

CITY COUNCIL MEETING

MUNICIPAL COMPLEX, EILEEN DONDERO FOLEY COUNCIL CHAMBERS, PORTSMOUTH, NH
DATE: MONDAY, DECEMBER 6, 2021 TIME: 7:00PM

Members of the public also have the option to join the meeting over Zoom, a unique meeting ID and password will be provided once you register. To register, click on the link below or copy and paste this into your web browser:

https://us06web.zoom.us/webinar/register/WN_xh38uFnATEuCHWqaDgIPLg

AGENDA

- I. **WORK SESSION – THERE IS NO WORK SESSION THIS EVENING**
- II. **PUBLIC DIALOGUE SESSION [when applicable – every other regularly scheduled meeting] – N/A**
- III. **CALL TO ORDER [7:00 p.m. or thereafter]**
- IV. **ROLL CALL**
- V. **INVOCATION**
- VI. **PLEDGE OF ALLEGIANCE**

PROCLAMATION

1. Purple Heart Community

- VII. **ACCEPTANCE OF MINUTES – OCTOBER 14, 2021, OCTOBER 18, 2021 AND OCTOBER 27, 2021 (Sample motion – move to accept and approve the October 14, 2021, October 18, 2021 and October 27, 2021 City Council meeting minutes)**
- VIII. **RECOGNITIONS AND VOLUNTEER COMMITTEE REPORTS**
- IX. **PUBLIC COMMENT SESSION – (participation may be in person or via Zoom)**
- X. **PUBLIC DIALOGUE SUMMARY [when applicable] – N/A**
- XI. **PUBLIC HEARING AND VOTE ON ORDINANCE AND/OR RESOLUTIONS**

Public Hearing & Second Reading of Ordinances:

- A. **ORDINANCE AMENDING CHAPTER 1, ARTICLE IV – COMMISSIONS AND AUTHORITIES, ADDING SECTION 1.415 – CEMETERY COMMITTEE**

XII. MAYOR BECKSTED

1. Appointments to be Considered:
 - Jesse Lynch appointment to the Audit Committee
 - Mika Court appointment to the Conservation Commission
 - Andrew Ward appointment to the Economic Development Commission
 - Jane Begala appointment to the Planning Board
 - Andrew Samonas appointment as Alternate to the Planning Board
 - Franco DiRienzo appointment as Alternate to the Planning Board

- Thomas Watson reappointment to the Trustees of the Trust Fund
 - Paul Mannle appointment to the Zoning Board of Adjustment
2. *Appointments to be Voted:
 - Abigail Gindele appointment to the Conservation Commission as an Alternate
 - Jacob Lehoux appointment to the Economic Development Commission
 - James Hewitt appointment to the Planning Board
 - Greg Mahanna appointment to the Planning Board
 - Effie Malley appointment to the Sustainable Practices Blue Ribbon Committee
 - Thomas Rossi appointment to the Zoning Board of Adjustment
 3. *Establish Holiday Parking

XIII. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR SPLAINE

1. *Artificial Turf Playing Field (***Sample motion – move that the City Council requires the City Manager to commission independent third party testing for PFAS of the new artificial turf playing field. As recommended by independent experts, the testing shall use the targeted analysis for 75 PFAS, non-targeted PFAS analysis and total oxidizable precursor (TOP) assay methods to look for the presence of PFAS in the synthetic turf, shock pad, and infill material. The results will be provided to the City Council***)

B. COUNCILOR McEACHERN

1. *Update on Turf Fields Meeting

C. COUNCILOR WHELAN

1. *New Turf Field --- testing
2. Informational Only – Letter of Termination to Michael Kane
3. Informational Only – Letter regarding Refund of Deposit

D. COUNCILOR LAZENBY

1. *Request for Clarification from City Attorney and/or City Manager regarding voting guidelines and funding for issues involving direct legal liability

E. COUNCILOR KENNEDY

1. *Skateboard Park Blue Ribbon Presentation given by the Committee (***Sample motion – move to allocate \$2.2 million dollars for a skateboard park, recreational field and pump track for the children of Portsmouth***)
2. *Unseal Non-Public Session Minutes (***Sample motion – move to unseal the minutes for the last three City Council Non-Public meetings on the McIntyre***)

F. COUNCILOR TRACE

1. Request for Proposals for the Thomas J. McIntyre property

XIV. APPROVAL OF GRANTS/DONATIONS

- A. *Acceptance of Donation to Portsmouth 400th
- Geoff T. Smith - \$20.00
(Sample motion – move to approve and accept the donations as presented)
- B. *Acceptance of Donation to the Skateboard Park
- Steve De Trolio - \$2,100.00
(Sample motion – move to approve and accept the donations as presented)

