane, wood, or bamboo.

*Store:* any Food Service Establishment, Pharmacy, or Retail Establishment located within the City. Stores do not include Medical Facilities.

3.903 CARRYOUT BAGS

A. Prohibited Carryout Bags:

1. No Store on City property shall provide a Single-Use Carryout 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 Store except as provided in this Section.
2. No Person shall distribute a Single-Use Carryout Bag at any City facility, City-managed concession, City-sponsored event, or City-permitted event unless a Store on City property is also otherwise allowed to in this Section.

B. Permitted Carryout Bags:

1. Stores on City property are allowed to distribute Single-Use Carryout Bags or Reusable Bags to Customers subject to the terms of this Section.
2. All Stores may distribute their remaining 2020 Single-Use Plastic Bag inventory.
3. Nothing in this Section 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.

C. Exemptions:

1. Stores on City property are allowed to distribute only Single-Use 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 Section.
2. Food Service Establishments on City property are allowed to distribute Single-Use Plastic Bags to Customers only 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, subject to the terms of this Section.
3. A Customer shall be charged a minimum of ten cents (\$.10) Cost Pass-Through for each Single-Use Carryout Bag provided by the Store on City property. The sale of each bag shall be separately itemized on the sale receipt. The Cost Pass-Through will remain with the Operator of the Store.
4. A Store on City property 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 Single-Use Carryout Bag or Reusable Bag at no cost.
5. A Store on City property may provide a Customer with (1) Single-Use Recycled Paper Bag 6 inches across or less without handles at no cost.

3.904 DISPOSABLE CUPS

A. Prohibited Disposable Cups:

1. No Store on City property shall provide a Single-Use Plastic Cup to a Customer, at the check stand, cash register, point of sale, or any other location for the purpose of transporting a beverage that will be drank inside or outside of the Store except as provided in this Section.
2. No Store shall provide a Single-Use Polystyrene Cup to a Customer at the check stand, cash register, point of sale, or any other location for the purpose of transporting a beverage that will be drank inside or outside of the Store.



3. No Person shall distribute a Single-Use Plastic Cup or Single-Use Polystyrene Cup at any City facility, City-managed concession, City-sponsored event, or City-permitted event unless a Store on City property is also otherwise allowed to in this Section.

**B. Permitted Disposable Cups:**

1. Stores on City property are allowed to distribute Single-Use Cups to Customers for the purpose of transporting a beverage that will be drank inside or outside of the Store, subject to the terms of this Section.

2. A Customer shall be charged a minimum of a ten cents (\$.10) Cost Pass-Through for each Single-Use Cup provided by the Store on City property. The sale of each Single-Use Cup shall be separately itemized on the sale receipt. The Cost Pass-Through will remain with the Operator of the Store.

3. All Stores may distribute their remaining 2020 Single-Use Cup inventory.

4. Nothing in this Section prohibits Customers from using cups of any type that they would otherwise be allowed to bring to the Store themselves under the Ordinances of the City of Portsmouth in lieu of using cups provided by the Store.

**C. Exemptions:**

1. The only Single-Use Plastic Cups that Stores on City property are allowed to distribute are Single-Use Plastic Compostable Cups if the Store on City property provides customers the option to dispose of the Single-Use Compostable Plastic Cups in a specifically designated composting receptacle that is both on the premise and its contents will be transported to a Composting Facility to be composted.

2. A Store may provide a Customer participating in the Special Supplement Nutrition Program for Women, Infants, and Children (WIC) or the Supplemental Nutrition Assistance Program (SNAP) with one (1) or more Single-Use Cup at no cost.

**3.905 DISPOSABLE CONTAINERS**

**A. Prohibited Disposable Containers:**

1. No Store on City property shall provide a Single-Use Plastic Container to a Customer, at the check stand, cash register, point of sale, or any other location for the purpose of transporting Prepared Food that will be consumed inside or outside of the Store except as provided in this Section.

2. No Store shall provide a Single-Use Polystyrene Container at the check stand, cash register, point of sale, or any other location for the purpose of transporting Prepared Food that will be eaten inside or outside of the Store.

3. No Person shall distribute a Single-Use Plastic Container or a Single-Use Polystyrene Container at any City facility, City-managed concession, City-sponsored event, or City-permitted event unless a Store on City property is also otherwise allowed to in this Section.

**B. Permitted Disposable Containers:**

1. Stores on City property are allowed to distribute Single-Use Containers to Customers for the purpose of transporting Prepared Food that will be eaten inside or outside of the Store, subject to the terms of this Section.

2. All Stores may distribute their remaining 2020 Single-Use Container inventory.

3. Nothing in this Section prohibits Customers from using containers of any type that they would otherwise be allowed to bring under the Ordinances of the City of Portsmouth to the Store themselves in lieu of using containers provided by the Store.

C. Exemptions:

1. The only Single-Use Plastic Containers that Stores on City property are allowed to distribute are Single-Use Plastic Compostable Containers if the Store provides customers the option to dispose of the Single-Use Compostable Plastic Containers in a specifically designated composting receptacle that is both on the premise and its contents will be transported to a Composting Facility to be composted.

**3.906 DISPOSABLE STRAWS**

A. Prohibited Disposable Straws:

1. No Store on City property shall provide a Single-Use Plastic Straw to a customer for the purpose of transferring a beverage from a cup or container to the mouth of a person drinking the beverage on a single occasion inside or outside of the Store, except as provided in this Section.
2. No Person shall distribute a Single-Use Plastic Straw at any City facility, City-managed concession, City-sponsored event, or City-permitted event unless a Store on City property is also otherwise allowed to in this Section.

B. Permitted Disposable Straws:

1. Stores on City property are allowed to distribute Single-Use Straws to Customers for the purpose of transferring a beverage from a cup or container to the mouth of a person drinking the beverage on a single occasion inside or outside of the Store, subject to the terms of this Section.
2. All Stores may distribute their remaining 2020 Single-Use Straw inventory.
3. Nothing in this Section prohibits Customers from using straws of any type that they bring to the Store themselves in lieu of using containers provided by the Store.

C. Exemptions:

1. Stores on City property are only allowed to distribute Single-Use Straws at the explicit request of the customer for the purpose of transferring a beverage from a cup or container to the mouth of a person drinking the beverage on a single occasion inside or outside of the Store.
2. The only Single-Use Plastic Straws that Stores on City property are allowed to distribute are Single-Use Plastic Compostable Straws if the Store provides customers the option to dispose of the Single-Use Compostable Plastic Straws in a specifically designated composting receptacle that is both on the premise and its contents will be transported to a Composting Facility to be composted.

**3.907 PENALTIES AND REMEDIES**

In addition to any other penalty or remedy permissible by law for violation of this Section, the following shall apply:

1. If the City determines that a violation of this Section has occurred, a written warning that includes the potential penalties for future violations will be issued to the Operator.

2. Upon a second or subsequent infraction of this Section, the City is authorized to issue citations to persons, firms, or corporations violating this Section in accordance with the ordinances of the City of Portsmouth. The amount of the fee that will accompany the citation will be determined by the Fee Schedule Study Committee of the City of Portsmouth.
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 Section.

**SEVERABILITY**

Any portion of this ordinance that is found to be void shall be unenforceable without invalidating the remainder of the ordinance.

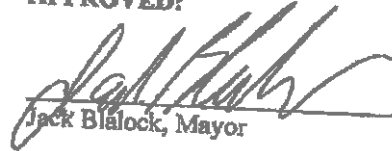
**EFFECTIVE DATE**

This ordinance shall take effect on December 31, 2020.

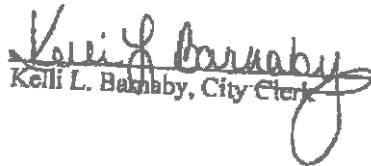
The City Clerk shall properly alphabetize and/or re-number the ordinance as necessary in accordance with this amendment.

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

**APPROVED:**

  
Jack Blalock, Mayor

**ADOPTED BY COUNCIL:  
OCTOBER 7, 2019**

  
Kelli L. Barnaby, City Clerk

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 3, Article X, **EFFECTIVE DATE** 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 X: DISTRIBUTION OF SINGLE-USE DISPOSABLES – CITYWIDE**

**EFFECTIVE DATE:**

**This ordinance shall take effect on ~~December 31, 2020~~ December 31, 2022.**

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:**

\_\_\_\_\_  
Mayor Rick Becksted

**ADOPTED BY COUNCIL:**

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

**ORDINANCE # 13-2019**

**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 X, Section 3.1001 – **DISTRIBUTION OF SINGLE-USE DISPOSABLES -CITYWIDE** which shall read in pertinent part as follows:

**CHAPTER 3**

**PUBLIC HEALTH**

**ARTICLE X: DISTRIBUTION OF SINGLE-USE DISPOSABLES - CITYWIDE**

**3.1001: PURPOSE**

The City of Portsmouth recognizes that limiting the distribution of single-use disposables through source reduction is necessary to protect human health, to preserve the natural environment, and to conserve precious and dwindling natural resources through the proper and integrated management of solid waste.

**3.1002: DEFINITIONS**

For the purpose of this Section, the following definitions apply:

*Customer:* any Person obtaining goods from a store.

*Food Service Establishment:* any restaurant, take-out food establishment, or any other business that is required to obtain a valid food service license from the Public Health Department of the City of Portsmouth. Food Service Establishments do not include Nonprofit Food Establishments.

*Nonprofit Food Establishment:* a charitable entity that prepares or serves food directly to the Customer or otherwise provides food or meals for consumption by humans. The term includes central food banks, soup kitchens, and nonprofit food delivery services. To be considered a Nonprofit Food Establishment, the entity must meet the terms of section 501(c)(3) of the U.S. Internal Revenue Code (26 U.S.C. 501(c)(3)).

*Operator:* the person in control of, or having the responsibility for, the operation of a Store, which may include, but not limited to, the owner of the Store.

*Person:* any natural person, firm, corporation, partnership, or other organization or group however organized.

*Prepared Food:* 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 copped, squeezed, or mixed.

*Retail Establishment:* 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 Food Service Establishments, Nonprofit Charitable Reusers, or Pharmacies.

*Single-Use Container:* a container that is distributed for the purpose of transporting Prepared Food on a single occasion inside or outside of a Store.

*Single-Use Cup:* a cup that is distributed for the purpose of transporting a beverage on a single occasion inside or outside of a Store.

*Single-Use Polystyrene Container:* a container composed of synthetic aromatic hydrocarbon polymers that is made from the monomer styrene and distributed for the purpose of transporting Prepared Food on a single occasion inside or outside of a Store. A Single-Use Polystyrene Container is a form of a Single-Use Container.

*Single-Use Polystyrene Cup:* a cup composed of synthetic aromatic hydrocarbon polymers that is made from the monomer styrene and distributed for the purpose of transporting a beverage on a single occasion inside or outside of a Store. A Single-Use Polystyrene Cup is a form of a Single-Use Cup.

*Store:* any Food Service Establishment, Pharmacy, or Retail Establishment located within the City. Stores do not include Medical Facilities.

### **3.1003 DISPOSABLE CUPS**

#### **A. Prohibited Disposable Cups:**

1. No Store shall provide a Single-Use Polystyrene Cup to a Customer at the check stand, cash register, point of sale, or any other location for the purpose of transporting a beverage that will be drank inside or outside of the store.

#### **B. Permitted Disposable Cups:**

1. Stores are allowed to distribute Single-Use Polystyrene Cups to Customers for the purpose of transporting a beverage that will be drank inside or outside of the Store, subject to the terms of this Section.
2. All Stores may distribute their remaining 2020 Single-Use Polystyrene Cup inventory.
3. Nothing in this Section prohibits Customers from using cups of any type that they would otherwise be allowed to bring to the Store themselves under the Ordinances of the City of Portsmouth in lieu of using cups provided by the Store.

### **3.1004 DISPOSABLE CONTAINERS**

#### **A. Prohibited Disposable Containers:**

1. No Store shall provide a Single-Use Polystyrene Container at the check stand, cash register, point of sale, or any location for the purpose of transporting Prepared Food that will be eaten inside or outside of the Store.

#### **B. Permitted Disposable Containers:**

1. Stores are allowed to distribute Single-Use Polystyrene Containers to Customers for the purpose of transporting Prepared Food that will be eaten inside or outside of the Store, subject to the terms of this Section.
2. All Stores may distribute their remaining 2020 Single-Use Polystyrene Container inventory.
3. Nothing in this Section prohibits Customers from using containers of any type that they would otherwise be allowed to bring to the Store themselves under the Ordinances of the City of Portsmouth in lieu of using containers provided by the Store.

In addition to any other penalty or remedy permissible by law for violation of this Section, the following shall apply:

1. If the City determines that a violation of this Section has occurred, a written warning that includes the potential penalties for future violations will be issued to the Operator.
2. Upon a second or subsequent infraction of this Section, the City is authorized to issue citations to persons, firms, or corporations violating this Section in accordance with the ordinances of the City of Portsmouth. The amount of the fee that will accompany the citation will be determined by the Fee Schedule Study Committee of the City of Portsmouth.
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 Section.

**SEVERABILITY**

Any portion of this ordinance that is found to be void shall be unenforceable without invalidating the remainder of the ordinance.


**EFFECTIVE DATE**

This ordinance shall take effect on December 31, 2020.


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.

APPROVED:

  
\_\_\_\_\_  
Jack Blalock, Mayor

ADOPTED BY COUNCIL:  
OCTOBER 7, 2019

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

ORDINANCE#

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 3, Article XI, **EFFECTIVE DATE**, 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 XI: FACE COVERINGS DURING THE COVID-19 PANDEMIC**

**EFFECTIVE DATE**

This ordinance shall take effect immediately and shall terminate on ~~January 4, 2021~~  
**June 30, 2021**.

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**

By: \_\_\_\_\_  
Mayor Rick Becksted

**ADOPTED BY COUNCIL:**

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



**ORDINANCE#**

**THE CITY OF PORTSMOUTH ORDAINS**

**That the Ordinances of the City of Portsmouth are hereby amended by the addition of a new Ordinance titled **FACE COVERINGS DURING THE COVID-19 PANDEMIC**:**

**WHEREAS, the Nation, the State, and the City are engaged in an effort to protect the public health in light of the COVID-19 virus pandemic; and**

**WHEREAS, the Portsmouth City Council has issued a policy statement on Pandemic Response by Resolution adopted on July 13, 2020; and**

**WHEREAS, the Portsmouth City Council has determined that the wearing of face coverings during the time of the pandemic is one means of reducing the spread of COVID-19; and**

**WHEREAS, US Centers for Disease Control, the NH Bureau of Infectious Disease Control, and the City of Portsmouth Health Officer have determined that the wearing of face coverings during the time of the pandemic is an important means of reducing the spread of COVID-19;**

**NOW THEN, Portsmouth City Council hereby adopts the following ordinance regarding the wearing of face coverings in the City during the pandemic:**

**FACE COVERINGS DURING THE COVID-19 PANDEMIC**

**It is hereby adopted as a new Article XI to the Ordinances of the City, Chapter 3, PUBLIC HEALTH, a new provision which shall read as follows:**

**CHAPTER 3**

**PUBLIC HEALTH**

**ARTICLE XI: FACE COVERINGS DURING THE COVID-19 PANDEMIC**

**SECTION 3.1101: FACE COVERINGS REQUIRED**

**All persons are hereby required to wear face coverings whenever they are in indoor or outdoor places which are accessible to the public, in which a physical distancing of six feet (6') between people who are not members of the same household is not maintained.**

**SECTION 3.1102: PERMISSIBLE FACE COVERINGS**

A required face covering pursuant to this ordinance shall be any product that covers the nose and mouth of the person wearing it. The face covering may be commercially manufactured or personally created.

**SECTION 3.1103: EXCEPTIONS**

The following persons are exempted or excepted from the requirements of this ordinance:

- A. Persons who have a medical or other condition which may pose a risk to the health of the individual wearing the face covering.
- B. Any person age six (6) or younger.
- C. Any person who is actually engaged in the act of eating or drinking at a business establishment licensed by the City of Portsmouth for that purpose.

**SECTION 3.1104 PENALTY**

The penalty for a person violating this provision shall be the issuance of a civil citation pursuant to Ordinance Article XIII, **MUNICIPAL ENFORCEMENT PROCEDURES**<sup>1</sup>, except that under no circumstances shall the penalty for a violation of this ordinance exceed \$25.00.

**EFFECTIVE DATE**

This ordinance shall take effect immediately and shall terminate on January 4, 2021.

**APPROVED**

By: \_\_\_\_\_ /s/  
Mayor Rick Becksted

**ADOPTED BY COUNCIL:**

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

<sup>1</sup>Note: The penalty for a first offense under Article XIII is \$25.00, if paid within seven (7) days

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 11, Article II – **SEWERS** 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 II: SEWERS**

**Section 11.203 USE OF PUBLIC SEWERS REQUIRED**

- A. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City of Portsmouth, or in any area under jurisdiction of said City, and a human or animal excrement, garbage, or other objectionable waste.
- B. It shall be unlawful to discharge to any natural outlet within said City of Portsmouth or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Ordinance.
- C. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.
- D. The owner of all houses, buildings or properties used for human occupancy, recreation or other purposes is hereby required to install thereon suitable toilet facilities and provided said property abuts upon any street, alley or right of way in which there is located a public sewer and further provided that said premises are located within 150 feet of the property line abutting said street, alley or right of way, the owner shall connect said facilities with the public sewer **subject to any waiver granted under section 11.204 (E).**

**Section 11.204: PRIVATE SEWAGE DISPOSAL**

- A. Where a public sanitary or combined sewer is not available under the provisions of Section 11.203, paragraph D, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this Article.
- B. Before commencement of construction of a private sewage disposal system the owner shall first obtain a written permit signed by the Plumbing Inspector. The application for such permit shall be made on a form furnished by the City, which the applicant shall supplement by any, plans, specifications, percolation test results and other information as are deemed necessary by the Plumbing Inspector. A permit and inspection fee to be determined in accordance with Chapter 1, Article

XVI or similar wording and paid at the time the application is filed. (Amended 3/18/2002).

- C. A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Plumbing Inspector. He shall be allowed to inspect the work at any stage of construction and in any event, the applicant for the permit shall notify the Plumbing Inspector when the work is ready for final inspection, and before any underground portions are covered, the inspection shall be made within 24 hours of the receipt of notice by the Plumbing Inspector.
- D. The type, capacities, location and layout of a private sewage disposal system shall comply with all regulations of the N.H. Water Supply and Pollution Control Commission. No permit shall be issued for any private sewage disposal system employing subsurface facilities where the percolation test results indicate poor drainage conditions exist. No septic tank or cesspool shall be permitted to discharge to any natural outlet.
- E. At such time as a public sewer becomes available to a property served by a private sewage disposal system, ~~as provided in Section 11.204, Paragraph D~~ **subject to the waiver provision below**, a direct connection shall be made **within ninety (90) days** to the public sewer in compliance with this Ordinance and any septic tanks, cesspools, and similar private sewage disposal facilities shall be abandoned and filled with suitable material. **The City Engineer may extend the period to connect from ninety (90) days to no more than one hundred and fifty (150) days for winter conditions or other good cause. Owners of private sewage disposal systems may apply for and receive a waiver of the connection requirement provided that the private sewage disposal system is adequately functioning to serve the current property uses and legally permitted under State law. The waiver shall be withdrawn, and connection required, when the private sewage disposal system is no longer adequately functioning or is not legally permitted by State law.**
- F. The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the City.
- G. No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.
- H. ~~When a~~ **A** public sewer becomes available **for purposes of this ordinance when** ~~, the building sewer of~~ any house, building or property **is** used for human occupancy **and is** located within 150 feet of the property line abutting the street, alley or right of way in which the sewer main is laid, ~~shall be connected to the sewer within 60 days and the private sewage system shall be cleaned of sludge and filled with clean bank run gravel.~~

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:

\_\_\_\_\_  
Rick Becksted, Mayor

ADOPTED BY COUNCIL:

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

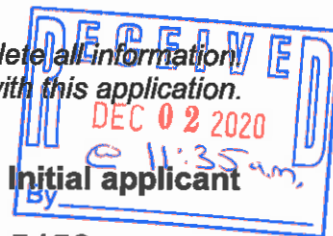
DRAFT



# CITY OF PORTSMOUTH, N.H. BOARDS AND COMMISSIONS

## APPOINTMENT APPLICATION

*Instructions: Please print or type and complete all information.  
Please submit resume' along with this application.*



Committee: Zoning Board of Adjustment

Name: Chase Hagaman Telephone: 603-498-5459

Could you be contacted at work? YES  NO  If so, telephone# \_\_\_\_\_

Street address: 17 Staysail Way, Portsmouth, NH 03801

Mailing address (if different ): \_\_\_\_\_

Email address (for clerk's office communication ): chase.hagaman@gmail.com

How long have you been a resident of Portsmouth? Since 2015

Occupational background:

I have worked for the Arlington, VA based Concord Coalition since 2014 in grassroots public education on federal budget policy. I am currently their Director of Strategic Initiatives. I previously practiced as an attorney.

Please list experience you have in respect to this Board/Commission:

I have served as an alternate on the ZBA since 2018, have been heavily involved in most cases that come before the board and rarely miss a meeting. I also have a legal and financial educational background that I feel is well suited for this particular board.

➔ OVER

Have you contacted the chair of the Board/Commission to determine the time commitment involved? YES  NO

Would you be able to commit to attending all meetings? YES  NO

Reasons for wishing to serve: \_\_\_\_\_

I currently serve as an alternate on the Zoning Board of Adjustment and would like to increase my level of commitment and involvement by becoming a regular-board member.

Please list any organizations, groups, or other committees you are involved in:

Portsmouth ZBA, Alternate member (since 2018)  
Portsmouth Music and Arts Center, Board member (since 2018)  
Portsmouth Herald/Seacoast Media Group Editorial Board, Community Advisory Board Member (since 2017)  
Citywide Neighborhood Committee, Vice Chair (2018-2020)

Please list two character references not related to you or city staff members:  
*(Portsmouth references preferred)*

1) John Formella, 939 Maplewood Ave., Portsmouth, NH 03801; 850-375-1707  
Name, address, telephone number

2) Jeff McLean; 83 Sheffield Rd., Portsmouth, NH 03801; 603-817-1172  
Name, address, telephone number

**BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:**

1. This application is for consideration and does not mean you will necessarily be appointed to this Board/Commission; and
2. The Mayor will review your application, may contact you, check your references, and determine any potential conflict of interests; and
3. This application may be forwarded to the City Council for consideration at the Mayor's discretion; and
4. If this application is forwarded to the City Council, they may consider the application and vote on it at the next scheduled meeting.
5. Application will be kept on file for one year from date of receipt.