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

City Manager's Items Which Require Action:

1. Approval of 2022 City Council Meeting Calendar
2. Sale of Commercial Safe
3. Request for Public Hearing and Adoption of Bond Resolution in the Amount of \$10,000,000.00 for the Acquisition of Community Campus
4. Request for Public Hearing Regarding Supplemental Appropriation for Operating Expenses of Community Campus Upon Acquisition for Fiscal Year Ending June 30, 2022
5. Request for Public Hearing and Supplemental Appropriation in the Amount of \$75,000.00 for the McIntyre Principle Group Work
6. Request for Public Hearing and Supplemental Appropriation in the Amount of \$75,000.00 for McIntyre Litigation
7. Street Naming for 83 Peverly Hill Road
8. Request to Join Opioid Settlement Agreement

XVI. CONSENT AGENDA

(Proper Motion for Adoption of Consent Agenda - move to adopt the Consent Agenda)

- A. Letter from Becky Kates, Krempels Center, requesting permission to hold the 25th Annual Cisco Brewers Portsmouth Memorial Day 5K on Sunday, May 29, 2022 at 11:00 a.m. ***(Anticipated action – move to refer to the City Manager with Authority to Act)***
- B. Request for License to Install a Projecting Sign for owner Stacy Moore, Burgers Etc., LLC d/b/a Stroll Café for property located at 23 Portwalk Place ***(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***

XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Email Correspondence (***Sample motion – move to accept and place on file***)
- B. Letter regarding the need for a Taxi Commission
- C. Letter from Gretchen Rath, Portsmouth Fabric Company, requesting retailers to be invited to any meetings convened regarding downtown parking
- D. Letter from Attorney Kenneth Murphy, Rainboth, Murphy & Lown, PA, regarding Worth Lot Parking Agreement Revision (***Sample motion – move to refer to the Legal Department for report back***)
- E. Materials from Kristen Mello regarding PFAS

XVIII. CITY MANAGER'S INFORMATIONAL ITEMS

- 1. Report Back on Recommendation from Planning Board Regarding Community Campus
- 2. Report Back on Parking for Individuals with Disabilities as Requested by Councilor Kennedy
- 3. Report Back on Unaudited FY21 Results As Requested by Councilor Huda
- 4. Turf Athletic Field – Updated Staff Report of PFAS Testing Options and Manufacturer Response to Inquiry

XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

XX. ADJOURNMENT [at 10:30 p.m. or earlier]

**Indicates verbal report*

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

**The Council Chambers
City Hall
Portsmouth, New Hampshire**

A Proclamation

- Whereas:** In 1782, at a time when the Continental Congress had not yet paid all of those who fought for America's independence, General George Washington created a military Badge of Military Merit, a heart-shaped piece of purple velvet that was priceless to its recipients; and
- Whereas:** Portsmouth citizens have fought in every conflict, from the earliest origins of the nation to its most recent military deployments; and
- Whereas:** So many of our citizens came home (or in many cases, did not) with the scars of battle and earned a medal that speaks volumes to all who know what a Purple Heart represents; and
- Whereas:** The Purple Heart signifies a soldier, sailor or airman who was wounded by enemy action, and thousands of such men and women have called Portsmouth home over the last two centuries; and
- Whereas:** Portsmouth is forever in the debt of those we know and honor today, as well as those we will never know, who shed their best, and sometimes their last blood, to keep our nation's values and dreams alive.


Now, therefore, I, Rick Becksted, Mayor of the City of Portsmouth, on behalf of the members of the City Council and the citizens of Portsmouth, do join with other communities around the state and hereby proclaim Portsmouth, New Hampshire as a

Purple Heart Community

and urge all citizens to reflect on what Purple Heart recipients have done for each of us through their sacrifice.



Given with my hand and the
Seal of the City of Portsmouth,
on this 6th day of December 2021.


Rick Becksted, Mayor of Portsmouth

MINUTES
PEVERLY HILL ROAD SIDEWALK IMPROVEMENT/COMPLETE STREET PROJECT
PUBLIC NECESSITY HEARING

EILEEN DONDER FOLEY COUNCIL CHAMBERS
DATE: THURSDAY, OCTOBER 14, 2021

PORTSMOUTH, NH
TIME: 5:00 PM

I. CALL TO ORDER – Mayor Rick Becksted

Mayor Becksted called the meeting to order at 5:00 p.m.

Council Present: Mayor Becksted, Councilors McEachern, Whelan, Lazenby, Huda, Tabor, and Trace.

II. OPENING OF HEARING – Brief overview by City staff of process and purpose

Acting Deputy City Manager/Deputy City Attorney Suzanne Woodland reviewed the agenda for the evening explaining that the Council will begin with a Site Visit of the project area and then continue in the Council Chambers at 7:00 p.m.

III. RECESS UNTIL 7:00 P.M AT CITY HALL COUNCIL CHAMBERS

Mayor Becksted called a recess at 5:08 p.m.

IV. SITE VISIT OF PEVERLY HILL ROAD IMPROVEMENT PROJECT AREA

A site visit was conducted with the seven City Councilors previously stated, City Manager Conard, Deputy City Attorney Woodland, Public Works Director Rice, Deputy City Clerk French, Brian Colburn (and colleague) of McFarland Johnson.

Mr. Colburn pointed out the various project elements in conjunction with the presentation handout. The route began at the Middle Road intersection along Peverly Hill Road to Lafayette Road and from Lafayette Road down Greenleaf Avenue ending at New Hope Baptist Church.

Some concerns raised by the Council included taking of trees on conservation property; relocation of telephone poles; removal of stone walls; wetlands.

V. SITE VISIT STOP AT NEW HOPE BAPTIST CHURCH AT 263 PEVERLY HILL ROAD - Respond to any Councilor questions and make any on-foot site visits

A group of residents were gathered at the New Hope Baptist Church and several different conversations were held with various Councilors and residents.

Some concerns raised were notification of some residents and not others which Acting Deputy City Manager Woodland explained was due to whether or not the property was being impacted. She further explained that some properties were previously going to be impacted, but no longer will be. Discussion ensued regarding the fact that all of the properties will be impacted due to traffic, construction, etc. There was also discussion regarding speeding, trucks and pedestrian safety. The residents requested that traffic control be put in place

immediately.

Councilor Tabor moved to recess until 7:00 p.m. to reconvene at City Hall. Seconded by Councilor Huda and voted.

VI. REOPEN PUBLIC HEARING IN CITY COUNCIL CHAMBERS AT 7:00 PM.

Mayor Becksted reconvened the meeting at 7:00 p.m.

Acting Deputy City Manager Woodland explained that the site visit was held along the route and discussion held with some neighbors at the New Hope Baptist Church. She explained that due to the federal funding that is involved, this process is required. She then reviewed the proposed resolution which the Council will decide if this project is a necessity and accept the burden or not. She continued that there has been some design evolution so some people who had previously been notified that would be impacted are now not being impacted and therefore did not receive certified notification. She stated those changes will not be in the city right-of-way.

Finally, she stated that if the resolution is approved there will be an appraisal process and more talks will occur with the property owners with more specific details. She concluded stating that we will be trying to make this as least painful as possible.

VII. PRESENTATION OF THE PROJECT BY CITY STAFF AND CONSULTANTS

Project Consultant Brian Colburn of McFarland Johnson gave the Peverly Hill Road Sidewalk Improvement/Complete Street Project presentation reviewing and identifying the project impacts both temporary and permanent.

Public Works Director Rice concluded the presentation reviewing the next steps of the process stating that if the Council approves the Resolution determining public necessity for the project, plans will be submitted and environmental review done by NHDOT. He continued that R.O.W. acquisition process will begin, final design completed with anticipated construction to begin in 2023.

Councilor Huda asked what the square footage of the temporary easements versus the permanent easements as well as the placement of light poles.

Public Works Director Rice stated that one property is impacted by the relocation of a light pole at 515 Peverly Road which may have to go behind the right-of-way. He stated we will try to minimize the impact. He stated he will get the square footage numbers she requested.

Councilor Kennedy stated that we haven't discussed the logistics with the residents because we can't but recalled that back in March Deputy City Attorney Woodland had said that if anyone wanted to object they could and asked if that is still the case after this vote is taken.

Deputy City Attorney Woodland stated that after the approval by the Council it then allows us to go forward with the project with the involvement of the US Government. She stated that if agreements cannot be reached with property owners, then we would have to resort to eminent domain which is a backstop to keep the project going.

Councilor Kennedy asked if they go to the Board of Tax and Land Appeals if they are still not happy, can they then go to court.

Ms. Woodland stated yes but if they have a dispute they can still work with the City Manager and the Council can decide if they want to pay the money they are asking for which is usually discussed through the non-public session process. She clarified that we cannot talk money with anyone until this vote is taken.