Signature: Chase Hagaman /s/ Date: 12/02/2020

If you do not receive the appointment you are requesting, would you be interested in serving on another board or commission? Yes  No

**Please submit application to the City Clerks Office, 1 Junkins Avenue, Portsmouth, NH 03801**

# Chase Hagaman

[CHASE.HAGAMAN@GMAIL.COM](mailto:CHASE.HAGAMAN@GMAIL.COM)

(603) 498-5459

[LINKEDIN.COM/IN/CHAGAMAN](https://www.linkedin.com/in/chagaman)

## PUBLIC POLICY EXPERIENCE

- The Concord Coalition, Portsmouth, NH** **January 2014 – Present**  
*Director of Strategic Initiatives* **October 2020 – Present**
- Plan and execute national grassroots initiatives and outreach strategies
  - Fundraise and acquire sponsorships for key events and activities
  - Facilitate field events and presentations, both in-person and virtually
  - Manage Concord's weekly newsletter and host its weekly radio show and podcast [Facing the Future](#) (since 2018)
- National Grassroots and Outreach Director* **January 2020 – October 2020**
- Worked with volunteers and leaders nationwide to facilitate high-level education initiatives
  - Conducted media engagement and direct grassroots activities
- New England Regional Director* **January 2014 – December 2019**
- Expanded the regional network, impact and public awareness of a nonpartisan, grassroots organization
    - Fostered key relationships and developed partnerships with businesses and media outlets
  - Performed public education on national fiscal policy through presentations, interviews, exercises and forums
  - Managed the organization's New Hampshire State Director, summer interns and state Advisory Board
  - Co-hosted [Common Cents](#), a presidential candidate interview series throughout the 2020 election cycle
  - Coordinated NH1's *Fiscal Fridays* series – fifteen presidential and congressional candidates were interviewed
  - State Director of the [First Budget](#) campaign, a year-long project through the 2016 New Hampshire Primary

## LEGAL EXPERIENCE

- Independent Contractor, Concord, NH** **August 2013 – June 2014**
- Conducted legal writing and research projects for area law firms, including a successful state Supreme Court brief
- Internships, Externships and Clerkships**
- Hillsborough County Superior Court South, Nashua, NH* **January – April 2013**
  - City Solicitor's Office, Concord, NH* **August – December 2012**
  - Department of Revenue Administration, Hearings Bureau, Concord, NH* **June – August 2012**
  - Consumer and Commercial Law Clinic, Concord, NH* **May – July 2011**

## COMMUNITY LEADERSHIP

- Zoning Board of Adjustment, Portsmouth, NH** **July 2018 – Present**
- Alternate Member
- Portsmouth Music and Arts Center, Portsmouth, NH** **March 2018 – Present**
- Board of Directors, Secretary; Governance Committee, Chair
- Seacoast Media Group/The Portsmouth Herald, Portsmouth, NH** **November 2017 – Present**
- Editorial Board, Community Advisory Board Member; Columnist
- Citywide Neighborhood Committee, Portsmouth, NH** **February 2018 – January 2020**
- Mayoral Blue Ribbon Committee, Vice Chair
- UNH Franklin Pierce School of Law, Concord, NH** **August 2019 – December 2019**
- Adjunct Professor; Biennial course: *The Future of National Fiscal Policy*
- City Council Campaign, Portsmouth, NH** **August – November 2017**
- Candidate for Portsmouth City Council
- Concord Crew, Concord, NH** **August 2013 – June 2017**
- High School Rowing Coach

## EDUCATION

- UNH Franklin Pierce School of Law, Concord, NH** **May 2013**  
*Juris Doctor*
- Governor, Vice President and then President of the Student Bar Association Board
  - 2013 American Association for Justice Student Trial Advocacy Competition Participant
- University of South Florida, Tampa, FL** **May 2010**  
*Bachelor of Science, Business Finance*
- Graduated *cum laude* and received a Florida Bright Futures Academic Scholars Award

## PROFESSIONAL LICENSES

- State of New Hampshire and United States District Court, D.N.H., November 2013; Inactive Status



SJW LTD  
52 Cable Road  
Rye, NH 03870  
[Samwine2@gmail.com](mailto:Samwine2@gmail.com)  
(603) 396-3432

November 30, 2020  
City of Portsmouth, NH  
City Council  
via e-mail

To whom it may concern:

SJW LTD, owner of 29 Vaughan Street, is prepared to make a donation of \$5000 to the City of Portsmouth for the purpose of purchasing tree wrap lighting or other permanent or semi-permanent elements to be installed in the Vaughan Mall according to the KMDG plan of October 15.

We are requesting that the City Council consider accepting this donation.  
Thanks for your consideration

Yours truly,



Samuel Winebaum  
Managing Partner, SJW LTD

cc  
Karen Conard, City Manager  
Nancy Carmer, Economic Development Manager  
Doug Roberts



Karen S. Conard  
City Manager

## CITY OF PORTSMOUTH

City Hall, One Junkins Avenue  
Portsmouth, New Hampshire 03801  
kconard@cityofportsmouth.com  
(603) 610-7201

**Date:** December 18, 2020  
**To:** Honorable Mayor Rick Becksted and City Council Members  
**From:** Karen S. Conard, City Manager *KSC*  
**Re:** City Manager's Comments on City Council Agenda of December 21, 2020

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### ***XI. Public Hearings and Votes on Ordinances and/or Resolutions:***

#### **A. Public Hearing and Second Reading of Ordinance Amending Chapter 10, Article 6 – Overlay Districts – Floodplain Overlay District Zoning Maps:**

In July 2020, FEMA issued a [Letter of Final Determination \(LFD\)](#) notifying the City that the preliminary coastal Rockingham County Flood Insurance Rate Maps (FIRMs) and Flood Insurance Study (FIS) report that were originally issued in 2014 had been finalized. The FIRMs and FIS report will become effective on January 29, 2021.

Following that letter, the staff at the NH State Floodplain Management Program reached out to the City with additional guidance on the process for final adoption of the FIRMs and FIS ([see attached email from Jennifer Gilbert dated September 25, 2020](#)). Although the City had already amended the City's Floodplain Overlay District zoning in 2019 with input from the state's floodplain office, the staff at the state office (with guidance from FEMA) have identified additional minor amendments that are required.

These amendments will apply to properties located in the Floodplain District and are required by FEMA to keep the City in compliance with the National Flood Insurance Program (NFIP). The NFIP requires that the City maintain an up-to-date floodplain ordinance to ensure that federal flood insurance policy holders are covered in the event of a flood.

The Planning Board reviewed the amendments at a work session in October and held a public hearing on the Zoning Amendments on November 19, 2020. All property owners with properties in the flood plain overlay district were notified by mail of the upcoming meetings on these amendments ([see attached notice](#)). At the November meeting, the Planning Board voted unanimously to recommend approval of the amendments to the City Council.

The proposed Zoning Ordinance amendments required by FEMA are summarized below and [attached](#). The City’s entire Zoning Ordinance can be viewed online at [www.cityofportsmouth.com/planportsmouth/land-use-and-zoning-regulations#zoning](http://www.cityofportsmouth.com/planportsmouth/land-use-and-zoning-regulations#zoning). Refer to Section 10.620 Floodplain District.

- In Section 10.613.10 (a), update the study and map reference dates by deleting May 17, 2005 and adding January 29, 2021.
- In Section 10.622.20 – “Terms Defined for the Flood Plain District”, delete the current definition of New Construction and update as follows:

*New construction*

*A structure for which the start of construction commenced on or after the effective date of this flood plain management regulation and includes any subsequent improvements to such structure.*

- In Section 10.628 – Construction Standards in Special Flood Hazard Areas, amend paragraph 10.628.10 as follows by adding the text shown in italics below:

*10.628.10 In Zones A and AE, any new construction or substantial improvement shall be reasonably safe from flooding...*

As noted in the email from Jennifer Gilbert, these amendments will need to be adopted by Council and submitted to the state office for confirmation by January 15, 2021. This means that the Council will need to complete the three required readings before that time. The anticipated schedule is as follows:

- November 16 – request to City Council to schedule first reading
- November 19 – Planning Board public hearing and vote to recommend to Council
- December 7 – City Council first reading
- December 21 – City Council second reading and public hearing; potential to continue the public hearing
- January 11, 2021 – City Council third and final reading

*I recommend that the City Council move to pass second reading on the proposed amendments to the Floodplain Overlay District, and to schedule a third and final reading at the January 11, 2021 City Council meeting.*

**B. Third and Final Reading of Ordinance Amending Chapter 7, Article III, Section 7.330 – No Parking by the addition of Chase Drive: northerly side, from Michael Succi Drive to a point 30 feet ~~on either side~~ west of the driveway located at 355 Chase Drive:**

[Attached is the diagram](#) and [the proposed amendment](#) to this ordinance.

*I recommend that the City Council move to adopt the third and final reading.*

C. **Third and Final Reading of Ordinance Amending Chapter 3, Article IX – Distribution of Single-Use Disposables on City Property – Effective Date: This Ordinance shall take effect on December 31, 2022:**

Currently, on December 31, 2020, there are two City ordinances that would become effective to regulate the distribution single use plastic disposable items such as Styrofoam cups. This first ordinance would apply to property owned by the City. The second would apply citywide. This ordinance, if passed at third reading, would have the effect of delaying the effective date of the regulation of single use disposable on City property, until December 31, 2022.

D. **Third and Final Reading of Ordinance Amending Chapter 3, Article X – Distribution of Single-Use Disposables – Citywide – Effective Date: This Ordinance shall take effect on December 31, 2022:**

Currently, on December 31, 2020, there are two City ordinances that would become effective to regulate the distribution single use plastic disposable items such as Styrofoam cups. This second ordinance would apply citywide. This ordinance, if passed at third reading, would have the effect of delaying the effective date of the regulation of single use disposables Citywide, until December 31, 2022.

E. **Third and Final Reading of Ordinance Amending Chapter 3, Article XI – Face Coverings – Effective Date: This ordinance shall take effect immediately and shall terminate on June 30, 2021:**

At the City Council meeting of November 16, 2020, the Council passed first reading of an ordinance amendment proposed by Councilor Lazenby which would have the effect of extending the term of the [City's Mask Ordinance](#) from January 4, 2021 until such time as the City Council votes to terminate it. At the December 7<sup>th</sup> public hearing and second reading, this term was further refined to reflect an expiration date of June 30, 2021.

Governor Sununu's statewide mask mandate is set to expire on February 5, 2021.

*I recommend that the City Council move to adopt the third and final reading of this ordinance amendment.*

F. **Third and Final Reading of Ordinance Amending Chapter 11, Article II – Sewers, Section 11.203 and Section 11.204 – Waiver from Connection to Public Sewer:**

At its meeting of December 14, 2020, the City Council passed second reading and scheduled a third and final reading of a [proposed change to the Sewer Ordinance at Chapter 11, Article II, Section 11.204](#) to allow property owners to apply for a waiver from connection to the public sewer.

The proposed ordinance amendment (which includes the newly added sentence dealing with winter conditions voted on at the December 14, 2020 meeting) is [attached](#).

*I recommend that the City Council move to adopt the third and final reading.*

#### ***XIV. Approval of Grants/Donations:***

##### **A. Acceptance of Donation from Samuel Winebaum for Vaughan Mall Lighting - \$5,000.00:**

Please find attached a [letter from Samuel Winebaum](#) requesting the City Council's consideration and acceptance of a \$5,000 donation to the City, to be utilized for lighting elements at Vaughan Mall.

*I recommend that the City Council move to accept the donation from Samuel Winebaum for Vaughan Mall lighting in the amount of \$5,000.*

#### ***XV. City Manager's Action Items:***

##### **1. Request for Work Session Regarding Peirce Island:**

In response to Councilor Kennedy's request at the November 16<sup>th</sup> Council meeting, I would request a Peirce Island work session with the City Council and Peirce Island Committee be established on February 8, 2021 at 6:00 p.m. Topics covered during the work session will include the sewer treatment plant, public art, dog park, Peirce Island bridge, and vegetation clean-up.

*I recommend that the City Council move to establish a Peirce Island work session on February 8, 2021 at 6:00 p.m.*

##### **2. Request to Name Private Subdivision Road Located Off Banfield Road:**

At the October 19, 2020 Council meeting, the Council [reviewed a request from the developers of the Village at Banfield Woods open space planned unit development to name a private subdivision road](#). The project which was approved by the Planning Board on September 17, 2020, includes the construction of 22 single-family homes on a private cul-de-sac.

While this is not a public road, the subdivision regulations and City Ordinances reference the Planning Board's role in road naming. While the regulations do not stipulate that this has to be done as a public hearing, it has been the Planning Board's policy to notify abutting properties and to allow for a public hearing prior to approving the name. This process is also consistent with state laws governing the naming of streets. Therefore, the City Council referred this request to the Planning Board.

At the November 19, 2020 meeting after a public hearing, the Planning Board voted to recommend that the City Council approve the renaming of the private road to Walford Lane as requested by the applicant. The name is a historical reference to the fact that the property was once part of the Walford Plantation owned by Thomas Walford in the 1600's as part of a much larger parcel (which also included the Hett Farm property on Peverly Hill Road).

When public roads are requested to be named or renamed, the Planning Board and City Council would typically consult a list of potential road names developed by the City in 2007/2008. When private roads are considered, the naming of the road is typically left up to the applicant, subject to final approval by the Council. The primary purpose for the Council to approve the naming of private roads is to ensure there is no conflict with existing road names in the City that would present a challenge for emergency responders.

*I recommend that the City Council move to approve the request for naming of the new private road to Walford Lane.*

### 3. **Request to Name New Public Street Located Between Cate Street and Route 1 Bypass:**

At the October 5, 2020 meeting, the City Council reviewed a [request from Cate Street Development, LLC, the developers of the West End Yards mixed use project, for the naming of the new public roadway](#) that is being constructed to connect Cate Street to the Route 1 Bypass. At that meeting, the Council voted to refer the request to the Planning Board.

Per the City Ordinances, Article V, Section 11.501 any naming of a public street must go before the Planning Board for a public hearing prior to final vote by the City Council. As part of the public hearing at Planning Board, it has been City policy to notify affected abutters of the proposed street naming.

The City Ordinances also stipulate that “no existing or proposed street name shall duplicate the name or names of other proposed or existing streets irrespective of the use of the suffix, "Street", "Avenue", "Boulevard", "Drive", "Place", "Way", "Court", or the like.”

As part of the consideration of new street names or street name changes, the City maintains a list of potential street names, which can be referenced during the naming process. However, the City is not bound to that list of potential street names and can also consider names proposed by members of the public and property owners.

In addition to the proposed name submitted by the developer – West End Yards Way -- the list of potential street names maintained by the City has been provided below for reference. These were developed by former Planning Director Holden in 2008.

**Possible Alternative Street Names:**

**Former Portsmouth Street Names**

*(these were used and discontinued sometime in the past)*

Ackerman St	Graffort's Lane	North Rd
Ark Lane	Graves End St	Pitt St
Auburn St	Joshua St	Queen St
Buck St	King St	Rebellion Rd
Cambridge St	Marginal Way	River Rd
Cottars Lane	Marlborough St	Rosemary Lane
Cow Lane	Mason St	Sifton St
Creek St	Massy St	Steton St
Cross St	Maudlin Lane	Tombs St
Divinity St	Mystic St	White's Rd

**Names of Former Mayors**

Badger	Goldsmith	Pender
Bailey	Goodrich	Reding
Berry	Graves	Rowe
Broughton	Hackett	Simes
Butler	Jenness	Sise
Dale	Laighton	Tilton
Dexter	Laskey	Toppan
Eldredge	Morrison	Treat
Emery	Neal	
Faye	Page	
Yeaton		

At the November 19, 2020 meeting after a public hearing, the Planning Board voted to recommend that the City Council name the road Hodgson Way, after the brook that parallels the new roadway. Subsequent to that vote, staff learned that the U.S. Board on Geographic Names voted to change the brook's name to Hodgdon Brook at the request of a member of the Hodgdon family for whom the brook was originally named ([email is enclosed for reference](#)). Therefore, staff is recommending that, if the Council accepts the Board's recommendation, the road name should also match the new name for the brook.

*I recommend that the City Council vote to name the new public road extending between Cate Street and the US Route 1 Bypass as Hodgdon Way.*

4. **46 Maplewood Avenue – Temporary Construction License:**

On May 17, 2018, the Planning Board granted site plan review approval to Steve Kelm (30 Maplewood, LLC) for property located at 46-64 Maplewood Avenue to construct a five-story, mixed use building.



The Construction Mitigation and Management Plan (CMMP), signed in August 2018, identified temporary encumbrances of the public right-of-way for project-related work along Bridge Street, Deer Street, and Maplewood Avenue for different periods of time during of the project's construction. Encumbrances for a duration longer than 30 consecutive working days require a license approved by the City Council. In addition, the licenses are subject to the "License Fee for Encumbrance of City Property" policy.

The License Areas are shown on the [plan labeled "License Plan"](#) prepared for 30 Maplewood Ave LLC. License Area 1 is 630 square feet of the sidewalk area along the south side of Deer Street. License Area 2 is 322 square feet of the sidewalk area located at the corner of the intersection of Deer Street and Maplewood Avenue. License Area 3 is 1,140 square feet square feet of the sidewalk area on the west side of Maplewood Avenue. In addition, the encumbrance of the sidewalk required the removal of parking space meters and therefore, the project is also encumbering three metered parking space along Deer Street.

In November 2018, the City Council approved a temporary construction license for the project, which, after subsequent extensions granted by the Council, will expire at the end of December. [Mr. Kelm has submitted another extension request](#) to extend the existing license for 30-days to the end of January.

Per the City policy, the total fee for the temporary license term of 30-days is calculated at \$0.05 per square foot per day for the three sidewalk areas ( $30 \times 0.05 \times 2,092 = \$3,138$ ) and \$35 per day per space for the metered parking spaces ( $30 \times 35 \times 3 = \$3,150$ ). Therefore, the total license fee for the 30-day term is \$6,288. The [proposed license agreement](#) provides that, if any of the license areas are returned to the City prior to the end of the License Term, the City will refund the applicant the portion of the license fee already paid to the City.

All of the foregoing has been reviewed by the Planning and Legal Departments and is recommended for approval.

*I recommend that City Council move that the City Manager be authorized to execute and accept the temporary construction license regarding 46-64 Maplewood Avenue as submitted.*

## ***XVI. Consent Agenda:***

### **C. Banfield Woods Development Conservation Easement and Water Access Easement:**

On August 25, 2020 and September 21, 2020 the Planning Board granted wetland conditional use permit approval and site plan review and subdivision approval for an application for an open space planned unit development on property located off of Banfield Road. The project consists of 22 single family homes on a new private subdivision road.



The conditions of approval include two easements to which the City of Portsmouth is a party and therefore require City Council authorization.

The first condition is to provide a [conservation easement](#) in perpetuity that includes all land located outside of a 100' buffer around the limited common areas of the proposed housing units as shown on the [attached plan](#) as areas labeled "Common Open Space / Conservation Easement Area". The condition of approval required that the easement shall be held by a public body (such as the City) or private non-profit which shall maintain and preserve the land as open space for the benefit of the general public.

After consultation with staff, the developer is proposing a conservation easement that will be held by the City for the benefit of the general public. As part of the requirements for acceptance by the City, a conservation values assessment of the property shall be completed by a qualified wildlife habitat expert at the expense of the developer.

The second condition of approval that requires Council approval is that the applicant provide a [water services access easement](#) to the City for the purpose of maintenance and inspection of private water infrastructure on the property.

All of the foregoing has been approved by the Planning Board and is recommended by the Planning and Legal Departments.

*I recommend that the City Council move to grant authority for the City Manager to accept and execute the water services access easement and conservation easement deed and plans on behalf of the City in a form similar to those attached.*

**D. Projecting Sign License for 10 Ladd Street:**

Permission is being sought to install a projecting sign for the business [The Mercantile Portsmouth located at 10 Ladd Street](#) that extends over the public right of way, as follows:

Sign dimensions: 24" x 24"  
Sign area: 2 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. *Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:*

- 1) The license shall be approved by the Legal Department as to content and form;*
- 2) Any removal or relocation of the sign, for any reason, shall be done at no cost to the City; and*
- 3) Any disturbance of a sidewalk, street or other public infrastructure resulting from the installation, relocation or removal of the signs, for any reason, shall be restored at no*

*cost to the City and shall be subject to review and acceptance by the Department of Public Works.*

## ***XVII. Presentations and Consideration of Written Communications and Petitions:***

### **A. Presentation by Health Officer Kim McNamara Regarding COVID-19 Update:**

City Health Officer, Kim McNamara, will provide a verbal update to City Councilors and the public on COVID-19.

### **B. Presentation by Portsmouth Citizen Response Task Force:**

Citizen Response Task Force Co-Chairs James Petersen and Mark Stebbins will provide an update on the Task Force at this evening's meeting.

## ***XVIII. City Manager's Informational Items:***

### **1. Report Back on Various Items as Requested by Councilors Kennedy and Huda at the December 7<sup>th</sup> City Council Meeting:**

#### **Middle Street Bike Lane Study Status**

Following City staff's review, the City's consultant, Toole Design, is preparing a final report on the Middle Street Bike Lane Study. City staff anticipate a final version of this study to arrive later this month. I will plan to provide a report back on this Study at the next Council meeting on January 11th.

Please find attached a report back on:

- the [Date of the Availability for the Final FY20 Actual Detail](#);
- the [FY21 Capital Outlay](#);
- the [Current Status of Public Art on City Property](#);
- the [Services and/or Project Completed by the Former City Manager, John Bohenko, Over the 12 Month Period Ending December 31<sup>st</sup> per the Agreed Upon Consultant Contract and Verification of Contract End Date](#);
- the [Status of CARES Act Funding](#);
- the [Status of the Boyle Case](#); and
- the [Status of the Sagamore Avenue Sewer Extension Project](#).

As requested, the [contracts of the auditors and all legal contracts or retainers currently on file](#) are also attached.

2. **Letter from Superintendent Zadavec Regarding Single Use Disposables:**

Attached please find a letter from School Superintendent Zadavec regarding single use disposables.



Civil Engineers  
Structural Engineers  
Traffic Engineers  
Land Surveyors  
Landscape Architects  
Scientists



RECEIVED

OCT 13 2020

CITY MANAGER  
PORTSMOUTH, NH

October 7, 2020

Karen S. Conrad  
City Manager  
1 Junkins Avenue  
Portsmouth, NH 03801

Re: **Road Name for the Village at Banfield Woods - 0 Banfield Road - Tax Map 256, Lot 2**  
**TFMoran Project: 47361.00**

Dear Karen:

We are working on a The Village at Banfield Woods project that was approved during the regular September 17, 2020 Planning Board Meeting. It is an Open Space Planned Unit Development with one private road. (Attached is the Condominium Site Plan of the Project.) The developer would like to name the road "Walford Lane" as the property was once part of the Walford Plantation. We would like to get the City Council's approval of the name. If possible, we asked that you bring it up at the October 19<sup>th</sup> meeting.

Thank you for taking time to review this and bring it before the City Council. If there are any problems or questions in regard to the roadway name, please feel free to contact us.

Sincerely,  
TFMoran, Inc.

Jack McTigue/PE, CPESC  
Project Manager

Project Manager/Typist

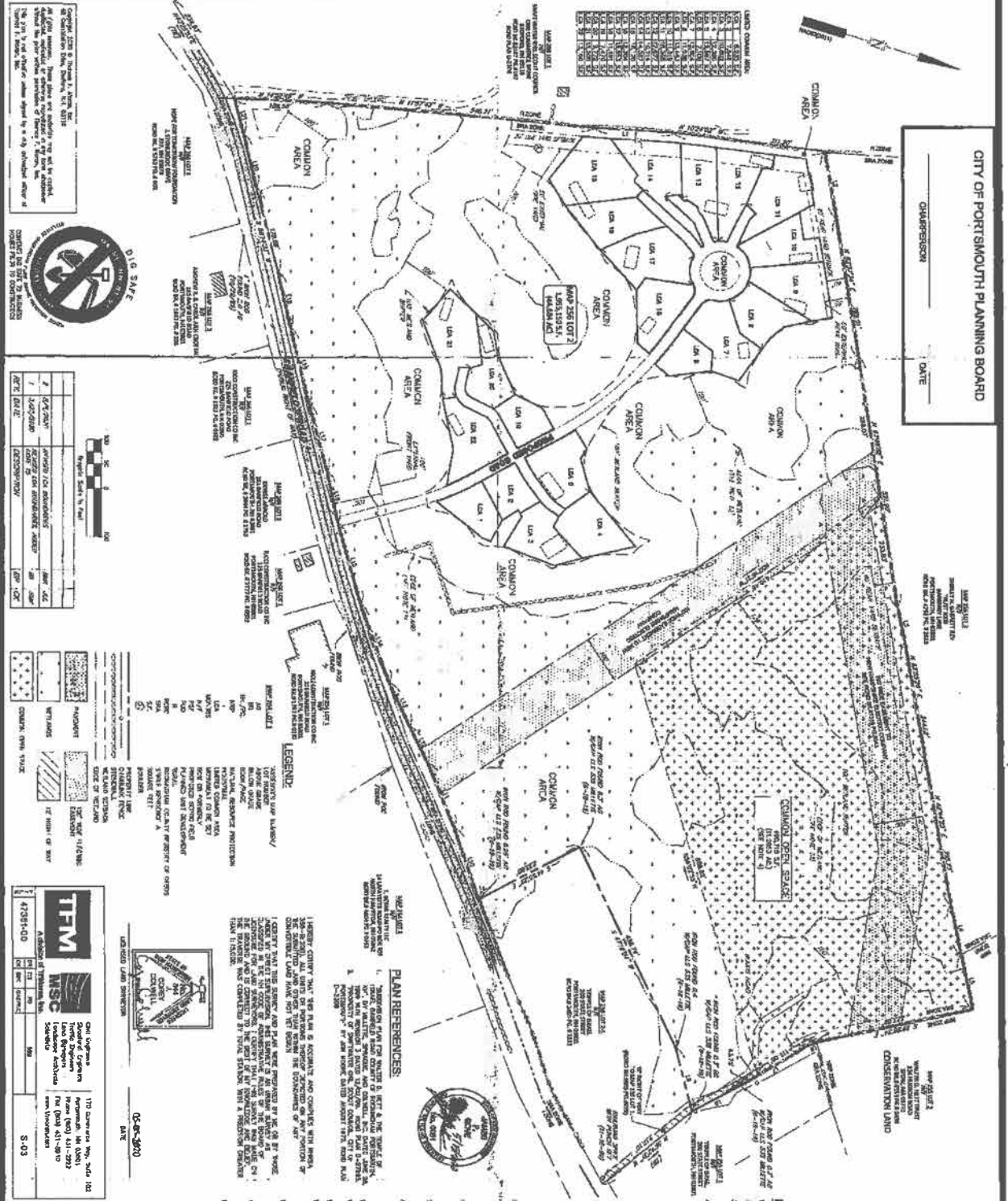
cc: Juliet Walker, Green and Company, LLC.





CITY OF PORTSMOUTH PLANNING BOARD

CHAIRPERSON \_\_\_\_\_ DATE \_\_\_\_\_



CONVEY TO: [Name]  
 CONVEY FROM: [Name]  
 [Additional conveyance details]



DATE	BY	REVISION
04/17/03	[Signature]	ISSUE FOR REVIEW
04/22/03	[Signature]	APPROVED FOR SUBMITTAL
04/23/03	[Signature]	APPROVED FOR RECORDATION
04/23/03	[Signature]	APPROVED FOR RECORDATION
04/23/03	[Signature]	APPROVED FOR RECORDATION

**LEGEND**

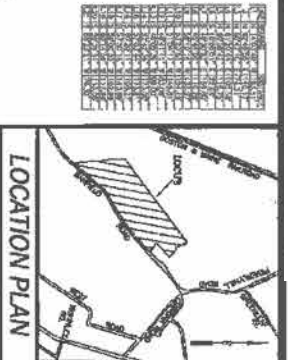
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[Symbol]	EXISTING CONVEY
[Symbol]	PROPOSED CONVEY

**PLAN REFERENCES**

1. [Reference 1]
2. [Reference 2]
3. [Reference 3]
4. [Reference 4]
5. [Reference 5]
6. [Reference 6]
7. [Reference 7]
8. [Reference 8]
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**NOTES**

1. THE SUBJECT IS LOCATED IN THE BLOCK REFERENCE 1 (266) ZONING DISTRICT.
2. THE SUBJECT IS LOCATED IN THE CITY OF PORTSMOUTH'S ZONING MAP 266 LOT 2.
3. THE SUBJECT IS LOCATED IN THE CITY OF PORTSMOUTH'S ZONING MAP 266 LOT 2.
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TAX MAP 266, LOT 2  
 CONDOMINIUM SITE PLAN  
 BANFIELD ROAD  
 PORTSMOUTH, NEW HAMPSHIRE  
 COUNTY OF ROCKINGHAM  
 OWNED BY  
 THE WALTER D. HATT TRUST  
 PREPARED FOR  
 GREEN & COMPANY REAL ESTATE



Strategic Resource | Proven Results

One Willow Lane, Rye NH 03870

City Manager Karen S. Conard  
Portsmouth City Hall  
1 Junkins Avenue  
Portsmouth, NH 03801  
September 10, 2020

Dear City Manager Conard,

On behalf of Cate St Development, LLC, developers of the West End Yards Project, we respectfully request the new unnamed City roadway along the West End Yards property frontage be named **West End Yards Way**. The new 900 ft segment of City roadway is located between Cate Street and Route 1 By-Pass as shown on the attached plan.

During the permitting process, this segment of roadway has been called Cate St Extension, for lack of an approved name. During the permitting process, which included numerous discussions and meetings with abutters with Cate Street addresses, the abutters were vocal in keeping the Cate St roadway limits as it exists today, between Bartlett St and Cottage St.

Where we have no direct abutters on this new 900-foot section of City road we respectfully request the naming of this new roadway be **West End Yards Way**.

Thank you for your consideration on this matter. We are happy to address any questions you may have with this request.

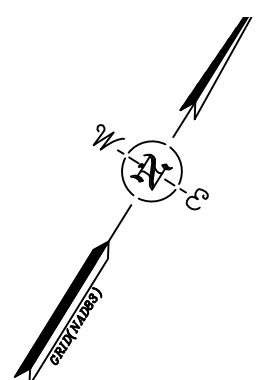
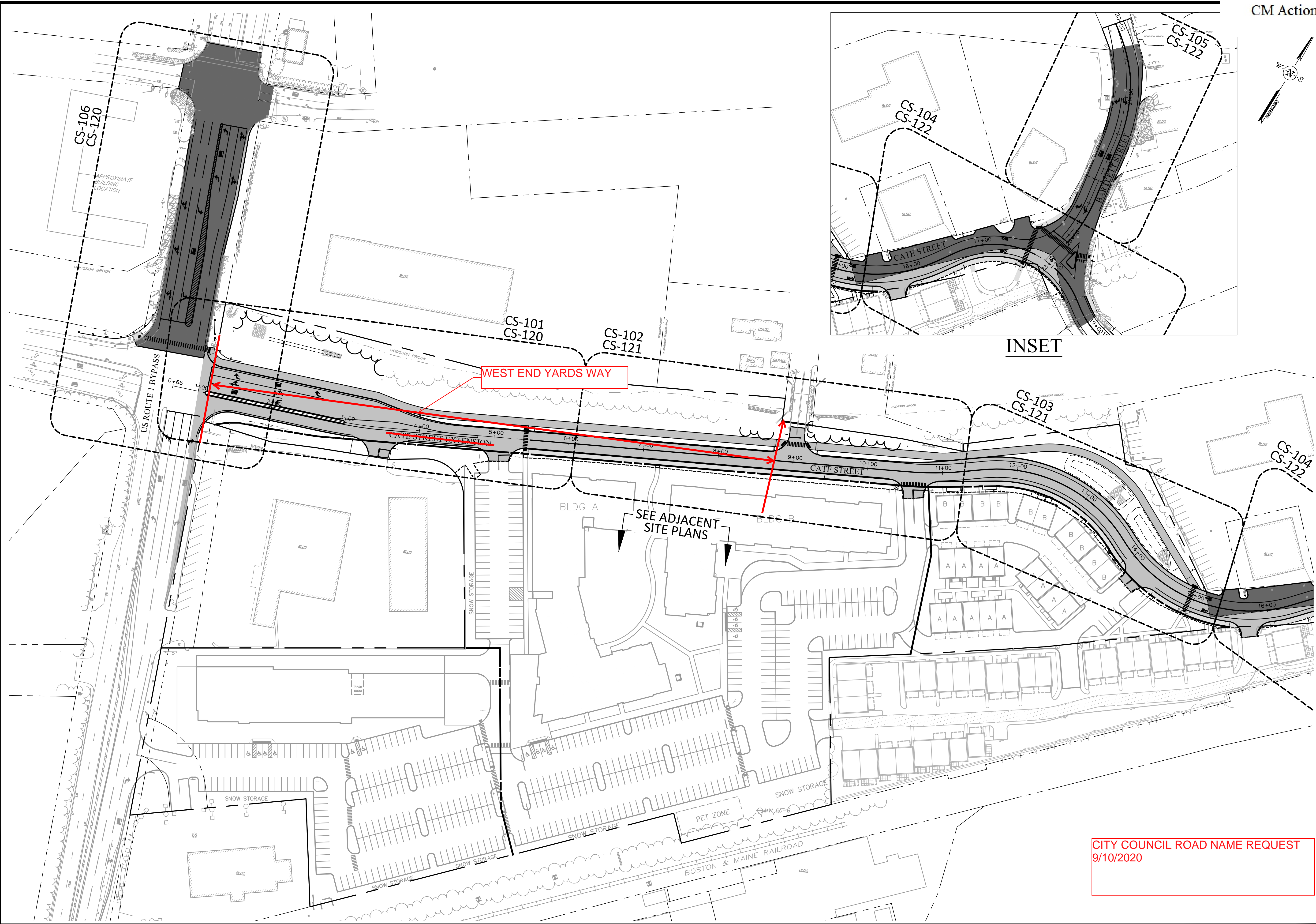
Regards,

A handwritten signature in black ink that reads 'Gregg M. Mikolaities'. The signature is written in a cursive, flowing style.

Gregg M. Mikolaities, PE  
President, August Consulting, PLLC

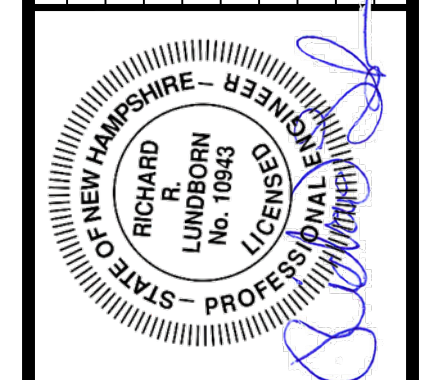
Cc w/ Encl:     Juliet Walker  
                  Jay Bisognano  
                  John Bosen





INSET

No.	DATE	DESCRIPTION	DESIGNER REVIEWER
9.	1/8/2020	CONSTRUCTION DOCUMENTS	JVA
8.	12/9/2019	PERMIT SUBMISSION	JVA/WRT
7.	11/6/2019	ACT RESPONSE	JVA/DAD
6.	9/10/2019	PLANNING BOARD SUBMISSION	JVA/DAD
5.	8/19/2019	TAC SUBMITTAL	JVA/DAD
4.	7/24/2019	TAC SUBMITTAL	JVA/DAD
3.	6/20/2019	TAC SUBMITTAL	JVA/DAD
2.	5/20/2019	TAC SUBMITTAL	JVA/DAD
1.	3/18/2019	TAC SUBMITTAL	JVA/DAD



SCALE: HORIZ.: 1" = 60'  
 VERT.: 1" = 60'

DATUM: HORIZ.: NAD83  
 VERT.: NAVD88

GRAPHIC SCALE

**FUSS & O'NEILL**  
 UPPER SQUARE BUSINESS CENTER  
 5 FLETCHER STREET, SUITE 1  
 KENNEBUNK, MAINE 04043  
 207.563.6609  
 www.fandoo.com

CATE STREET DEVELOPMENT, LLC  
 OVERALL ROADWAY PLAN  
 CATE STREET  
 PORTSMOUTH NEW HAMPSHIRE

PROJ. No.: 20180317.A10  
 DATE: 01/08/2020

**CS-100**

CITY COUNCIL ROAD NAME REQUEST  
 9/10/2020



CM Action Item #3

09/09/2020

**Decision on geographic name proposal**

From: "BGNEXEC, GS-N-MAC" <bgnexec@usgs.gov>  
Date: 09/10/2020 08:15  
To: "chodgdon114@mvfairpoint.net" <chodgdon114@mvfairpoint.net>

Dear Mr. Hodgdon:

We are pleased to inform you that the U.S. Board on Geographic Names, at its September 10, 2020 meeting, approved your proposal to correct the name of Hodgson Brook in the City of Portsmouth to Hodgdon Brook.

The change has been entered into the Geographic Names Information System, the nation's official geographic names repository, which is available and searchable online at <https://usgs.gov/geonames/domestic-names>. The entry reads as follows:

**Hodgdon Brook:** stream; 2.5 mi. long; in the City of Portsmouth, heads 1.7 mi. NE of Browns Hill at 43°05'09"N, 70°48'16"W, flows SE then NE to enter North Mill Pond 0.8 mi. W of South Mill Pond; named for the Hodgdon family who lived along the stream since the 1700s until relocated when Pease Air Force Base was built; Rockingham County, New Hampshire; 43°04'21"N, 70°46'18"W; USGS map – Portsmouth 1:24,000; Not: Hodgson Brook.

Sincerely,  
Jennifer Runyon, research staff  
U.S. Board on Geographic Names  
Reston, VA 20192-0523  
(703) 648-4550  
<https://geonames.usgs.gov>



LICENSE AGREEMENT FOR 30 MAPLEWOOD LLC

The City of Portsmouth (hereinafter "City"), a municipal corporation with a principal place of business of 1 Junkins Avenue, Portsmouth, New Hampshire 03801, for good and valuable consideration as set forth herein, hereby grants this Revocable License to 30 Maplewood LLC (hereinafter "Licensee" or "Owner") with a principal place of business at 36 Maplewood Ave, Portsmouth NH pursuant to the following terms and conditions:

1. Areas of License and Use: The Owner owns the land, with buildings and other improvements thereon, in the City of Portsmouth, Rockingham County, State of New Hampshire, located at 46 Maplewood Avenue, shown on the City of Portsmouth's Assessor's Map as Tax Map 125/2A, Lot 2 ("Subject Property"). For the Owner's title to the Subject Property, see Rockingham County Registry of Deeds at Book 5835, Page 1026.

The City authorizes Licensee to temporarily use three sections of City sidewalks located along Deer Street and Maplewood Avenue, more particularly described in the attached Exhibit A, Easement and License Plan, Tax Map 125-Lots 2 & 2A (Subdivision Lots 1 & 2) as follows:

License Area 1: 630 square feet of the sidewalk area located immediately adjacent to the Subject Property along the south side of Deer Street depicted and described as Zone 1 in Exhibit A:

License Area 2: 322 square feet of the sidewalk area located immediately adjacent to the Subject Property at the corner of the intersection of Deer Street and Maplewood Avenue as depicted and described as Zone 2 in Exhibit A.

License Area 3: 1,140 square feet square feet of the sidewalk area directly adjacent to the Subject Property on the west side of Maplewood Avenue as depicted and described as Zone 3 in Exhibit A.

The City further authorizes Licensee to temporarily use three metered parking spaces on Deer Street adjacent to the Subject Property as depicted in Exhibit B.

2. Use: Licensee shall make use of the Licensed Area for the purpose of facilitating the Licensee's construction activities only and in accordance with the terms and conditions set forth herein and consistent with a

Construction Management and Mitigation Plan (“CMMP”) entered into between the City and Licensee attached hereto as Exhibit B.

3. **Term:** The license for all Licensed Areas shall be for 30 days, commencing on January 1, 2021 and concluding on January 30, 2021.
4. **Notice:** Licensee shall provide notice to the City’s Director of Public Works when Licensee assumes control and use of the Licensed Areas and again when it returns the Licensed Areas to the City’s control and use.
5. **License Fees:** The Owner shall pay to the City license fees in accordance with City Council Policy No. 2018-02 entitled “License Fee for Encumbrance of City Property” (the “License Fee Policy”). The License Fee Policy provides that Owner will be charged \$0.05 per square foot per day for use of City property and \$35 per space per day for use of City parking spaces. The total square footage of License Areas 1 through 3 as shown on Exhibit A is 2,092 square feet.

The total License Fees for the License Term of the 30 days for the Licensed Areas is \$6,288. ( $30 \times \$0.05 \times 2,092 = \$3,138$  and  $30 \times \$35 \times 3 = \$3,150$ )

The total License Fee shall be paid to the City in advance of the commencement of the Term of this Agreement.

Because it is in the City’s interest that the Licensed Areas be returned to the public use as soon as possible, if any or all of the Licensed Areas are returned to the City prior to the end of the License Term, the City will refund the Owner the portion of the License Fee paid but not used by the Owner.

Licensee may terminate this License prior to the end of the term by returning all of the Licensed Areas to safe and effective use by the public prior to the expiration of the term of this License. Licensee shall contact the Director of Public works for a determination that the Licensed Areas have been returned to safe and effective use. Failure to remove all vehicles, barriers, materials and equipment and to return the Licensed Areas or Area to the City in the manner prescribed under this License by the end of the term may result in enforcement action by the City.

6. **Indemnification:** Licensee agrees to indemnify and hold harmless the City of Portsmouth for any and all property damage, bodily injury or personal injury which arises as a result of its utilization of the Licensed Areas. This obligation survives termination or revocation of this Agreement.
7. **Insurance:** At all times the Licensee shall maintain insurance for bodily injury and property damage in the amount of at least \$1,000,000 per occurrence. Licensee will provide proof of insurance to the City during the term of this Agreement.

8. Maintenance of Area: During the term of this Agreement, Licensee shall maintain the Licensed Areas in a safe, neat and orderly fashion and shall take such actions as are necessary to protect the public safety in accordance with the CMMP. The Licensee shall secure the perimeter of the Licensed Areas and take such other measures as may be necessary for pedestrian and vehicular safety during use of the Licensed Areas.
9. Damage: Licensee agrees to remedy any damage to the Licensed Areas caused by the Licensee's activities. The work will be performed by Licensee to City specifications and survive the terms of this License Agreement. The City may elect to accept reasonable reimbursement from the Licensee in lieu of remedy.
10. Compliance with Other Laws: This Agreement does not relieve Licensee from compliance with any other local, state or federal laws or regulations or conditions imposed by any local board or the Construction Mitigation and Management Plan (CMMP). Failure to abide by any local, state or federal laws or regulations or any condition of site plan and CMMP may, at the City's discretion, result in revocation.
11. Revocation: The City may terminate this Agreement or any provision contained in this agreement on 72 hours written notice provided if Licensee fails to meet the terms and conditions of this License or if the public interest requires such termination. No 72 hour written notification is required by the City if it is an emergency.
12. Contractor and Subcontractor Parking: Licensee understands and agrees that its contractors and subcontractors for the project shall not use on-street parking. Language will be inserted in Licensee's vendors and suppliers Purchase Orders and Trade Subcontracts that make the prohibition against parking on City streets mandatory. Contractor shall limit/ manage construction vehicles and deliveries to avoid disruption to businesses, particularly during the holiday season. Contractor may use loading zones for active loading and unloading of materials, equipment and tools.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020

City of Portsmouth

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

Karen S. Conard  
City Manager

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

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Licensee

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

Stephen Kelm  
Manager  
30 Maplewood LLC.



**AMBIT ENGINEERING, INC.**  
Civil Engineers & Land Surveyors  
200 Griffin Road - Unit 3  
Portsmouth, N.H. 03801-7114  
Tel (603) 430-9282  
Fax (603) 436-2315

**NOTES:**

- 1) PARCELS ARE SHOWN ON THE CITY OF PORTSMOUTH ASSESSORS MAP 125 AS LOTS 2 & 2A.
- 2) OWNERS OF RECORD:  
125/2:  
30 MAPLEWOOD AVENUE  
CONDOMINIUM ASSOCIATION  
36 MAPLEWOOD AVENUE  
PORTSMOUTH, N.H. 03801  
5099/2424  
PLAN D-38936  
DECLARATION: BK 5636, BK 1930  
FIRST AMENDMENT: BK 5647, PG 1038  
SECOND AMENDMENT: BK 5688, PG 2226  
THIRD AMENDMENT: BK 5783 PG 2443  
FOURTH AMENDMENT: BK 5807, PG 2635  
FIFTH AMENDMENT: BK 5835/ PG 1026  
125/2A  
30 MAPLEWOOD LLC  
36 MAPLEWOOD AVENUE  
PORTSMOUTH, N.H. 03801  
5835/1026
- 3) PARCEL IS NOT IN A FLOOD HAZARD ZONE AS SHOWN ON FIRM PANEL 33015C0259E, MAY 17, 2005.
- 4) EXISTING LOT AREAS:  

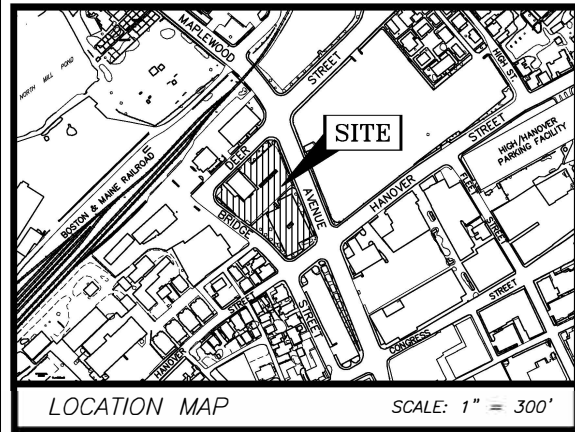
LOT 1	LOT 2
34,887 S.F.	21,798 S.F.
0.8009 AC.	0.5004 AC.
- 5) PARCELS ARE CURRENTLY LOCATED IN THE CHARACTER DISTRICT 4-L, HISTORIC DISTRICT, AND DOWNTOWN OVERLAY DISTRICT.
- 6) THE PURPOSE OF THIS PLAN IS TO SHOW THE LOCATION OF PROPOSED LICENSES.
- 7) LOT 2A HAS A DEEDED RIGHT TO USE THE DUMPSTER ON LOT 2. SEE RCRD 5835/1026
- 8) EXCESS SNOW SHALL BE REMOVED FROM THE SITE AND DISPOSED OF OFF SITE. SNOW SHALL NOT BE DISPOSED OF OR STORED ON CITY PROPERTY.

NO.	DESCRIPTION	DATE
3	DRAIN PIPES IN R-O-W	3/6/18
2	SNOW REMOVAL NOTE, VFM EASEMENT	2/6/18
1	ADDED HATCHING	1/12/18
0	ISSUED FOR COMMENT	12/19/17

REVISIONS

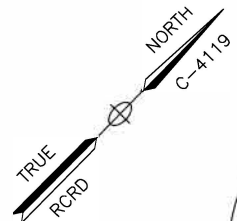
LICENSE PLAN  
TAX MAP 125-LOTS 2 & 2A  
(SUBDIVISION LOTS 1 & 2)  
OWNER:

**30 MAPLEWOOD, LLC**  
30-64 MAPLEWOOD AVENUE  
CITY OF PORTSMOUTH  
COUNTY OF ROCKINGHAM  
STATE OF NEW HAMPSHIRE



**LEGEND:**

- LCA LIMITED COMMON AREA
- N/F NOW OR FORMERLY
- RP RECORD OF PROBATE
- RCRD ROCKINGHAM COUNTY
- REGISTRY OF DEEDS
- RR SPIKE RAILROAD SPIKE
- MAP 11/LOT 21
- IR FND IRON ROD FOUND
- IP FND IRON PIPE FOUND
- IR SET IRON ROD SET
- RR SPK SET RAILROAD SPIKE SET
- DH FND DRILL HOLE FOUND
- DH SET DRILL HOLE SET
- BND w/DH BOUND WITH DRILL HOLE
- ST BND w/DH STONE BOUND WITH DRILL HOLE
- 1 | A REFERENCE TO FIFTH AMENDMENT TO BE RECORDED (HEREWITH)
- 10 PARKING COUNT (10)



**ABUTTERS LIST:**

125/1  
N/F PARADE OFFICE c/o  
CATHARTES PRIVATE INVESTMENTS  
262 WASHINGTON STREET, SUITE 302  
BOSTON, MA 02108  
3756 / 2701

125/3  
N/F EMERSON HOVEY POST 168  
VFW  
238 DEER STREET  
PORTSMOUTH, N.H. 03801

125/4  
N/F SHIANG TA CHEN & JUNE LI  
60 NORTON ROAD  
QUINCY, MA 02189  
3280 / 0645

125/5  
N/F CINDY LEE CARROLL  
391 MILLER AVENUE  
PORTSMOUTH, N.H. 03801  
3103 / 0287

125/6  
N/F G AND N REALTY, LLC  
30074 VILLAGE PARK DRIVE  
CHAPEL HILL, NC 27517  
3957 / 2586

125/7  
N/F JOHN GRAY REVOC. TRUST  
BRADFORD A GRAY REVOC. TRUST  
7 PATRIOTS WAY  
RYE, N.H. 03870  
3895 / 0643

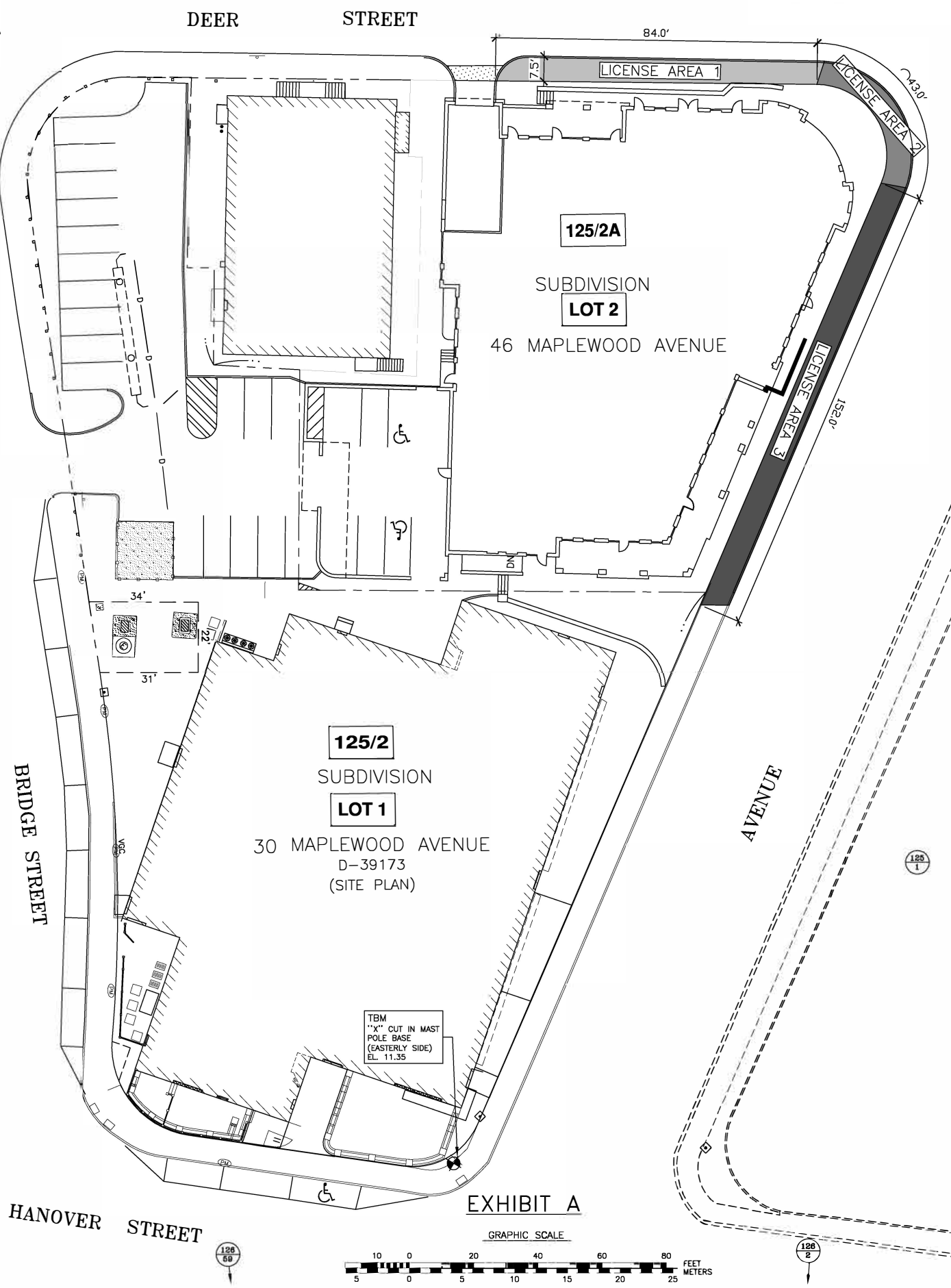
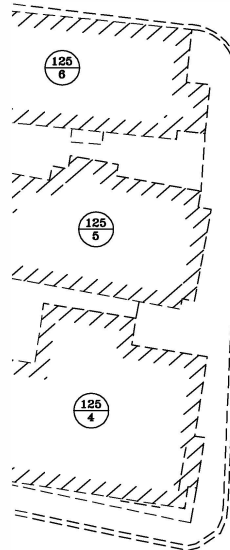
125/8  
N/F DEER STREET ASSOCIATES  
P. O. BOX 100  
YORK HARBOR, ME 03911

125/9  
N/F SHAINES AND McEACHERN CO  
(PORTSMOUTH) LLC  
282 CORPORATE DRIVE  
PORTSMOUTH, N.H. 03801  
4496 / 0556

125/10  
N/F STEPHEN & CHRISTINE MAYEUX  
64 BRIDGE STREET  
PORTSMOUTH, N.H. 03801  
2869 / 0647

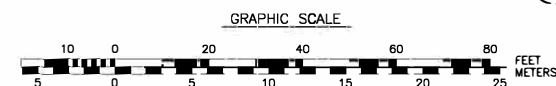
125/11  
N/F CITY OF PORTSMOUTH  
P. O. BOX 628  
PORTSMOUTH, N.H. 03802  
2166 / 0388  
RD-4125

OF HYDRANT FLANGE BOLT

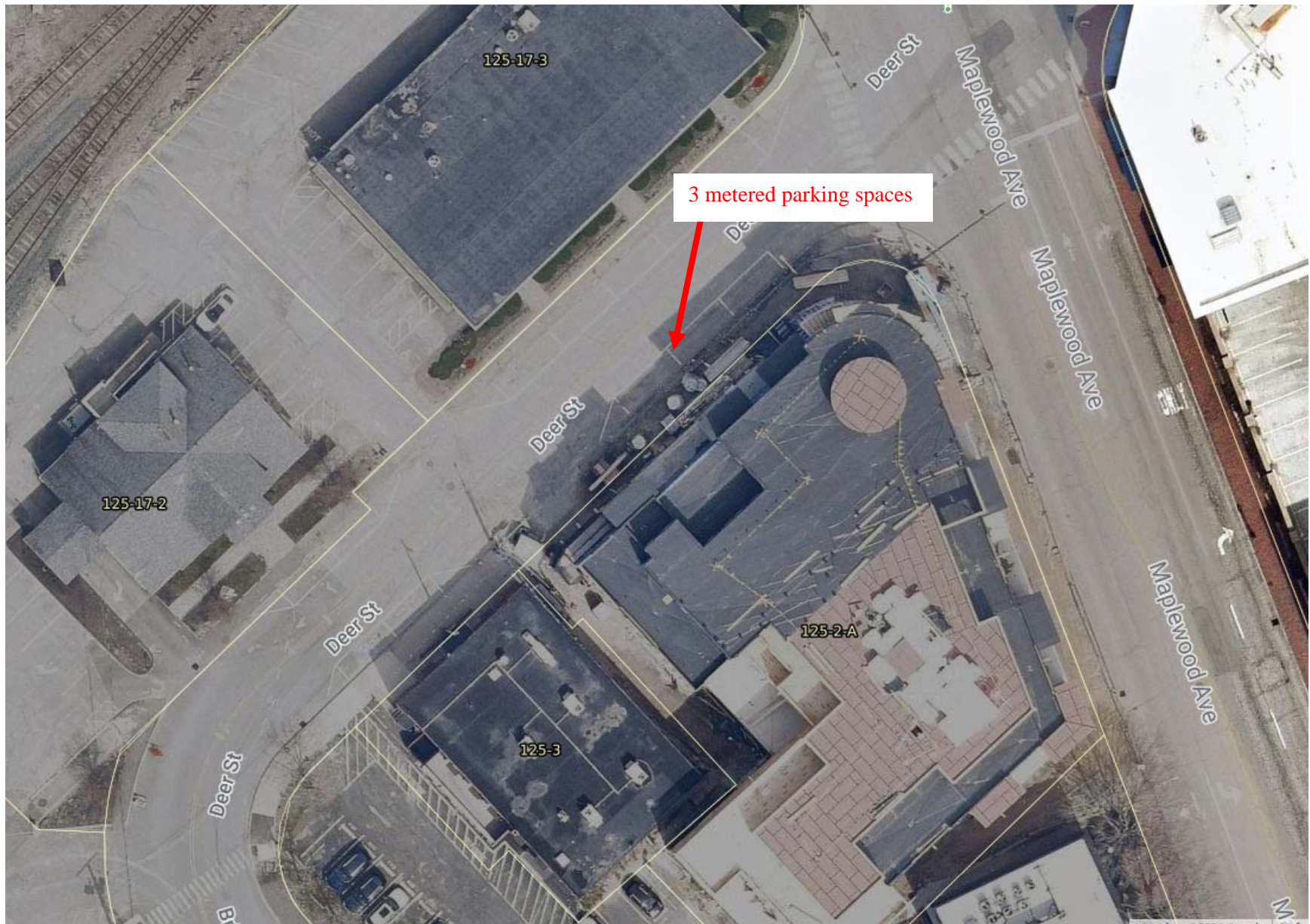


APPROVED BY THE PORTSMOUTH PLANNING BOARD

CHAIRMAN \_\_\_\_\_ DATE \_\_\_\_\_







**46 Maplewood Avenue LLC  
36 Maplewood Avenue  
Portsmouth, NH 03801**

December 10, 2020

Ms Juliet T.H. Walker, AICP  
Planning Director  
Planning Department  
City Hall  
1 Junkins Avnue  
Portsmouth, NH 03801

**Re: 46 Maplewood Ave LLC  
46-64 Maplewood Avenue  
Sidewalk License Agreement**

Dear Ms. Walker:

I am following upon on my meeting with Nick Cracknell on Wednesday regarding the sidewalk and utility construction on Maplewood Avenue and Deer Street at the exterior of the new building being constructed at 46-64 Maplewood Avenue. There is currently a Sidewalk License Agreement in place which is scheduled to expire at the end of December.

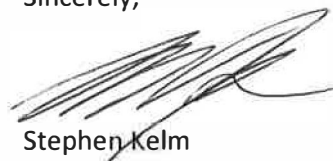
The site contractor is currently working on-site and will continue with the completion of the utility work, silva cell installation and grading along Maplewood and Deer St as weather allows. All ongoing work has been coordinated with Marc Batchelder of Seaport Engineering.

The project is requesting a 30 day extension to the Sidewalk License Agreement to the end of January to allow work to progress into early next year. If weather is not an issue, the utilities will be completed and the sidewalks will be brought up to finish grade for asphalt. A small area of brick pavers may be installed within the sidewalk at the intersection of Maplewood Ave and Deer St.

Temporary asphalt will be placed within the sidewalks to allow reopening of the sidewalks once the work has stopped either due to the weather or when the utility work and grading has been completed. Any remaining work including hardscape and plantings will resume once the weather has moderated in March/April of 2021.

Please let me know if you have any questions.

Sincerely,



Stephen Kelm  
46 Maplewood Avenue LLC



December 10, 2020

The Honorable Mayor Becksted and City Council Members  
1 Junkins Avenue  
Portsmouth, NH 03801

Dear Mayor Becksted and City Council Members,

Big Brothers Big Sisters of New Hampshire would like to respectfully request approval to close Pleasant Street on Saturday, September 25, 2021 from 1pm – 4pm for our 12<sup>th</sup> Annual *Stiletto Sprint*. We further request to reserve the following Sunday, September 26, for a rain date.

Our Young Philanthropists for Mentoring (YP4M) Committee is excited to begin organizing the Stiletto Sprint for 2021. The YP4M Committee is a group of young professionals who help raise financial support and awareness for our mission to provide children facing adversity with strong and enduring, professionally supported, one-to-one relationships that change their lives for the better, forever.

In spite of the COVID-19 pandemic, this year's Virtual Stiletto Sprint was very successful, raising funds for our mentoring programs and awareness of the agency. All proceeds from this event will support Big Brothers Big Sisters' efforts in the community.

Big Brothers Big Sisters of New Hampshire will work with your Council and the Fire and Police Departments to make this a successful and minimally disruptive event. We will require every participant to sign a release of liability waiver as well carrying a Certificate of Insurance for the event.

If you have any questions regarding this proposal, please contact me at [lcarter@bbbsnh.org](mailto:lcarter@bbbsnh.org) or 603-430-1140 x 1026.

We look forward to continued collaboration with the City of Portsmouth.

Sincerely,

Linda Carter  
Special Events & Business Engagement Coordinator  
Big Brothers Big Sisters New Hampshire

**Business office: 3 Portsmouth Ave. #2 - Stratham, NH 03885**

[www.bbbsnh.org](http://www.bbbsnh.org)

**Serving Central, Western, Seacoast, and Lakes Region, NH**



Nick Diana  
8 Bridge Street  
Kittery, ME 03904  
(603) 498-8539  
[nick@newcastlenh10k.com](mailto:nick@newcastlenh10k.com)  
December 9, 2020

Mayor Rick Becksted & Portsmouth City Council Members

Dear Mayor Rick Becksted & Portsmouth City Council Members:

I am writing to you to request permission to host the third annual running road race, *New Castle 10K*, that includes multiple streets within the city of Portsmouth, NH. The start of the race is at 9:30am and finish is at 11:30am; both start and finish will be at the Great Island Common in New Castle, NH. This race was held successfully in 2018, 2019, and was virtual in 2020.

Once the city of Portsmouth approves – I will submit the application for parade have applied for a *Parade Permit* with the state of NH, on September 11, 2021. I have spoken to the state and have enough lead time prior to the application. This event is not a parade, but rather a running road race.

The course route has not changed and is as follows (see map as separate attachment):

1. Depart out of the Great Island Common heading right
2. Run along Route 1B / New Castle Avenue; stay left on New Castle Ave at intersection of Marcy Street
3. Turn left onto South Street
4. Turn left onto Route 1A / Sagamore Avenue
5. Turn left onto Route 1B / Wentworth Road
6. Turn right into the Great Island Common

Portsmouth city limits or roads begin just prior to mile marker 2 and just after mile marker 4. Therefore, it is estimated the first runner will reach Portsmouth city limits at 9:41am (based on a 5:30 min/mi pace). It is also estimated that final runner/walker will be running/walking within Portsmouth city limits at 10:50am (based on a 20 min/mi pace). Most runners will complete the race in under an hour, but we will stay open until 11:30am for any walkers or slower runners. Based on the estimation above, runners/walkers will only be on the streets of Portsmouth for 1 hour and 20 minutes.

Runners will stay on the right side of the road as they depart the Great Island Common. Runners will switch to the left side of the road at the intersection of New Castle Avenue and Marcy Street. At that point of the race, runners will stay on the left shoulder of the road until crossing the road and turning right, into the Great Island Common to finish the race.

December 9, 2020

Page 2

Race Details:

- Event date: Saturday, September 11, 2021
- Start time: 9:30am
- End time: 11:30am
- Estimated number of running participants: 300-600
- Total Distance: 6.2 miles
- Number of water hydration stops: 3 (mile markers 1.75, 3, and 4.5)
- Number of police detail: 4 (request will be submitted in accordance with City officials)

I will once again work with both Portsmouth and New Castle police departments, fire, and EMTs to ensure all roads are properly marked, and all event participants are safe. I am confident that speaking with city fire and police officials, they will agree that I am very thorough in my planning and ensuring runners are safe throughout the race.

About me – I lived in Portsmouth for about 18 years and have since purchased a small home in Kittery, where I've resided for the past 3 years. I host a local running group, as well as a yearly coat drive event for the local homeless shelter – Cross Roads House. Community involvement is very important to me and I hope to continue to be an active and supportive member for years to come.

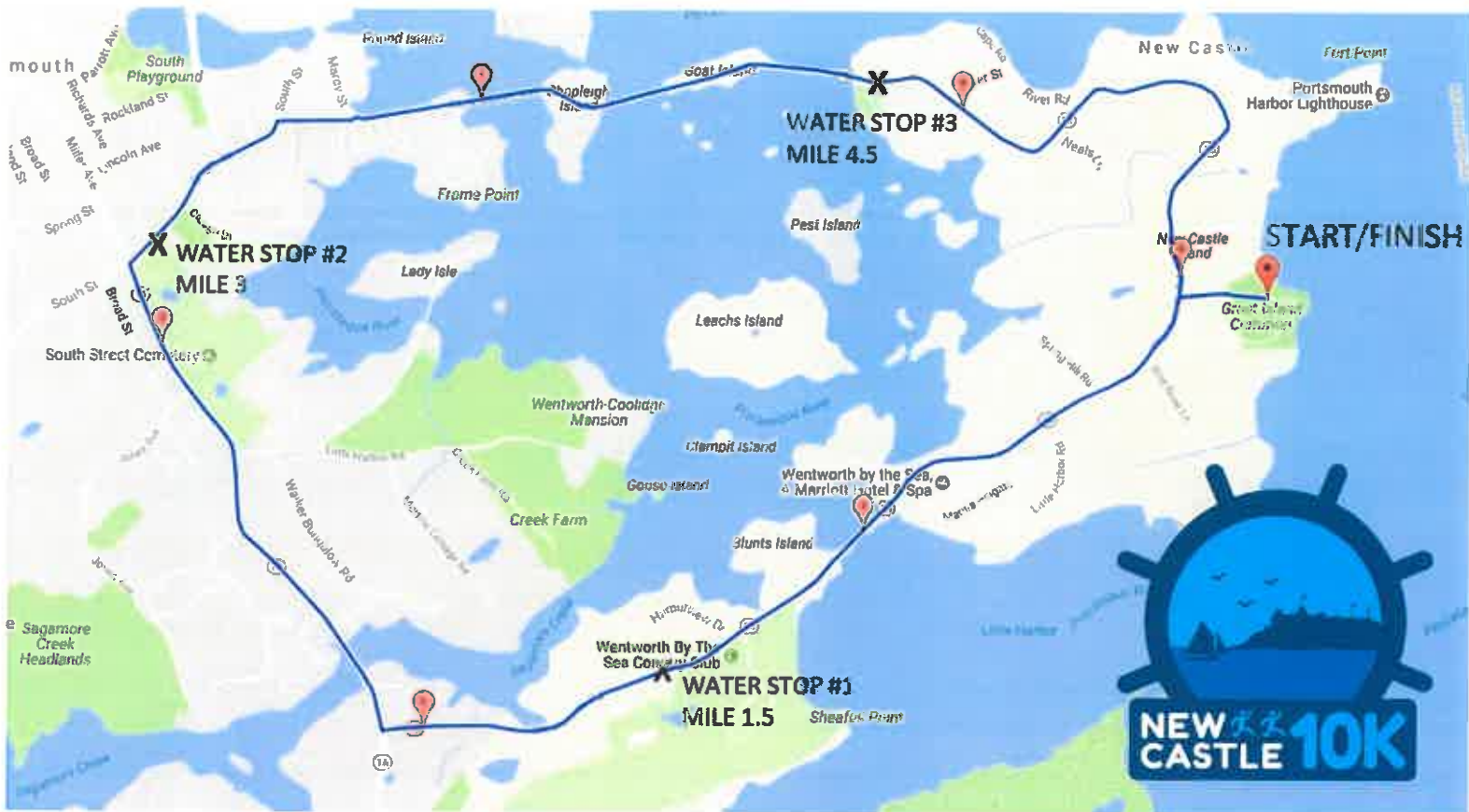
I sincerely appreciate your consideration and I look forward to hosting this event for another year and years to come.

Sincerely,

Nick Diana

Race Director

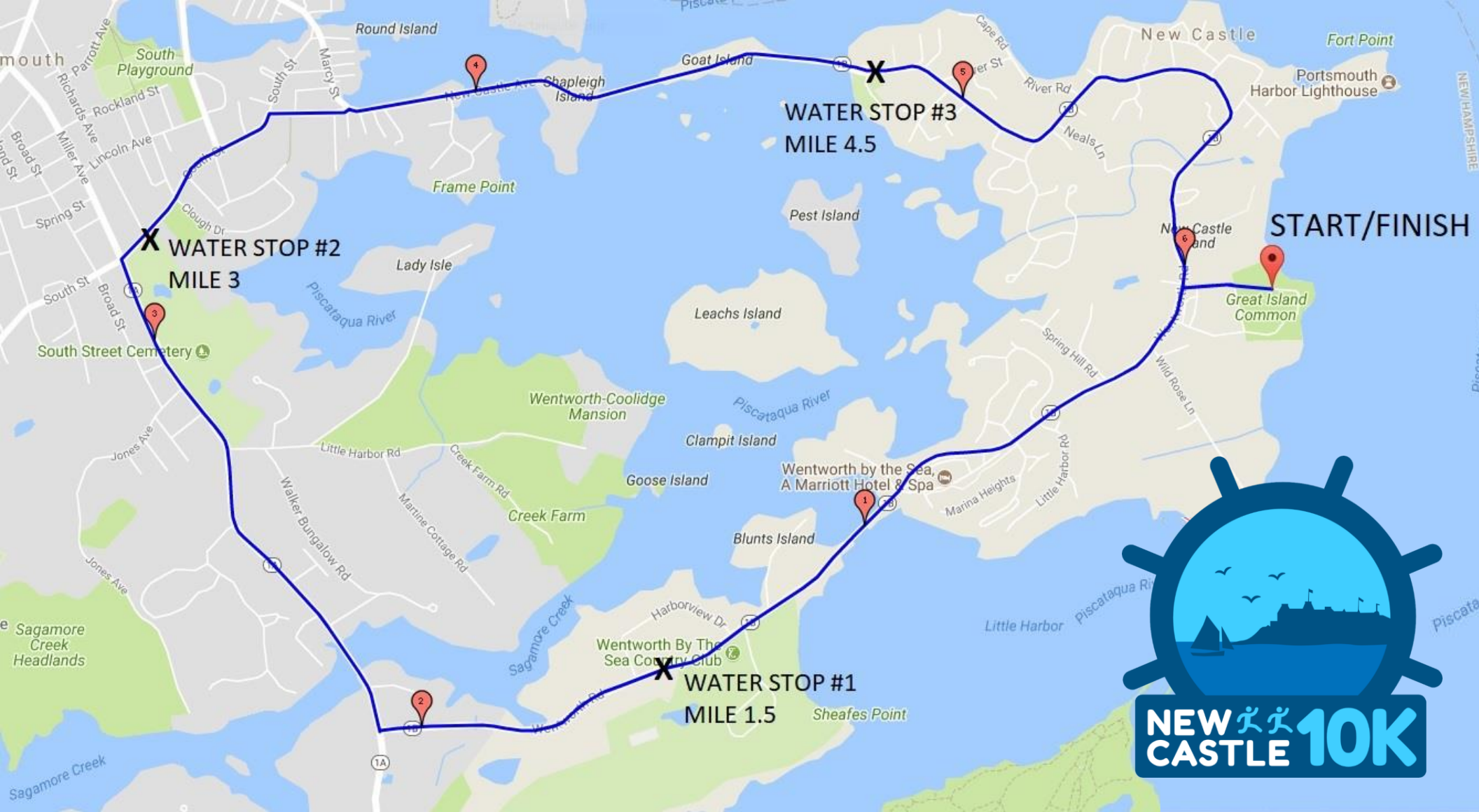
[newcastlenh10k.com](http://newcastlenh10k.com)



**Route Details:**

1. You're departing the Great Island Common by turning left.
2. Please stay on the right side of the road throughout the entire race. You only need to cross the road 3 times: 1) as you depart Great Island Common at the start, 2) at the New Castle Ave. / Marcy St. turn (just before mile #4), and 3) as you turn left back into Great Island Common to finish the race.
3. There is a steep hill after mile 2, just after you turn onto Sagamore Ave., from Wentworth Rd.
4. Take note of the Portsmouth Naval Prison just after Shapleigh Island, after mile #4.

**HAVE A GREAT RACE!**



#### Route Details:

1. You're departing the Great Island Common by turning left.
2. Please stay on the right side of the road throughout the entire race. You only need to cross the road 3 times: 1) as you depart Great Island Common at the start, 2) at the New Castle Ave. / Marcy St. turn (just before mile #4), and 3) as you turn left back into Great Island Common to finish the race.
3. There is a steep hill after mile 2, just after you turn onto Sagamore Ave., from Wentworth Rd.
4. Take note of the Portsmouth Naval Prison just after Shapleigh Island, after mile #4.

HAVE A GREAT RACE!

## ACCESS EASEMENT FOR WATER SERVICES

KNOW ALL PERSONS BY THESE PRESENTS, that **Cromwell Investments, LLC**, a New Hampshire Limited Liability Company with a principal place of business at 11 Lafayette Road, North Hampton, New Hampshire 03862, for consideration received, grants to the **City of Portsmouth**, a municipal body politic having a mailing address of 1 Junkins Avenue, Portsmouth, County of Rockingham and State of New Hampshire 03801, with **QUITCLAIM COVENANTS** an easement over, below, along, and across the premises described herein, located on the northerly side of Banfield Road in the City of Portsmouth, County of Rockingham, State of New Hampshire , (Tax Assessor's Map No. 256, Lot 2), and being more particularly described as follows:

See Attached Exhibit A.

Meaning and intending to convey an easement over the premises conveyed to the within grantor by Deed of Walter D. Hett, Trustee of the Walter D. Hett Trust to Cromwell Investments, LLC, dated October 29, 2020 and recorded in the Rockingham County Registry of Deeds at Book 6186, Page 2475.

**Purpose and Rights:** The Grantee shall have a perpetual, permanent uninterrupted and unobstructed nonexclusive easement for the purpose of enabling the City of Portsmouth to access private water infrastructure including mains, water shutoffs, and valves for the limited purpose of leak detection and similar infrastructure inspection services and for access to valves for purposes of turning on and shutting off municipal water service. Grantee shall have no responsibility for installation, maintenance, operation, or replacement of the water infrastructure.

**Retained Rights:** Grantor retains the right to freely use and enjoy its interest in the easement area insofar as the exercise thereof does not interfere with the purpose of this instrument.

**Easement To Run With Land:** All rights and privileges, obligations and liabilities created by this instrument shall inure to the benefit of, and be binding upon, the heirs, devisees, administrators, executor, successors and assignees of the Grantee and of the Grantor, the parties hereto and all subsequent owners of the Premises and shall run with the land.

This is an exempt transfer per R.S.A. 78-B:2(I).

IN WITNESS WHEREOF, the parties have executed this document on the \_\_\_\_ day of December 2020.

**CROMWELL INVESTMENTS, LLV**

Witness: \_\_\_\_\_

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

Nam: Richard W. Green

Title: Manager

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM

Personally appeared the above-named Richard W. Green, in his capacity as Manager of Cromwell Investments, LLC and acknowledged the foregoing instrument to be his free act and deed executed for the purposes contained therein.

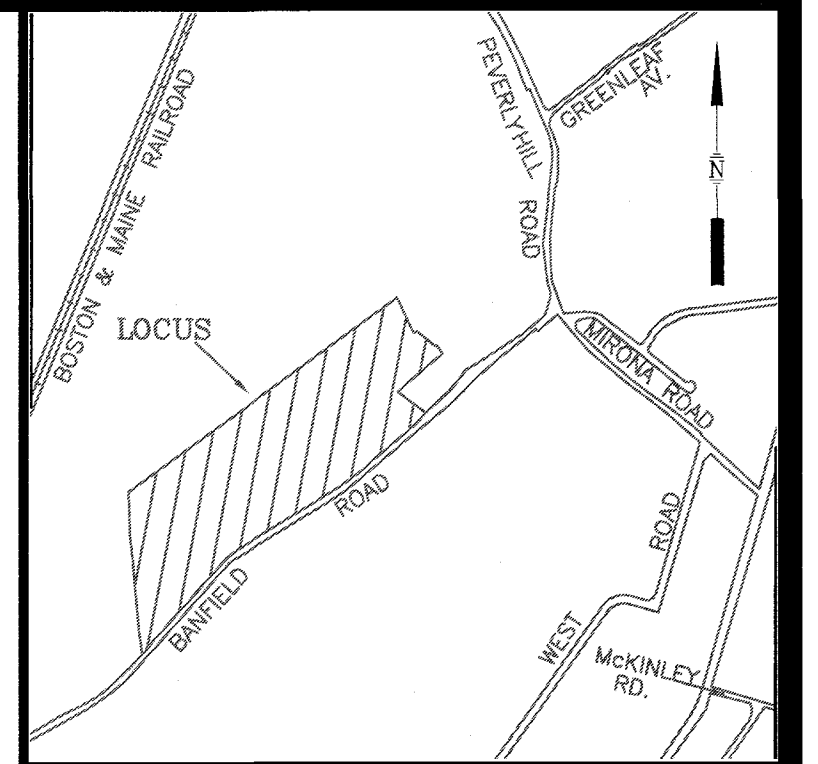
\_\_\_\_\_  
Notary Public/Justice of the Peace

My commission expires: \_\_\_\_\_



CITY OF PORTSMOUTH PLANNING BOARD

CHAIRPERSON \_\_\_\_\_ DATE \_\_\_\_\_



LOCATION PLAN

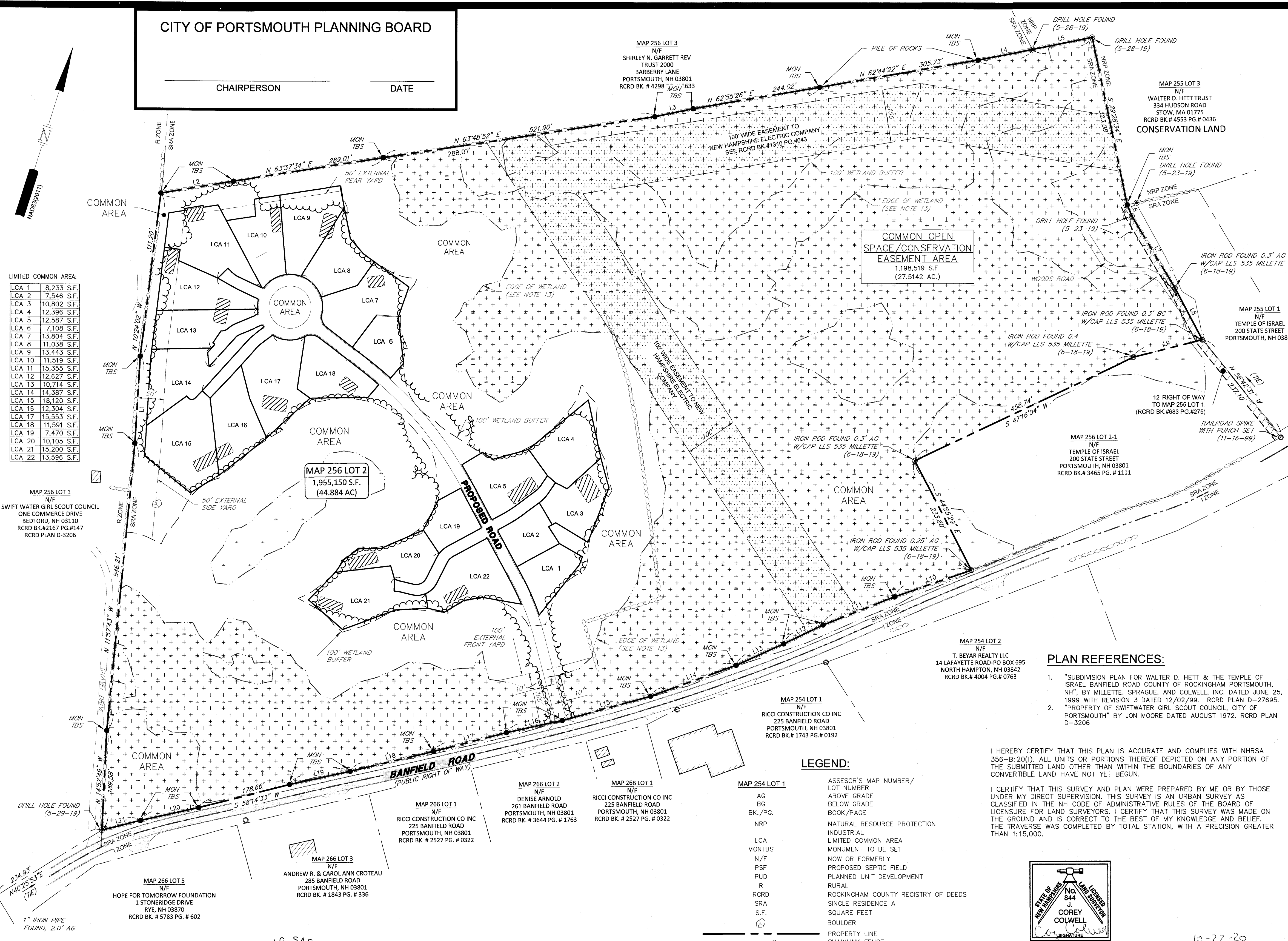
LINE	BEARING	DISTANCE
L1	N 14°03'49" W	163.61'
L2	N 62°45'58" E	140.17'
L3	N 60°27'10" E	74.31'
L4	N 61°20'44" E	105.56'
L5	N 60°58'42" E	115.75'
L6	S 40°08'01" E	72.98'
L7	S 48°30'23" E	159.80'
L8	S 45°44'06" E	110.28'
L9	S 58°19'16" W	135.27'
L10	S 53°23'55" W	154.49'
L11	S 51°04'17" W	145.81'
L12	S 46°41'16" W	83.08'
L13	S 48°05'39" W	99.00'
L14	S 52°42'36" W	173.00'
L15	S 57°03'44" W	173.81'
L16	S 60°20'11" W	108.27'
L17	S 57°50'14" W	143.89'
L18	S 59°00'53" W	162.66'
L19	S 60°14'59" W	117.96'
L20	S 59°39'51" W	113.08'
L21	S 58°23'21" W	76.30'

LIMITED COMMON AREA:

LCA 1	8,233 S.F.
LCA 2	7,546 S.F.
LCA 3	10,802 S.F.
LCA 4	12,396 S.F.
LCA 5	12,587 S.F.
LCA 6	7,108 S.F.
LCA 7	13,804 S.F.
LCA 8	11,038 S.F.
LCA 9	13,443 S.F.
LCA 10	11,519 S.F.
LCA 11	15,355 S.F.
LCA 12	12,627 S.F.
LCA 13	10,714 S.F.
LCA 14	14,387 S.F.
LCA 15	18,120 S.F.
LCA 16	12,304 S.F.
LCA 17	15,553 S.F.
LCA 18	11,591 S.F.
LCA 19	7,470 S.F.
LCA 20	10,105 S.F.
LCA 21	15,200 S.F.
LCA 22	13,596 S.F.

MAP 256 LOT 1  
N/F  
SWIFT WATER GIRL SCOUT COUNCIL  
ONE COMMERCIAL DRIVE  
BEDFORD, NH 03110  
RCRD BK.#2167 PG.#147  
RCRD PLAN D-3206

Oct 22, 2020 - 12:49pm  
F:\MISC Projects\47361 - Banfield Road - Portsmouth\47361-00 - Green & Co - Banfield Road\Carison Survey\DWG\47361-00 Survey.dwg



NOTES:

- THE PARCEL IS LOCATED IN THE SINGLE RESIDENCE A (SRA) ZONING DISTRICT.
- THE PARCEL IS SHOWN ON THE CITY OF PORTSMOUTH ASSESSOR'S MAP 256 AS LOT 2.
- THE PARCEL IS LOCATED IN ZONE X AS SHOWN ON NATIONAL FLOOD INSURANCE PROGRAM (NFIP), FLOOD INSURANCE RATE MAP (FIRM) ROCKINGHAM COUNTY, NEW HAMPSHIRE, PANEL 270 OF 681, MAP NUMBER 3301SC0270E, WITH AN EFFECTIVE DATE OF MAY 17, 2005.
- DIMENSIONAL REQUIREMENT OF OPEN SPACE RESIDENTIAL PUD (OS-PUD):
 

REQUIRED:	PROPOSED:
10 ACRES	44.884 ACRES
100'	1,730'
MINIMUM STREET FRONTAGE:	
MINIMUM EXTERNAL YARDS:	
FRONT:	100'
SIDE & REAR:	25'
MINIMUM INTERNAL YARDS:	50'
FRONT:	20'
SIDE & REAR:	25'
MINIMUM SEPARATION BETWEEN STRUCTURES:	30'
COMMON OPEN SPACE:	25%
PER THE CITY OF PORTSMOUTH ZONING ORDINANCE SECTION 10.725	95%
- OWNER OF RECORD:  
MAP 256 LOT 2:  
THE WALTER D. HETT TRUST  
WALTER D. HETT, TRUSTEE  
334 HUDSON ROAD  
STOW, MA 01775  
RCRD BK.#4553 PG.#432
- TOTAL PARCEL AREA: SUBMITTED AREA: COMMON AREA:  
MAP 256 LOT 2:  
1,955,150 S.F. (44.884 ACRES) 1,955,150 S.F. (44.884 ACRES) 1,955,150 S.F. (44.884 ACRES)
- THE INTENT OF THIS PLAN IS TO SHOW THE LOCATION OF BOUNDARIES IN ACCORDANCE WITH THE CURRENT LEGAL DESCRIPTIONS. IT IS NOT AN ATTEMPT TO DEFINE THE EXTENT OF OWNERSHIP OR DEFINE THE LIMITS OF TITLE.
- THE PURPOSE OF THIS PLAN IS TO DEPICT THE COMMON AREAS AND LIMITED COMMON AREAS ASSOCIATED WITH THE OPEN SPACE PLANNED UNIT DEVELOPMENT OF MAP 256 LOT 2. CONSTRUCTION OF UNITS NOT YET BEGUN. THE FINAL METES AND BOUNDS OF THE UNITS AND THEIR ASSIGNED LIMITED COMMON AREAS SHALL BE DETERMINED BY AS-BUILT PLANS WITH AN AMENDED CONDOMINIUM SITE PLAN TO BE RECORDED UPON COMPLETION OF EACH UNIT.
- THESE UNITS ARE FOR RESIDENTIAL USE ONLY.
- FIELD SURVEY COMPLETED BY TCE AND EJS IN MAY & JUNE 2019 USING A TOPCON DS103 AND A TOPCON FC-5000 DATA COLLECTOR.
- HORIZONTAL DATUM IS NAD83 (2011) PER STATIC GPS OBSERVATIONS.
- EASEMENTS, RIGHTS, AND RESTRICTIONS SHOWN OR IDENTIFIED ARE THOSE WHICH WERE FOUND DURING RESEARCH PERFORMED AT THE ROCKINGHAM COUNTY REGISTRY OF DEEDS. OTHER RIGHTS, EASEMENTS, OR RESTRICTIONS MAY EXIST WHICH A TITLE EXAMINATION OF SUBJECT PARCEL(S) WOULD DETERMINE.
- WETLAND DELINEATION WAS COMPLETED BY GOVE ENVIRONMENTAL SERVICES IN MAY, 2019 IN ACCORDANCE WITH THE 1987 ARMY CORP OF ENGINEERS WETLAND MANUAL AND THE 2012 REGIONAL SUPPLEMENT TO THE CORPS OF ENGINEERS WETLAND DELINEATION MANUAL: NORTHCENTRAL AND NORTHEAST REGION, FIELD LOCATED BY TFMORAN, INC.
- THE LOCATION OF ANY UNDERGROUND UTILITY INFORMATION SHOWN ON THIS PLAN IS APPROXIMATE. TFMORAN, INC. MAKES NO CLAIM TO THE ACCURACY OR COMPLETENESS OF UNDERGROUND UTILITIES SHOWN. PRIOR TO ANY EXCAVATION ON SITE THE CONTRACTOR SHALL CONTACT DIG SAFE.
- THE UNITS SHOWN HEREON ARE TO BE SERVED BY THE CITY OF PORTSMOUTH PUBLIC WATER SUPPLY. AN EASEMENT SHALL BE GRANTED TO THE CITY OF PORTSMOUTH TO ALLOW WATER DEPARTMENT PERSONNEL ACCESS TO VALVES, HYDRANTS AND METERS FOR LEAK DETECTION, METERING AND MAINTENANCE.
- TRASH AND SNOW REMOVAL IS THE RESPONSIBILITY OF THE PRIVATE HOMEOWNERS.

PLAN REFERENCES:

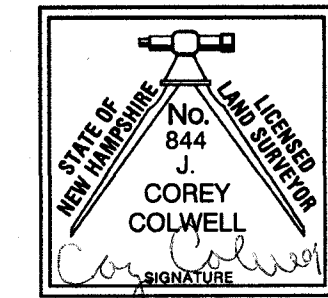
- "SUBDIVISION PLAN FOR WALTER D. HETT & THE TEMPLE OF ISRAEL BANFIELD ROAD COUNTY OF ROCKINGHAM PORTSMOUTH, NH", BY MILLETTE, SPRAGUE, AND COLWELL, INC. DATED JUNE 25, 1999 WITH REVISION 3 DATED 12/02/99. RCRD PLAN D-27695.
- "PROPERTY OF SWIFTWATER GIRL SCOUT COUNCIL, CITY OF PORTSMOUTH" BY JON MOORE DATED AUGUST 1972. RCRD PLAN D-3206.

I HEREBY CERTIFY THAT THIS PLAN IS ACCURATE AND COMPLIES WITH NHRSA 356-B:20(i). ALL UNITS OR PORTIONS THEREOF DEPICTED ON ANY PORTION OF THE SUBMITTED LAND OTHER THAN WITHIN THE BOUNDARIES OF ANY CONVERTIBLE LAND HAVE NOT YET BEGUN.

I CERTIFY THAT THIS SURVEY AND PLAN WERE PREPARED BY ME OR BY THOSE UNDER MY DIRECT SUPERVISION. THIS SURVEY IS AN URBAN SURVEY AS CLASSIFIED IN THE NH CODE OF ADMINISTRATIVE RULES OF THE BOARD OF LICENSURE FOR LAND SURVEYORS. I CERTIFY THAT THIS SURVEY WAS MADE ON THE GROUND AND IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. THE TRAVERSE WAS COMPLETED BY TOTAL STATION, WITH A PRECISION GREATER THAN 1:15,000.

LEGEND:

AG	ASSESSOR'S MAP NUMBER/ LOT NUMBER
BK./PG.	ABOVE GRADE
BK./PAGE	BELOW GRADE
NRP	BOOK/PAGE
I	NATURAL RESOURCE PROTECTION
LCA	INDUSTRIAL
MON/TBS	LIMITED COMMON AREA
N/F	MONUMENT TO BE SET
PSF	NOW OR FORMERLY
R	PROPOSED SEPTIC FIELD
RCRD	PLANNED UNIT DEVELOPMENT
SRA	RURAL
S.F.	ROCKINGHAM COUNTY REGISTRY OF DEEDS
⊙	SINGLE RESIDENCE A
	SQUARE FEET
	BOULDER
	PROPERTY LINE
	CHAINLINK FENCE
	STONEWALL
	WETLAND SETBACK
	EDGE OF WETLAND
	PROPOSED EDGE OF WOODS
	PAVEMENT
	WETLANDS
	COMMON OPEN SPACE
	100' WIDE ELECTRIC EASEMENT
	12' RIGHT OF WAY
	PROPOSED SEPTIC FIELD



LICENSED LAND SURVEYOR DATE 10-22-20



Civil Engineers  
Structural Engineers  
Traffic Engineers  
Land Surveyors  
Landscape Architects  
Scientists

48 Constitution Drive  
Bedford, NH 03110  
Phone (603) 472-4488  
Fax (603) 472-9747  
www.tfmoran.com

47361-00	DR	EJS	FB	559	S-03
	CK	BMK	CA/FILE		

REV.	DATE	DESCRIPTION	DR	CK
4	10/7/2020	REVISE COMMON OPEN SPACE/CONSERVATION AREA, PLAN TITLE	JSM	JCC
3	7/17/2020	REVISE COMMON SPACE	BMK	JCC
2	5/5/2020	REVISED LCA BOUNDARIES	BMK	JCC
1	3/23/2020	REVISED LCA BOUNDARIES, ADDED NOTE 15	IID	BMK



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This plan is not effective unless signed by a duly authorized officer of Thomas F. Moran, Inc.

TAX MAP 256 LOT 2  
**CONDOMINIUM SITE PLAN**  
**FOR THE VILLAGE AT BANFIELD WOODS**  
**BANFIELD ROAD**  
**PORTSMOUTH, NEW HAMPSHIRE**  
**COUNTY OF ROCKINGHAM**  
OWNED BY  
**THE WALTER D. HETT TRUST**  
PREPARED FOR  
**CROMWELL INVESTMENTS, LLC**

SCALE: 1" = 100' (22x34) 1" = 200' (11x17) DECEMBER 23, 2019

After recording return to:

City of Portsmouth  
Planning Department  
1 Junkins Avenue  
Portsmouth, NH 03801

## **CONSERVATION EASEMENT DEED**

**Cromwell Investments, LLC**, a New Hampshire Limited Liability Company with a principal place of business at 11 Lafayette Road, North Hampton, New Hampshire 03862, (hereinafter referred to as the "Grantor," which word where the context requires includes the plural and shall, unless the context clearly indicates otherwise, include the Grantor's executors, administrators, legal representatives, devisees, heirs, successors and assigns), for consideration paid, with WARRANTY covenants, grants in perpetuity to **City of Portsmouth**, a municipal corporation having an address of 1 Junkins Avenue, Portsmouth, New Hampshire, (hereinafter referred to as the "Grantee" which shall, unless the context clearly indicates otherwise, include the Grantee's successors and assigns), the Conservation Easement (herein referred to as the "Easement") hereinafter described with respect to that certain parcel of land (herein referred to as the "Property") with any and all buildings, structures, and improvements thereon/being unimproved land situated on Banfield Road in the City of Portsmouth, County of Rockingham, State of New Hampshire, with said Property and Easement more particularly bounded and described in Appendix "A" attached hereto and made a part hereof.

### **1. CONSERVATION PURPOSES**

The Easement hereby granted is pursuant to NH RSA 477:45-47, exclusively for the following conservation purposes:

- A. The protection of the natural habitat at The Village of Banfield Woods, including all common open space, wetland and upland areas up to the wetland edge of the 100' buffer surrounding the limited common areas; and
- B. To preserve and protect in perpetuity the natural vegetation, soils, hydrology, natural habitat and the



scenic and aesthetic character of the Property so that the Property retains its natural qualities and functions; and

C. The common open space/conservation easement area is depicted on the Condominium Site Plan The Village at Banfield Woods, Banfield Road, Portsmouth, New Hampshire prepared for Cromwell Investments, LLC prepared by TF Moran dated December 23, 2019 with revision 4 dated 10/7/2020. Excluded from said easement area is the common roadway.

## **2. USE LIMITATIONS**

A. The Property shall be maintained in perpetuity in an undeveloped and natural condition without there being conducted thereon any industrial or commercial activities, except as described below, and provided that such uses shall not degrade the conservation purposes of this Easement. No use shall be made of the Property, and no activity shall be permitted thereon, which is inconsistent with the intent of this Easement, that being the perpetual protection and preservation of the Property, as more particularly described in Section 1 herein.

B. The Property shall not be subdivided and none of the individual tracts that together comprise the Property shall be conveyed separately from one another.

C. No structure or improvement, including, but not limited to, a dwelling, any portion of a septic system, tennis court, swimming pool, dock, tower, commercial facility, conduit or utility line, billboard or other means of advertising display, driveway or road made of asphalt or other impervious surface, or other temporary or permanent structure or improvement, shall be constructed, placed, or introduced onto the Property. However, with the approval of the Planning Director for the City ancillary structures and improvements including, but not limited to, a road, dam, fence, bridge, culvert, barn, maple sugar house, or shed may be constructed, placed, or introduced onto the Property only as necessary in the accomplishment of the agricultural, forestry, conservation, or noncommercial outdoor recreational uses of the Property and provided that they are not detrimental to the scenic, agricultural, historic, recreational, wildlife habitat protection purposes of this Easement. Any such ancillary structure or improvement shall be constructed in a manner least detrimental to the conservation purposes of this Easement. The parties further recognize this provision shall not apply to any preexisting utility easements.

D. There shall be no dumping, injection, burning, or burial of refuse, trash, rubbish, debris, junk, waste, man-made materials or materials then known to be environmentally hazardous, including vehicle bodies or parts, or other similar substances.

E. Notwithstanding the foregoing, the Grantee shall be allowed to construct a road through the open space that serves the individual dwelling sites. This exception shall extend to any maintenance of the road, drainage systems, utilities and stormwater management systems within twenty (20) feet of each is side of the road.

## **3. BENEFITS, BURDENS, AND ACCESS**

A. The burden of the Easement conveyed hereby shall run with the Property and shall be enforceable against all future owners and tenants in perpetuity; the benefits of this Easement shall not be appurtenant to any particular parcel of land but shall be in gross and assignable or transferable only to the State of New Hampshire, the U.S. Government, or any subdivision of either of them, consistent with Section

170(c)(1) of the U.S. Internal Revenue Code of 1986, as amended, or to any qualified organization within the meaning of Section 170(h)(3) of said Code, which organization has among its purposes the conservation and preservation of land and water areas and agrees to and is capable of enforcing the conservation purposes of this Easement. Any such assignee or transferee shall have like power of assignment or transfer.

B. The Grantee shall have access to the Property and all of its parts for such inspection as is necessary to determine compliance with and to enforce this Easement and exercise the rights conveyed hereby and fulfill the responsibilities and carry out the duties assumed by the acceptance of this Easement.

#### **4. LEGAL REMEDIES OF GRANTEE**

A. When a breach of this Easement, or conduct by anyone inconsistent with this Easement, comes to the attention of the Grantee, it shall notify the Grantor in writing of such breach or conduct, delivered in hand or by certified mail, return receipt requested.

B. The Grantor shall, after receipt of such notice or after otherwise learning of such breach or conduct, undertake those actions, including restoration, which are reasonably calculated to cure swiftly said breach, or to terminate said conduct, and to repair any damage. The Grantor shall promptly notify the Grantee of its actions taken under this section.

C. If the Grantor fails to take such proper action under the preceding paragraph, the Grantee shall, as appropriate to the purposes of this Easement, undertake any actions that are reasonably necessary to cure such breach or to repair any damage in the Grantor's name or to terminate such conduct. The cost thereof, including, but not limited to, the Grantee's reasonable expenses, expert fees, court costs, and legal fees, shall be paid by the Grantor, provided that the Grantor is directly or primarily responsible for the breach.

D. Nothing contained in this Easement shall be construed to entitle the Grantee to bring any action against the Grantor for any injury to or change in the Property resulting from causes beyond the Grantor's control, including, but not limited to, unauthorized actions by third parties, natural disasters such as fire, flood, storm, and earth movement, or from any prudent action taken by the Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the Property resulting from such causes.

E. The Grantee and the Grantor reserve the right, separately or collectively, to pursue all legal remedies against any third party responsible for any actions detrimental to the conservation purposes of this Easement.

F. No delay or omission by Grantee in the exercise of any right or remedy upon any breach by Grantor shall impair Grantee's rights or remedies or be construed as a waiver.

G. Grantee shall have the right to enforce this Easement by appropriate legal means and to obtain injunctive and other equitable relief against any violations, including without limitation, relief requiring restoration of the Property to its condition prior to the time of the violation, and shall be in addition to, and not limitation of, any other rights and remedies available to the Grantee.

H. Grantee, by its acceptance of this Easement, does not undertake any liability or obligation relating to the condition of the Property.

I. The State of the New Hampshire shall have standing to seek mandamus or such other relief against Grantee and/or Grantor as may be necessary in the event Grantee and/or Grantor has not, in the State's opinion, taken steps necessary under this section to adequately preserve and protect the conservation purposes of this Easement.

## **5. COVENANTS TO "RUN WITH THE LAND"**

- A. The terms and conditions of this Easement shall run with the Property in perpetuity and shall be enforceable against the Grantor or any other person or entity holding any interest in the Property.
- B. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Easement. The Grantor agrees to execute any such instrument upon the Grantee's request.
- C. The benefits of this Easement shall be in gross and the Grantee shall not assign them, except in the following instances and from time to time:
- i. As a condition of any assignment, the Grantee requires that the conservation purposes of this Easement continue to be enforced.

## **6. NOTICES**

All notices, requests and other communications, required or permitted to be given under this Easement shall be in writing, except as otherwise provided herein, and shall be delivered in hand or sent by certified mail, postage prepaid, return receipt requested to the appropriate address set forth above or at such other address as the Grantor or the Grantee may hereafter designate by notice given in accordance herewith. Notice shall be deemed to have been given when so delivered or so mailed.

## **7. SEVERABILITY**

If any provision of this Easement, or the application thereof to any person or circumstance, is found to be invalid by a court of competent jurisdiction, by confirmation of an arbitration award or otherwise, the remainder of the provisions of this Easement or the application of such provision to persons or circumstances other than those to which it is found to be invalid, as the case may be, shall not be affected thereby.

## **8. SEPARATE PARCEL**

The Grantor agrees that for the purpose of determining compliance with any present or future bylaw, order, ordinance, or regulation (within this section referred to as "legal requirements") of the City of Portsmouth, the State of New Hampshire or any other governmental unit, the Property shall be deemed a separate parcel of land and shall not be taken into account in determining whether any land of the Grantor, other than the Property, complies with any said legal requirements. The Property shall not be taken into account to satisfy in whole or in part any of said legal requirements or any area, density, setback or other dimensional standard applicable to such land.

## **9. MERGER**

The Grantor and Grantee explicitly agree that it is their express intent, forming a part of the consideration hereunder, that the provisions of the Easement set forth herein are to last in perpetuity, and that to that end no purchase or transfer of the underlying fee interest in the Property by or to the Grantee or any successor or assign shall be deemed to eliminate the Easement, or any portion thereof, granted hereunder under the doctrine of merger or any other legal doctrine.

The Grantee, by accepting and recording this Easement, agrees to be bound by and to observe and enforce the provisions hereof and assumes the rights and responsibilities herein granted to and incumbent upon the Grantee, all in the furtherance of the conservation purposes for which this Easement is delivered.

This is a conveyance to the City of Portsmouth, New Hampshire pursuant to NH RSA 78-B:2 and is exempt from the New Hampshire Real Estate Transfer Tax.

IN WITNESS WHEREOF, Grantor and City have executed this Conservation Easement as set forth below.

**CROMWELL INVESTMENTS, LLC**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Richard W. Green, Manager  
Duly Authorized

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before: me, the undersigned notary public, personally appeared Richard W. Green, Manager of Cromwell Investments, LLC, proved to me through satisfactory evidence of identification, which was a valid driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it in her capacity as stated therein and voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public:

**City of Portsmouth, New Hampshire**

By: \_\_\_\_\_  
Karen S. Conard, City Manager

As authorized by vote of the Portsmouth City Council taken on \_\_\_\_\_.

STATE OF NEW HAMPSHIRE  
COUNTY OF ROCKINGHAM

On this \_\_\_\_\_ day of \_\_\_\_\_, 2020, before: me, the undersigned notary public, personally appeared Karen S. Conard, City Manager of the City of Portsmouth, New Hampshire, proved to me through satisfactory evidence of identification, which was a valid driver's license, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it in her capacity as stated therein and voluntarily for its stated purpose.

\_\_\_\_\_  
Notary Public:

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# MEMORANDUM

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**TO:** Karen Conard, City Manager

**FROM:** Juliet T. H. Walker, Planning Director *JTW*

**DATE:** December 15, 2020

**RE:** City Council Referral – Projecting Sign  
Address: 10 Ladd Street  
Business Name: The Mercantile Portsmouth  
Business Owner: Larry Booz

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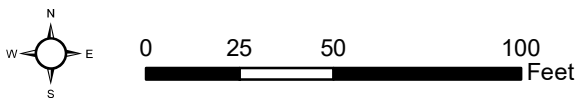
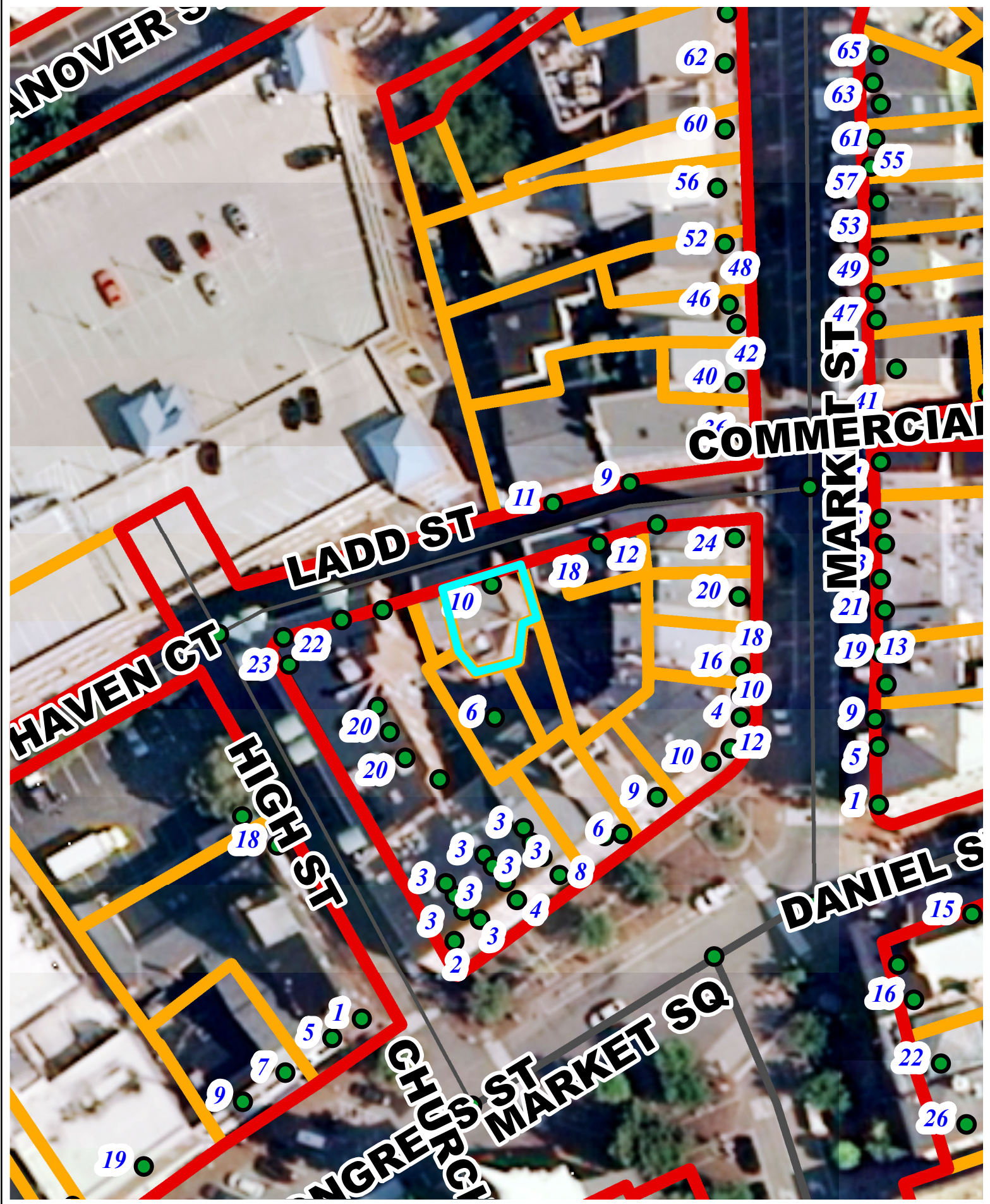
Permission is being sought to install a projecting sign that extends over the public right of way, as follows:

Sign dimensions: 24" x 24"  
Sign area: 2 sq. ft.

The proposed sign complies with zoning requirements. If a license is granted by the City Council, no other municipal approvals are needed. Therefore, I recommend approval of a revocable municipal license, subject to the following conditions:

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





**Request for license  
10 Ladd Street**







CITY COUNCIL E-MAILS

December 14, 2020 (after 4:00 p.m.) – December 18, 2020 (9:00 a.m.)

December 21, 2020 Council Meeting

Below is the result of your feedback form. It was submitted by Daryl ([Darylprice@gmail.com](mailto:Darylprice@gmail.com)) on Monday, December 14, 2020 at 17:29:13

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address: 135 Daniel st 101

comments: I would like to support outside dining next year starting as early as possible. We chose not to participate in indoor dining because of COVID concerns but were thrilled to enjoy outdoor seating at many Portsmouth restaurants and the Portsmouth pop up as well and would love to see it again a part of our community this spring.

Thank you,  
Winter well,  
Daryl Price  
includeInRecords: on

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Below is the result of your feedback form. It was submitted by Gerald Duffy ([Gduffy44@gmail.com](mailto:Gduffy44@gmail.com)) on Tuesday, December 15, 2020 at 06:22:17

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address: 428 Pleasant St., Unit 3

comments: Dear Mayor and Councilors:

After reading the Portsmouth Listens invitation and materials and listening to last night's Council meeting, it seems that the Council — via the McIntyre subcommittee and its Chair Councilor Whelan — is sending out two very different messages to the public regarding the next stage of this project.

The invitation for the upcoming Portsmouth Listens sessions makes the scope of the public input perfectly clear:

“The City of Portsmouth and McIntyre developer Redgate Kane are negotiating a new public gathering place on the portion of the site bounded by Penhallow and Bow streets.”

Simple, easy to understand. However, when asked about the scope of the Portsmouth Listens sessions by Councilor Kennedy, Councilor Whelan said he is looking for the public to “weigh in and say what they want that open space and the WHOLE PROJECT to look like . . .” He also said that the public would have the opportunity to “communally design this PIECE OF PROPERTY and decide what goes there.”

That sends a completely different message. Councilor Kennedy wanted reassurance that “everything's game” and that the public can look at this stage “like it's a brand BRAND NEW PROJECT.” No-one on the subcommittee was willing to set her straight with a reality check. It's dishonest to suggest that that is even possible at this stage.

It's almost like there's a fear of telling the public the truth: there is plenty of room for imagination and input but there are real constraints.. There's an extremely good chance most participants will bring their best selves to the table and work within the scope of the input sessions. So what if the Revisit McIntyre group kicks up a fuss? The project belongs to all of us.

Please do us all the courtesy of getting the story straight, with clear goals and directions. That way, the public can do its best work and get some satisfaction from the process.

Regards,  
Gerald Duffy  
includeInRecords: on

Below is the result of your feedback form. It was submitted by Melissa Paly ([mpaly@clf.org](mailto:mpaly@clf.org)) on Wednesday, December 16, 2020 at 14:23:01

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address: 41 Atkinson Road

comments: Dear City Councilors:

When the City Council voted in October of 2019 to ban Styrofoam/polystyrene cups and containers citywide, and for common sense restrictions of single-use disposables on city-owned property, it became the first municipality in the state to take local action against harmful single-use plastics. The approval took years of work, leadership and courage. To upend these ordinances by delaying implementation for two years based on misperceived hardship and wishful thinking is unacceptable.

While the ongoing Covid-19 pandemic has drastically changed the world we live in, it has not lessened the impacts that these pervasive single-use items have on the environment. In fact, the pandemic has only made the problem worse. Single-use plastic consumption is on the rise. Increases in both online shopping and take-out dining have created a surge in the use of single-use disposable items. This waste is creating headaches for municipalities like Portsmouth who are already struggling to manage skyrocketing waste disposal and recycling costs.

This deluge of single-use plastic only reinforces the need for Portsmouth's ban. Our throw-away culture is not sustainable and has serious impacts to the environment and public health. These plastic items never degrade – they just break down into small pieces that remain in the environment for centuries, they're found in fish, birds and throughout the food chain. They wash into storm drains and litter our waterways and shores. Their manufacture contributes greenhouse gasses that are warming our planet. Moreover, single-use bags, coffee cups, and other Styrofoam containers are wreaking havoc on recycling systems. These items are not recyclable, but when they end up in single-stream bins, they contaminate everything else, increasing the cost of solid waste disposal and limiting the processing of actual recyclable material.

Bans and fees have proven to be the most effective means of reducing litter, waste, and recycling costs for municipalities. The pandemic and rise in single-use waste have only made these laws more urgent.

Some of the City Councilors who voted to postpone implementing Portsmouth's Styrofoam ban expressed concerns about the city's legal authority to do so. This issue was debated for five years, and the previous Council concurred that this local ordinance is in line with NH's Solid Waste Management Statute RSA 149-M.3 that prioritizes source reduction above all other approaches of waste management. Further, the legality of the restrictions of single-use disposables on city property has never been in question.

Some City Councilors have also argued that Portsmouth should wait for the Legislature to pass a statewide plastics reduction law. This is wishful thinking as it does not appear that any plastic-related bills will be introduced in this legislative session.

Councilor Lazenby's proposal to enact the ordinances but delay their enforcement is a sensible compromise during this challenging time. However, there is no credible argument to push them off any longer, especially given that they allow any impacted business to use the remainder of their 2020 supply throughout 2021.

Portsmouth's bold and important single-use ordinances were supported widely when approved a year ago. There were memorable comments given by dozens of people including numerous garbage-garlanded students from the high school. Even the Chamber of Commerce testified that it had heard of no opposition from businesses. Immediate implementation of these ordinances presents an opportunity to get going with an initiative to reduce waste, save taxpayer money, and improve the health and wellbeing of our community and environment.

I urge the Council to do the right thing, and respectfully suggest that kicking the can down the road is not the right move for an eco-municipality.

Thank you,  
Melissa Paly  
Great Bay-Piscataqua Waterkeeper  
Conservation Law Foundation  
includeInRecords: on

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Below is the result of your feedback form. It was submitted by Sam Borne ([sborne2022@sau52.com](mailto:sborne2022@sau52.com)) on Wednesday, December 16, 2020 at 20:20:15

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address: 431 Wallis Rd

comments:

Under absolutely no circumstances should the Portsmouth City Council delay the implementation of the ban on plastics. The reason the ban was enacted in the first place was because of the devastating impact plastic can have on the environment. I'm only 16 and not a scientist, but I don't understand how a pandemic could make plastics harmless. An inconvenient truth is if the ban is delayed, for the next two years, an entire city's plastic will be at risk to enter the environment and work to destroy our already fragile ecosystems. That is simply unacceptable. I was hoping the pandemic would teach us all to listen to the scientists, and follow what they have to say. Unfortunately, the City Council is choosing not to listen to the science, and by delaying the ban is outright ignoring it. Mayor Beckstead had a point when he said "the last thing we want to do is create confusion". But if the Mayor doesn't want to implement the ban because he is concerned about the confusion, he would do his duty as mayor to make sure the ban was clear. It is true that the ban could make things a bit harder for businesses. But if I remember correctly, the lesson we are taught as kids is not to quit when the going gets tough. The ban was never supposed to be easy. Working to save the planet by getting rid of plastics is hard, but just because something is hard doesn't mean we shouldn't do it. The City Council should make sure the plastics ban is implemented this year because our planet can't take a delay.

includeInRecords: on

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Below is the result of your feedback form. It was submitted by Anne Schwartzman ([akey5@nycap.rr.com](mailto:akey5@nycap.rr.com)) on Thursday, December 17, 2020 at 08:41:40

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address: 118 Spinnaker Way

comments: I was happy to enjoy takeout recently and have the containers be cardboard based and not styrofoam. Portsmouth eateries are already changing to sustainable products. Do not wait to enact a city ordinance ban on single-use plastics. Please know the ban is a positive for planet earth and its residents. I support Melissa Paly's response as noted in her letter to the editor in the Portsmouth Herald on 12/17/20.

<https://portsmouthherald-nh.newsmemory.com/>

Thank you all.

includeInRecords: on

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MEMORANDUM

To: Karen Conard, City Manager  
From: Judie Belanger, Director of Finance and Administration  
Date: December 15, 2020  
Re: FY2020 Financial Reports

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The Finance Department is currently working with the independent auditors, Melanson CPA firm in preparing the Comprehensive Annual Financial Report (CAFR) along with the Popular Annual Financial Report (PAFR). Both the CAFR and the PAFR will be presented to the Council as soon as it is finalized. The leading partner, Alina Korsak, will be presenting the annual audit to the City Council on January 11, 2021.

FINANCE DEPARTMENT

CM Info Item #1



MEMORANDUM

To: Karen Conard, City Manager  
 From: Judie Belanger, Director of Finance and Administration  
 Date: December 15, 2020  
 Re: FY2021 Capital Outlay

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As requested, the following table depicts the list of Capital Outlay items that were approved during the FY21 budget process, the amount expended to date, encumbrances, and balances associated with each.

Department	Project	Appropriated	Expended	Encumbered	Balance
		-			
Fire	Hydraulic Rescue Tool Replacement	30,000.00	13,890.00		16,110.00
School	Elementary School Upgrades	200,000.00			200,000.00
Library	Furniture-Seating	25,000.00	24,993.75	6.25	-
Planning	Vaughan-Worth Bridge Strategic Vision Development	25,000.00			25,000.00
Planning	McIntyre Federal Building-Planning and Implementation	25,000.00	15,047.75		9,952.25
Public Works	Citywide Tree and Greenery Program	10,000.00			10,000.00
Public Works	Sound Barriers in Residential Areas	100,000.00			100,000.00
Public Works	PHA Court Street Project Electrical Infrastructure	120,000.00			120,000.00
Planning	Trail Development Projects	5,000.00			5,000.00
Planning	Elwyn Road Side Path	170,000.00			170,000.00
Public Works	Citywide Traffic Signal Upgrades	100,000.00			100,000.00
Public Works	Cate Street Connector	366,000.00			366,000.00
Public Works	Citywide Storm Drain Improvements	100,000.00			100,000.00
	Totals	1,276,000.00	53,931.50	6.25	1,222,062.25

# CITY OF PORTSMOUTH PORTSMOUTH, NH 03801

## Office of the City Manager

**DATE:** December 17, 2020

**TO:** Honorable Mayor Becksted and City Council Members

**FROM:** Karen S. Conard, City Manager *KSC*

**RE:** Report Back on the Current Status of Public Art on City Property as Requested by Councilors Kennedy and Huda at the December 7<sup>th</sup> City Council Meeting

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There are three processes governing the creation, evaluation, acceptance and removal of public art in the City:

1. The first is the 2007 public art ordinance Chapter 1 Article XVII *aka* the “Percent for Art Ordinance” governing public art in the design and construction of city buildings.
2. The second is the Public Art Acquisition Policy 2009-06 governing the acquisition and removal of public art on city property. The guidelines for implementing these two processes are included in the Public Art Guidelines document developed in conjunction with Art-Speak in 2009.
3. The third process is the Public Art Referral Policy 2014-02 which simply states that, “whenever from any source an issue relating to public art shall come before the City Council, that matter shall be referred to Art-Speak for an advisory report.”

### **Percent for Art Ordinance**

Example: The Foundry Place Garage includes two public art components (a window etching by Seth Palmiter in the southeast garage stairwell and a large sculpture traffic island by Terrence Parker at the Foundry Place cul de sac) created in accordance with the ordinance which states:

One (1%) percent of the bid price or negotiated contract price for the construction of all new municipal buildings or for the renovation of existing municipal buildings, in which the bid price or negotiated price shall be in excess of Two Million (\$2,000,000.00) Dollars (expressed in terms of actual construction costs exclusive of design and engineering fees), shall be contributed to the Public Art Trust for the purpose of funding public art.

In determining the selection of any public art project, the City Council may:

1. Refer the question to any agency of a public, non-profit or private nature which might be selected by the City Council for an advisory report, or;
2. Refer the question to a standing committee for public art which may be created by the City Council under such terms and conditions as it may establish, or;
3. Create an ad hoc committee for any particular public art project under such terms as the Council may establish, or;
4. Seek such other advisory recommendation as the City Council deems appropriate.

Upon the authorization by the City Council of a public arts project, the administrative and financial implementation of that authorization shall be performed by the administrative officials of the City.

The ordinance includes an exemption by which the City Council can, by a two-thirds vote, elect to exempt a municipal building from the public art commitment described in the regulation.

With regard to public art associated with the Peirce Island Treatment Facility, a joint work session with the City Council is being scheduled for February 2021 and is expected to include multiple Peirce Island related topics including public art.

### **Public Art Acquisition on City Property**

Recent examples include:

- The acquisition of the new Richard Erdmann sculpture entitled Odyssey in Prescott Park by The Friends of Prescott Park in honor of Michael Warhurst;
- The granite fish sculpture donated to the City for placement in McEachern Park by John Wyckoff; and
- The large painting entitled the Bonhomme Richard and the Serapis in the City Council Chambers donated by the Sawtelle Family.

The criteria used for public art acquisitions is set forth in the Public Art Acquisition Policy 2009-06, which was readopted by this Council at the beginning of 2020. The evaluation criteria are as follows:

- The quality of the artwork;
- Appropriateness of the size, scale and materials for the site(s);
- Availability of an appropriate site;
- Costs of installation and maintenance of artwork;
- Condition and durability of the artwork;
- Aesthetic merit; and
- Inclusion of a mandatory maintenance plan (including materials used and proper care for such materials).

These public art guidelines evaluation criteria were used by the ad hoc advisory committee established by the City Council to review the granite fish sculpture proposed for McEachern Park and by the Art-Speak Public Art Committee for the Odyssey sculpture installed in Prescott Park last month.

The work on the McEachern Park fish sculpture acquisition is centered on state permitting to allow for installation within 100 feet of the high tide elevation line. The agency review time is 60 days so the installation will occur in Spring 2020.

### **Public Art Policy Amendments**

Policy 2009-06 needs to be updated to eliminate the reference to Art-Speak whose Board of Directors has been working for the past year on a dissolution strategy. Consequently, the City did not have a MOU with the organization last fiscal year. As Art-Speak has begun the process to formally terminate, Policy 2014-02 should be amended or withdrawn. Until such time that the City establishes a strategy for local arts and culture support and advocacy either internally or through partnership with an arts organization, City staff believe the spirit and process of the policies can be carried out in accordance with the public art guidelines established by Art-Speak with minor procedural changes similar to the process used for the McEachern Park sculpture.



# CITY OF PORTSMOUTH PORTSMOUTH, NH 03801

## Office of the City Manager

**DATE:** December 17, 2020

**TO:** Honorable Mayor Becksted and City Council Members

**FROM:** Karen S. Conard, City Manager *KSC*

**RE:** Report Back on Services and/or Project Completed by the Former City Manager, John Bohenko, Over the 12 Month Period Ending December 31<sup>st</sup> per the Agreed Upon Consultant Contract and Verification of Contract End Date as Requested by Councilors Kennedy and Huda at the December 7<sup>th</sup> City Council Meeting

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Former City Manager John Bohenko's employment agreement allowed for consulting of 750 hours for calendar year 2020. The average number of hours per week was initially estimated to be 15 hours. For the period January 3, 2020 through December 31, 2020, the former City Manager is estimated to work a total of 600 hours and will return 150 hours unused. This represents an average of 11 hours per week or approximately 20% less than allowed under the terms of the agreement. The primary reason for the reduction in hours worked was due to COVID-19 restrictions.

For the period of January through June, the former manager averaged 10 hours a week; for the period of July through December, he averaged 11.5 hours per week.

Much of his time was spent reviewing City Council and other Board and Commission meeting minutes and videos to establish a context in which he was able to provide consultation to me on various issues. In addition, Mr. Bohenko tracked issues related to COVID-19 and passed that information along to myself and various departments to ensure that they were aware of certain requirements and/or grants that may be available to the City. The former City Manager and I met on a regular basis to discuss issues and provide feedback relative to those items.

His contract ends on December 31, 2020.



MEMORANDUM

To: Honorable Mayor Becksted and City Council Members  
 From: Karen S. Conard, City Manager *KSC*  
 Date: December 17, 2020  
 Re: CARES ACT FUND ALLOTMENT - UPDATE

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Update on CARES ACT Fund Allotment as of December 21, 2020

**FIRST RESPONDER STIPENDS - \$333,770.98**

Each First Responder (Police & Fire personnel) received a stipend over an eight week period: Full-time personnel \$300 per week, Part-time personnel \$150 per week. Total amount received from the State of NH was \$333,770.98. This grant did not include benefits associated with these stipends and will be reimbursed through GOEFFR.

**HEALTH AND HUMAN SERVICES (HHS) - \$31,698.87**

The City received reimbursement for Ambulance revenue loss from the US Department of health and Human Services in the amount of \$31,698.87. This amount was calculated by HHS.

**GOVERNOR’S OFFICE FOR EMERGENCY RELIEF AND RECOVERY (GOFERR) - \$522,989.00**

The total GOFERR grant	\$522,989.00
First request received	(\$107,580.53)
Second request received	(\$355,309.77)
<u>Third request of \$70,022.26 / received</u>	<u>(\$60,098.70)</u>
Balance	\$0

**SUB-GRANT THROUGH THE STATE OF NH SECRETARY OF STATE FROM CARES ACT FOR THE PRIMARY ELECTION IN SEPTEMBER AND GENERAL ELECTION IN NOVEMBER 2020 - \$71,635.93**

The CARES Act provided \$400 million to the Election Assistance Commission (EAC) to allocate to states to “improve the administration of federal elections.” The State of New Hampshire has received approval from the U.S. EAC to allocated funds to New Hampshire’s cities and towns to be reimbursed on a fixed rate for each absentee ballot mailed and/or processed for both the Primary election in September and the General Election in November in excess of the total number of ballots processed during the Primary and General elections in 2016. The allotment utilizes an 80% (State) 20% (City) split and has calculated maximum reimbursement amount. Since last reported, the amount award to the City of Portsmouth has increased by \$17,552.84 to **\$71,635.93** with a match of **\$14,220.63**.

## **COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) - \$490,082**

Portsmouth received \$313,589 from the Community Development Block Grant through the CARES Act. The plan for these funds are Senior/Disabled Transportation, CDBG-eligible public services, CDBG-eligible public facility improvements and other-CDBG eligible activities. The City received a second notification on 9/11/2020 of additional \$176,493 CDBG funds. At least 70% of the total received must be spent on activities or projects to benefit low- to moderate- income individuals. To date, \$234,985.00 has been committed to eligible projects.

## **CARES Act Flex Funds: INTERNET CRIMES AGAINST CHILDREN GRANT: \$1,000,000**

Governor Sununu awarded \$1 million of the CARES Act Flex Funds to the Portsmouth Police Department for the New Hampshire Internet Crimes Against Children Task Force. These funds are being utilized specifically to expand the investigative capacity of the Task Force to handle the significant caseload increase throughout the state due to COVID-19 conditions and the related stay at home situations. Expenditures are authorized for force multiplier equipment and software, investigator training, staffing, and educational materials produced for students, teachers, and parents. The funds end on 12/31/20. Approximately 45% of the funds have been invoiced and approved for payment.

## **SCHOOL CARE ACT FUNDING**

There are now two primary sources of CARES Act funding for public schools in New Hampshire. The first announced was the Elementary and Secondary Schools Emergency Relief (ESSER) Grant. Those funds are accessible by application and reimbursement and may be used in New Hampshire through September 30, 2021. The second source, very recently announced, is the Supplemental Public School Response Fund (SPSRF). Those funds were advanced to schools in November and must be used or returned by December 30, 2020. Generally, these funds are all specifically directed to help K-12 schools address financial impacts of the COVID-19 pandemic.

**ESSER** – The allocation for Portsmouth is \$286,291.37 with a small Equitable Services set aside for the local private school. The approved grant application anticipates spending on one-to-one technology devices, student remote internet access, summer instruction, and software that supports remote instruction and learning. Some of the costs initially planned for this grant will be shifted to the SPSRF because of the funding expiration dates. The School Department will amend the grant application to address ongoing COVID related costs from January to September 2021.

**SPSRF** – The allocation for Portsmouth is \$440,200.00 and was calculated at a rate of \$200 per resident student using October 2019 data. Expenses covered must be COVID-19 related, may not be budgeted items, and must be received and of benefit locally before December 30, 2020. The School Department expects to charge this fund for PPE (including masks, gloves, gowns, and face shields), safety measures (including plexiglass and plastic protection purchases and fabrication, sanitizing products, facility pandemic signage, and disinfecting and cleaning tools), outdoor tent rentals, unbudgeted bussing costs for temporary mid-day and accessibility runs, purchase of additional technology devices, and wage and material costs related to the safe supervision of remote student learners in temporary school spaces at the Senior Center and Community Campus.

## **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)**

FEMA will reimburse the City for 75% of eligible expenses. To date, the City requested reimbursement of \$164,028 (75%). However, the City has been notified that FEMA changed their eligibility to only reimburse items for Police and Fire expenditures so it is uncertain what the City will actually receive.

I will continue to update the City Council as information becomes available.

# CITY OF PORTSMOUTH PORTSMOUTH, NH 03801

## Office of the City Manager

**DATE:** December 17, 2020

**TO:** Honorable Mayor Becksted and City Council Members

**FROM:** Karen S. Conard, City Manager *KSC*

**RE:** Status of the Boyle Case as Requested by Councilors Kennedy and Huda at the December 7<sup>th</sup> City Council Meeting

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On January 24, 2020, the New Hampshire Supreme Court issued decisions relative to the two pending cases involving James Boyle and the property at 150 Greenleaf Avenue.

In the one case, the New Hampshire Supreme Court disagreed with the City that it had legal interests in maintaining the sewer line that was constructed in 1967 and 1968. However, the Court struck down and vacated the \$3.57 million dollar jury awarded to James Boyle, Trustee of the 150 Greenleaf Avenue Realty Trust by a Rockingham County Superior Court in February of 2018 and remanded the matter to the Superior Court.

On remand to the Superior Court, Boyle has been actively filing motions to mitigate the loss of his lost profits verdict. He has been unsuccessful to date in obtaining a new trial for lost profits and currently the measure of damages is the rental value for the sewer line crossing the property. Most recently, Boyle has filed a motion to abate what he calls the nuisance of the wetlands on a portion of his property. In order to resolve the City's trespass of the sewer line, the Department of Public Works has been moving forward with the engineering necessary to construct a pump station at the end of Marjorie Street so that the sewer line across the Boyle parcel can be discontinued and removed.

In the second case related to the eminent domain action, the New Hampshire Supreme Court did not support the City's acquisition by eminent domain and that matter is now back before the Board of Tax and Land Appeals (BTLA). The BTLA currently has before it Boyle's claim for attorneys' fees which the City anticipates will be rejected. The BTLA has scheduled a hearing in May 2021 to determine the damages for the property taken on a temporary basis, a calculation that the City anticipates will be based on the rental value of the wetlands temporarily taken.

# City of Portsmouth

*Department of Public Works*



## MEMORANDUM

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TO: Karen Conard, City Manager  
FROM: Suzanne Woodland, Deputy City Attorney  
Terry Desmarais, City Engineer  
Zachary Cronin, Assistant City Engineer  
DATE: 12/15/2020  
SUBJECT: Sagamore Avenue Sewer Extension Project Update

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At its meeting on September 23, 2020, the Portsmouth City Council adopted an approach to the Sagamore Avenue Area Sewer Extension Project which will maximize the information available to the City Council and project residents and advance the project to satisfy the City's legal obligations under its Consent Decree Second Modification. That approach calls for the design, permitting, and bidding of the full project limits, north and south, with 91 connections. The base bid includes the work in the roadway right-of-way (sewer pipes and services to the property lines) and also includes add alternates to include the private side work for connections from the dwelling to the sewer.

Work has moved forward with permitting and field investigations for the project. The first phase of borings is complete and a limited second phase of boring work is anticipated in January 2021. Wetland delineation along the project limits has been completed and permit applications are being developed with that information.

Work has also moved forward with design for the project. This has included attending site visits at each dwelling that was considering connection or was interested in obtaining private side cost information. To date the design team has visited 69 of the 91 potential connections. The City's engineering consultant is working on developing design documents for construction bidding. The project is anticipated for bidding in early 2021 for a construction start in the spring of 2021.

June 22, 2020

Ms. Judie Belanger  
Director of Finance and Administration  
City of Portsmouth  
1 Junkins Avenue  
Portsmouth, New Hampshire 03801-4511

102 Perimeter Road  
Nashua, NH 03063  
(603)882-1111  
melansonheath.com

Additional Offices:  
Andover, MA  
Greenfield, MA  
Manchester, NH  
Ellsworth, ME

Dear Ms. Belanger:

You have requested that we audit the financial statements of the governmental activities, the business-type activities, each major fund, and the aggregate remaining fund information of the City of Portsmouth, New Hampshire (the City), as of June 30, 2020, and for the year then ended and the related notes to the financial statements, which collectively comprise the City's basic financial statements as listed in the table of contents. In addition, we will audit the City's compliance over major federal award programs for the year ended June 30, 2020. We are pleased to confirm our acceptance and our understanding of this audit engagement by means of this letter. Our audits will be conducted with the objective of our expressing an opinion on each opinion unit and an opinion on compliance regarding the entity's major federal award program(s).

Accounting principles generally accepted in the United States of America (U.S. GAAP) require that certain information be presented to supplement the basic financial statements. Such information, although not a part of the basic financial statements, is required by the *Governmental Accounting Standards Board*, who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. As part of our engagement, we will apply certain limited procedures to the required supplementary information (RSI) in accordance with auditing standards generally accepted in the United States of America (U.S. GAAS). These limited procedures will consist primarily of inquiries of management regarding their methods of measurement and presentation, and comparing the information for consistency with management's responses to our inquiries. We will not express an opinion or provide any form of assurance on the RSI. The following RSI is required by accounting principles generally accepted in the United States of America. This RSI will be subjected to certain limited procedures but will not be audited:

- Management's Discussion and Analysis
- Schedule of Proportionate Share of the Net Pension Liability
- Schedule of Pension Contributions
- Schedule of Proportionate Share of the Net OPEB Liability and Schedule of Contributions
- Schedule of Changes in the Total OPEB Liability



- Statement of Revenues, Expenditures, and Other Financing Sources and Uses – Budget and Actual General Fund

Supplementary information other than RSI will accompany the City's basic financial statements. We will subject the supplementary information to the auditing procedures applied in our audit of the basic financial statements and certain additional procedures, including comparing and reconciling the supplementary information to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves, and additional procedures in accordance with auditing standards generally accepted in the United States of America. We intend to provide an opinion on the supplementary statements and schedules in relation to the financial statements as a whole.

Also, the document we submit to you will include the introductory and statistical sections that will not be subjected to the auditing procedures applied in our audit of the financial statements. As part of our engagement, we will apply certain limited procedures to the introductory and statistical sections. These limited procedures will consist primarily of inquiries of management regarding their methods of measurement and presentation, and comparing the information for consistency with management's responses to our inquiries. We will not express an opinion or provide any form of assurance on the introductory and statistical sections.

### **The Objective of an Audit**

The objective of our audit is the expression of opinions as to whether your basic financial statements are fairly presented, in all material respects, in accordance with generally accepted accounting principles and to report on the fairness of the supplementary information referred to in the second paragraph when considered in relation to the financial statements as a whole. Our audit will be conducted in accordance with auditing standards generally accepted in the United States of America and will include tests of the accounting records and other procedures we consider necessary to enable us to express such opinions. We cannot provide assurance that unmodified opinions will be expressed. Circumstances may arise in which it is necessary for us to modify our opinions or add emphasis-of-matter or other-matter paragraphs. If our opinions on the financial statements are other than unmodified, we will discuss the reasons with you in advance. If, for any reason, we are unable to complete the audit or are unable to form or have not formed opinions, we may decline to express opinions or to issue a report as a result of this engagement.

### **General Audit Procedures**

We will conduct our audit in accordance with auditing standards generally accepted in the United States of America (U.S. GAAS) and *Government Auditing Standards* of the Comptroller General of the United States of America; and the audit requirements of Title 2 U.S. Code of Federal Regulations (CFR) Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (Uniform Guidance). Those standards and the Uniform Guidance require that we plan and perform the audit to obtain reasonable assurance about whether the basic financial statements are free from material misstatement. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures

selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to error, fraudulent financial reporting, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluating the overall presentation of the financial statements. Our procedures also include certain tests of documentary evidence that support the transaction recorded in the accounts. As part of our audit process, we will request written representations from your attorneys, and they may bill you for responding. At the conclusion of our audit, we will also request certain written representations from you about the basic financial statements and other matters.

### **Internal Control Audit Procedures**

Because of the inherent limitations of an audit, together with the inherent limitations of internal control, an unavoidable risk that some material misstatements or noncompliance may not be detected exists, even though the audit is properly planned and performed in accordance with U.S. GAAS and *Government Auditing Standards* of the Comptroller General of the United States of America. Please note that the determination of abuse is subjective and *Government Auditing Standards* does not require auditors to detect abuse.

In making our risk assessments, we consider internal control relevant to the City's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the City's internal control. However, we will communicate to you in writing concerning any significant deficiencies or material weaknesses in internal control relevant to the audit of the financial statements that we have identified during the audit.

### **Compliance with Laws and Regulations**

As part of obtaining reasonable assurance about whether the financial statements are free of material misstatement, we will perform tests of the City's compliance with the provisions of applicable laws, regulations, contracts, and agreements. However, the objective of our audit will not be to provide an opinion on overall compliance and we will not express such an opinion.

### **Single Audit**

#### ***Schedule of Expenditures of Federal Awards***

We will subject the Schedule of Expenditures of Federal Awards (the Schedule) to the auditing procedures applied in our audit of the basic financial statements and certain additional procedures, including comparing and reconciling the Schedule to the underlying accounting and other records used to prepare the financial statements or to the financial statements themselves,

and additional procedures in accordance with auditing standards generally accepted in the United States of America. We intend to provide an opinion on whether the Schedule of Expenditures of Federal Awards is presented fairly in all material respects in relation to the financial statements as a whole.

#### ***Data Collection Form***

Prior to the completion of our engagement, we will complete the sections of the Data Collection Form that are our responsibility. The form will summarize our audit findings, amounts and conclusions. It is management's responsibility to submit a reporting package including financial statements, schedule of expenditure of federal awards, summary schedule of prior audit findings and corrective action plan along with the Data Collection Form to the Federal Audit Clearinghouse. The financial reporting package must be text searchable, unencrypted, and unlocked. Otherwise, the reporting package will not be accepted by the Federal Audit Clearinghouse. We will assist you in the electronic submission and certification. You may request from us copies of our report for you to include with the reporting package submitted to pass-through entities.

The Data Collection Form is required to be submitted within the earlier of 30 days after receipt of our auditors' reports or nine months after the end of the audit period, unless specifically waived by a federal cognizant or oversight agency for audits. Data Collection Forms submitted untimely are one of the factors in assessing programs at a higher risk.

#### ***Audit of Major Program Compliance***

Our audit of the City's June 30, 2020 major federal award program(s) compliance will be made in accordance with the requirements of the Single Audit Act, as amended; and the Uniform Guidance; and will include tests of accounting records, a determination of major programs in accordance with the Uniform Guidance, and other procedures we consider necessary to enable us to express such an opinion on major federal award program compliance and to render the required reports. We cannot provide assurance that an unmodified opinion on compliance will be expressed. Circumstances may arise in which it is necessary for us to modify our opinion or withdraw from the engagement.

The Uniform Guidance requires that we also plan and perform the audit to obtain reasonable assurance about whether the City has complied with applicable laws and regulations and the provisions of contracts and grant agreements applicable to major federal award programs. Our procedures will consist of determining major federal programs and performing the applicable procedures described in the U.S. Office of Management and Budget OMB Compliance Supplement for the types of compliance requirements that could have a direct and material effect on each of the City's major programs. The purpose of those procedures will be to express an opinion on the City's compliance with requirements applicable to each of its major programs in our report on compliance issued pursuant to the Uniform Guidance.

Also, as required by the Uniform Guidance, we will perform tests of controls to evaluate the effectiveness of the design and operation of controls that we consider relevant to preventing or detecting material noncompliance with compliance requirements applicable to each of the

City's major federal award programs. However, our tests will be less in scope than would be necessary to render an opinion on these controls and, accordingly, no opinion will be expressed in our report.

We will issue a report on compliance that will include an opinion or disclaimer of opinion regarding the City's major federal award programs, and a report on internal controls over compliance that will report any significant deficiencies and material weaknesses identified; however, such report will not express an opinion on internal control.

### **Management's Responsibilities**

Our audit will be conducted on the basis that management and, when appropriate, those charged with governance acknowledge and understand that they have responsibility:

- a. For the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America.
- b. For the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to error, fraudulent financial reporting, misappropriation of assets, or violations of laws, governmental regulations, grant agreements, or contractual agreements.
- c. For identifying all federal awards expended during the period including federal awards and funding increments received prior to December 26, 2014, and those received in accordance with the Uniform Guidance generally received after December 26, 2014.
- d. For preparing the schedule of expenses of federal awards (including notes and noncash assistance received) in accordance with the Uniform Guidance requirements.
- e. For the design, implementation, and maintenance of internal control over compliance.
- f. For identifying and providing report copies of previous audits, attestation engagements, or other studies that directly relate to the objectives of the audit, including whether related recommendations have been implemented.
- g. For addressing the findings and recommendations of auditors, for establishing and maintaining a process to track the status of such findings and recommendations and taking corrective action on reported audit findings from prior periods and preparing a summary schedule of prior audit findings.
- h. For following up and taking corrective action on current year audit findings and preparing a corrective action plan for such findings.
- i. For submitting the reporting package and data collection form to the appropriate parties.
- j. For making the auditor aware of any significant vendor/contractor relationships where the vendor/contractor is responsible for program compliance.

- k. To provide us with:
  - i. Access to all information of which management is aware that is relevant to the preparation and fair presentation of the financial statements such as records, documentation, and other matters.
  - ii. Additional information that we may request from management for the purpose of the audit.
  - iii. Unrestricted access to persons within the entity from whom we determine it necessary to obtain audit evidence.
- l. For including the auditor's report in any document containing financial statements that indicates that such financial statements have been audited by the entity's auditor.
- m. For identifying and ensuring that the entity complies with laws, regulations, grants, and contracts applicable to its activities and its federal award programs and implementing systems designed to achieve compliance with applicable laws, regulations, grants, and contracts applicable to activities and its federal award programs.
- n. For adjusting the financial statements to correct material misstatements and confirming to us in the management representation letter that the effects of any uncorrected misstatements aggregated by us during the current engagement and pertaining to the current year period(s) under audit are immaterial, both individually and in the aggregate, to the financial statements as a whole.
- o. For maintaining adequate records, selecting and applying accounting principles, and safeguarding assets.
- p. For confirming your understanding of your responsibilities as defined in this letter to us in your management representation letter.
- q. Single audit:
  - i. For identifying and providing report copies of previous audits, attestation engagements, or other studies that directly relate to the objectives of the audit, including whether related recommendations have been implemented.
  - ii. For addressing the findings and recommendations of auditors, for establishing and maintaining a process to track the status of such findings and recommendations and taking corrective action on reported audit findings from prior periods and preparing a summary schedule of prior audit findings.
  - iii. For following up and taking corrective action on current year audit findings and preparing a corrective action plan for such findings.
  - iv. For submitting the reporting package and data collection form to the appropriate parties.
  - v. For making the auditor aware of any significant vendor/contractor relationships where the vendor/contractor is responsible for program compliance.



- vi. For identifying all federal awards expended during the period including federal awards and funding increments received prior to December 26, 2014, and those received in accordance with the Uniform Guidance generally received after December 26, 2014.
- vii. For preparing the Schedule of Expenditures of Federal Awards (including notes and noncash assistance received) in accordance with the Uniform Guidance requirements.
- viii. For the design, implementation, and maintenance of internal control over compliance.

With regard to the supplementary information referred to above, you acknowledge and understand your responsibility (a) for the preparation of the supplementary information in accordance with the applicable criteria, (b) to provide us with the appropriate written representations regarding supplementary information, (c) to include our report on the supplementary information in any document that contains the supplementary information and that indicates that we have reported on such supplementary information, and (d) to present the supplementary information with the audited financial statements, or if the supplementary information will not be presented with the audited financial statements, to make the audited financial statements readily available to the intended users of the supplementary information no later than the date of issuance by you of the supplementary information and our report thereon.

As part of our audit process, we will request from management and, when appropriate, those charged with governance, written confirmation concerning representations made to us in connection with the audit, including your understanding of your responsibilities as defined in this letter to us in your management representation letter.

### **Reporting**

We will issue a written report upon completion of our audit of the City's June 30, 2020 basic financial statements. Our report will be addressed to those charged with governance of the City. We cannot provide assurance that an unmodified opinion will be expressed. Circumstances may arise in which it is necessary for us to modify our opinion, add an emphasis-of-matter or other-matter paragraph(s), or withdraw from the engagement.

In accordance with the requirements of *Government Auditing Standards*, we will also issue a written report describing the scope of our testing over internal control over financial reporting and over compliance with laws, regulations, and provisions of grants and contracts, including the results of that testing. However, providing an opinion on internal control and compliance over financial reporting will not be an objective of the audit and, therefore, no such opinion will be expressed.

### **Nonattest Services**

As part of this engagement we will perform the following nonattest services, based on information gathered during the audit process:

- Compiling the government-wide financial statements, including consolidating various funds into governmental activities, converting to the accrual basis of accounting, and recording

all long-term assets, long-term liabilities, and net position classifications. This consolidation and conversion process will be based on information from the City's accounting records.

- Compiling the required note disclosures based on information provided by the City.
- Data Collection Form (DCF).

We will not assume management responsibilities on behalf of the City. However, we will provide advice and recommendations to assist management of the City in performing its responsibilities.

With respect to any nonattest services we perform, the City's management is responsible for (a) making all management decisions and performing all management functions; (b) assigning a competent individual to oversee the services; (c) evaluating the adequacy of the services performed; (d) evaluating and accepting responsibility for the results of the services performed; and (e) establishing and maintaining internal controls, including monitoring ongoing activities.

We are not hosts for any client information. You are expected to retain all financial and non-financial information to include anything you upload to a portal and are responsible for downloading and retaining anything we upload in a timely manner. Portals, including ShareFile, are only meant as a method of transferring data, are not intended for the storage of client information, and may be deleted at any time. You are expected to maintain control over your accounting systems to include the licensing of applications and the hosting of said applications and data. We do not provide electronic security or back-up services for any of your data or records. Giving us access to your accounting system does not make us hosts of information contained within.

This engagement is limited to the services previously outlined. Our firm, in its sole professional judgment, reserves the right to refuse to do any procedure or take any action that could be construed as making management decisions or assuming management responsibilities, including determining account codings and approving journal entries.

### **Engagement Administration and Fees**

During the course of the engagement, we may communicate with you or your personnel via e-mail, and you should be aware that e-mail communication contains a risk of misdirected or intercepted communications.

Alina Korsak, CPA, is the engagement principal for the audit services specified in this letter. Those responsibilities include supervising the City's services performed as part of this engagement and signing or authorizing another qualified firm representative to sign the audit report.

Our fees are included in the cost proposal for audit services for the City. Invoices will be rendered monthly and are payable upon presentation. We estimate that our fee for the audit will be \$58,800. We will notify you immediately of any circumstances we encounter that could significantly affect this initial fee estimate. Whenever possible, we will attempt to use the City's personnel to assist in the preparation of schedules and analyses of accounts. This effort could substantially reduce



our time requirements and facilitate the timely conclusion of the audit. Further, we will be available during the year to consult with you on financial management and accounting matters of a routine nature.

In order for us to complete this engagement, and to do so efficiently, we require unrestricted access to documents and individuals within your organization. We understand that your employees will prepare all cash and other confirmations we request and will locate and provide to us any documents selected by us for testing. Any failure to provide such cooperation, and to do so on a timely basis, will impede our services, and may require us to bill you for additional time, suspend our services, or withdraw from the engagement.

The uncertainty surrounding the affect the COVID-19 pandemic may result in an increase in the number of Federal programs (clusters) required to be audited in compliance with Uniform Guidance. As a result, additional fees may apply. We will discuss this with you once this determination is made.

Our invoices for these fees will be rendered each month as work progresses and are payable on presentation. The above fees are based on anticipated cooperation from your personnel and the assumption that unexpected circumstances will not be encountered during the audit. If significant additional time is necessary, we will discuss it with you and arrive at a new fee estimate before we incur the additional costs. Our fee also anticipates that the City will prepare trial balances and supporting schedules. As part of the engagement, we will be available during the year to consult with you on financial management and accounting matters of a routine nature. Additional fees at our standard hourly rates will be charged for any other out-of-scope services.

## **Other Matters**

### ***Communications Via Email***

In connection with this engagement, we request that you provide as much documentation as possible via our secure portal, ShareFile, instead of through email. As emails can be intercepted and read, disclosed, or otherwise used or communicated by an unintended third party, or may not be delivered to each of the parties to whom they are directed and only to such parties, we cannot guarantee or warrant that emails from us will be properly delivered and read only by the addressee. Therefore, we specifically disclaim and waive any liability or responsibility whatsoever for interception or unintentional disclosure of emails transmitted by us in connection with the performance of this engagement. In that regard, you agree that we shall have no liability for any loss or damage to any person or entity resulting from the use of email transmissions, including any consequential, incidental, direct, indirect, or special damages, such as loss of revenues or anticipated profits, or disclosure or communication of confidential or proprietary information.

### ***Publishing of the Financial Statements***

You are responsible to notify us in advance of your intent to reproduce our report for any reason, in whole or in part, and to give us the opportunity to review any printed material containing our report before its issuance. Such notification does not constitute an acknowledgement on our part of any third party's intent to rely on the financial statements. With regard to financial statements

published electronically on your internet website, you understand that electronic sites are a means to reproduce and distribute information. We are not required to read the information contained in your sites, or to consider the consistency of other information in the electronic site with the original document.

***Subsequent Events***

You agree to inform us of facts that may affect the basic financial statements of which you may become aware during the period from the date of the auditor's report to the date the financial statements are issued.

***Recommendations***

During the course of the audit, we may observe opportunities for economy in, or improved controls over, your operations. We will bring such matters to the attention of the appropriate level of management, either orally or in writing.

***Peer Review Report***

In accordance with the requirements of *Government Auditing Standards*, a copy of our latest external peer review report of our firm is available upon request for your consideration and files.

***Communication with Those Charged with Governance***

At the conclusion of our audit engagement, we will communicate to those charged with governance the following significant findings from the audit:

- Our view about the qualitative aspects of the City's significant accounting practices.
- Significant difficulties, if any, encountered during the audit.
- Uncorrected misstatements, other than those we believe are trivial, if any.
- Disagreements with management, if any.
- Other findings or issues, if any, arising from the audit that are, in our professional judgment, significant and relevant to those charged with governance regarding their oversight of the financial reporting process.
- Material, corrected misstatements that were brought to the attention of management as a result of our audit procedures.
- Representations we requested from management.
- Management's consultations with other accountants, if any.
- Significant issues, if any, arising from the audit that were discussed, or the subject of correspondence, with management.

***Records and Records Retention***

In connection with this engagement, we request that you provide as much documentation as possible via our secure portal, ShareFile, instead of providing hardcopies.

The audit documentation for this engagement is the property of Melanson Heath and constitutes confidential information. However, we may be requested to make certain audit documentation available to regulators and federal agencies and the U.S. Government Accountability Office pursuant to authority given to it by law or regulation, or to peer reviewers. If requested, access to such audit documentation will be provided under the supervision of Melanson Heath's personnel. Furthermore, upon request, we may provide copies of selected audit documentation to these agencies and regulators. The regulators and agencies may intend, or decide, to distribute the copies of information contained therein to others, including other governmental agencies.

It is our policy to retain our audit documentation for a period of at least seven years from the date of our report.

Please sign and return the attached copy of this letter to indicate your acknowledgment of, and agreement with, the arrangements for our audit of the financial statements including our respective responsibilities.

We appreciate the opportunity to be your financial statement auditors and look forward to working with you and your staff.

Respectfully,

*Alina Korsak*

Alina Korsak, CPA  
Principal

\*\*\*\*\*

RESPONSE:

This letter correctly sets forth our understanding.

Acknowledged and agreed on behalf of the City of Portsmouth, New Hampshire by:

Signature: *[Signature]*

Title: *Finance Director* Date: *7-13-2020*

**LIST OF LAW FIRMS RETAINED OR COMPENSATED BETWEEN JANUARY 1, 2020 AND DECEMBER 9, 2020**

CM Info Item #1

A. Ongoing Engagement with Monthly Billing

The City currently engages the following law firms by way of an open letter of representation. Legal professionals bill at set rates for services provided on specific matters. Typically law firms will update their rates in January but it does vary depending on the year. There is no established cap or completion date, but invoices are reviewed prior to payment. The source of funding varies depending on the nature of the matter/department involved.

- **Hinckley Allen** - Attorney Michael Connolly is engaged to defend the City in the litigation involving the McIntyre Project.  
\$67,428.00
- **Kutak Rock, LLP** – Attorney Barry Steinberg, who has specific expertise in the negotiation of claims against the Defense Department and Armed Services, has been engaged since 2014 to assist in obtaining reimbursement for costs related to the Haven Well PFAS contamination.  
\$2,870.00
- **Law Office of Mark P. Hodgdon, PLLC** – Attorney Hodgdon has extensive condemnation and rights-of-way experience and was engaged to assist with the Boyle condemnation. His engagement continues to assist with the remand back to the BTLA.  
\$4,070.00
- **Locke Lord LLP** – This firm serves as bond counsel. All municipal bonds issued by the City need review by specialized legal counsel. Because no bonds were issued this year, there, no fees were incurred this year but they remain the City’s counsel.  
\$0.00
- **McLane Middleton, P.A.** – Attorney Bruce Felmly of the McLane Middleton was engaged to handle the appeal of the two Boyle cases to the New Hampshire Supreme Court. The firm was also engaged to assist in the McIntyre Project before the litigation filed with respect to that matter. The firm continues to represent the City in the Boyle-related matters as the proceedings have continued after remand.  
\$139,805.48\*  
(\*\$28,576.55 McIntyre Project; \$111,228.93 Boyle)
- **Pierce Atwood LLP** – Providing consulting services relative to wastewater permitting.  
\$35,117.08
- **Upton & Hatfield LLP** – Provides representation on select tax appeal cases and bankruptcy matters.  
\$3,030.00

B. Insurance Defense

CM Info Item #1

- **Gallagher, Callahan & Gartrell, PC** – This law firm is often retained by Primex, the member organization responsible for the City’s property and liability claims coverage, to defend against covered claims brought against the City. The firm is currently handling two slip and fall claims. There is no charge to the City from the law firm for this typical defense work. The claims made over the years by James Boyle, as Trustee of the 150 Greenleaf Ave Trust, included several claims that were potentially covered by insurance as well as claims that were not. Consequently, an insurance carrier has been paying a portion of the legal fees generated by the firm to defend the claims brought by Mr. Boyle, the remainder is paid by the City.

The portion of the Gallagher, Callahan & Gartrell legal fees not covered by insurance and paid to date in 2020 is:

\$6,397.00

- **Cullen Collimore** has been retained by Primex and the City to defend a claim brought against the City relative to property off of Lafayette Road. All the costs of the defense of this claim are being currently paid for by Primex.

\$0.00

- **Wadleigh Starr** has been retained by Primex and the City to defend claims brought against the School Department.

\$0.00

C. Hybrid

- **Jackson Lewis, P.C.** – The firm provides employment law expertise and collective bargaining support, principally through the efforts of Attorney Tom Closson. The City pays \$6,000 per month for a defined set of services for an annual total in 2020 of \$72,000.

\$72,00.00

- In 2020, the Jackson Lewis firm was specially retained by the Police Department for services related to an employee investigation.

\$23,157.00

D. Other

- **Sheehan Phinney Bass and Green** - The NH Stormwater Coalition consisting of 14 towns and municipalities (many outside the Seacoast including the City of Manchester) utilized the services of Sheehan Phinney Bass and Green firm to negotiate with EPA changes to the MS4 stormwater permit over the course of several years. The City was a member of this Coalition but not on the Executive Committee and costs were divided among the participating communities. The work was completed in 2020.

\$18,000.00

- **Drummond Woodsum** – The firm was engaged by the Assessor for a single tax litigation matter. That matter was concluded in 2019 but there was a remaining minor balance of \$746.20 paid in 2020.

\$746.20

**Portsmouth School Department**  
**1 Junkins Avenue, Suite 402**  
**Portsmouth, New Hampshire 03801**

**Office of the  
Superintendent of Schools**

**Telephone 603-431-5080**  
**Fax 603-431-6753**

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**Date:** December 16, 2020

**To:** Karen Conard, City Manager

**From:** Steve Zadavec, Superintendent of Schools 

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I was made aware of some questions raised about the impact of the Styrofoam and single-use plastic ordinances on the School Department. The School Department has been taking action to replace any single-use plastics with compostable materials or reusable materials in all cafeterias and related operations. Our School Nutrition Director has also kept the School Board informed of these efforts and related budgetary implications. The School Department is in full support of this direction as it also aligns with the School Board's Sustainability policy (EFCE). If I can be of any help in answering any questions I would be happy to do so.