Councilor Lazenby asked if this vote does not pass what will happen to this project and the funding involved.

Mr. Colburn stated that if this fails the city will have to decide if they want to redesign the project trying to keep it within the right-of-way, but that would be a challenge. Otherwise it would be the end of the project. He then gave the square footage figures that Councilor Huda requested; 13,035 square feet of temporary easement and 27,960 square feet of permanent easement.

Public Works Director Rice clarified that there isn't a no-impact alternative.

Councilor Trace asked about trees being taken as well as any impact to the stone wall.

Mr. Colburn stated that there will be no impact to the stone wall. Regarding trees he doesn't know the exact number involved but generally they talk with the property owners to mitigate the impact. He stated that there is a more formal process involved with the Conservation Easements.

Councilor Trace stated a tree has value so would it be monetary or replacement.
Mr. Colburn stated it is up to the property owner.

Councilor Whelan asked about the Conservation Easements.

Ms. Woodland that the Hett Farm has a conservation easement and involves LCHIP funds. She stated we spoke to the State 2-3 years ago about the proposed project and they liked the pedestrian/bike path portion and are not interested in challenging it but we still have to go through the formal taking process.

VIII. PUBLIC HEARING FOR TAKING OF TESTIMONY *(participation may be in person or via Zoom)*

Mayor Becksted opened the public hearing:

Jake Krupp – stated the drainage easement will be built on his property which he bought 25 years ago and eminent domain will take ½ of the property. He stated that forced taking of property has to meet criteria of public use is necessary to the public benefit and he isn't sure that this is necessary. He stated that net public benefit is a different analysis; open land versus more traffic. He stated that it is him this time and he has an enforceable contract with the city on how this land can be used so if the city is able to not adhere to the contract then it can happen to others as well. He continued that he will have to pay for his own lawyers and advisors but the taxpayers will be paying for the city to take him through this process. He stated the city prohibits certain uses of his property so if this is changed then the value needs to reflect that use. He discussed the various amenities and issues of his property and the

reduction of the value of his home as a result and wants to be compensated for what is being taken from him.

Allison Tanner – stated she lives across the street from Mr. Krupp’s property and has seen it flood many times and if it becomes a gravel wetland it will go into Sagamore Creek. She continued regarding the taking of trees stating that replacing large trees with smaller ones is not the same. She discussed the truck traffic on Peverly Hill Road and Greenleaf Avenue stated it is abominable with the noise and air pollution and there are more and more residents being added to the area. She concluded by presenting a petition with resident signatures requesting that Truck Travel be prohibited on Peverly Hill Road.

Shannon Harrison – stated she agrees that Truck Traffic should be prohibited and also feels that the speed limit needs to be enforced as she has seen and had several close calls. She stated she understands that the new design is supposed to help alleviate the issue but is concerned that trees that were in the first design are no longer a part of it.

Mike Mosca – stated he is moving in 2023 and is concerned that his property be restored to good condition for when he is ready to sell it.

Ann Poubeau – thanked the residents of Peverly Hill Road for speaking out about their issues but she is in favor of the proposed multi-use paths which will connect one end of town to the other. She stated she understands the issue of eminent domain but does feel that this is a safety improvement benefiting all.

Carol Ruesswick - stated she has lived in her home since 1990 and is concerned with the impact traffic has had on her property and air quality and doesn’t know that this project will improve these issues. She discussed various problems caused with delivery trucks and tractor trailer trucks going by and shaking her house. She stated she has taken traffic counts at various times and has counted 950 in a single hour in the morning. She asked when the last time the city has done a traffic count during prime hours and also how will the air quality be improved with this project since there is federal money being used.

Laura Frazer – stated she supports this project as a bicyclist and pedestrian who walks her dogs on this road and is often scared to do so. She feels this project will slow the speed, beautify the road and allow safer walking and bicycling.

Marie Kelleher – stated she understands putting in sidewalks but not the multi-use path and feels that this should not go forward until the speed limit is lowered and truck traffic averted from the area. She stated that if the road is narrowed due to the paths, trucks will have no room to swerve if they have an issue and will hit anyone in the multi-use path.

Donald Jones – stated he feels that everyone in the area wants reduced speeds and truck traffic rerouted but feels this needs to be handled separate from this project. He stated he supports the multi-use path and feels that it is important with the new houses being built in the area with more kids.

Matthew Glenn – thanked those who voted to move this forward and the residents for their continued advocacy for safe pedestrian and bicycling paths. He stated it is important for the city to do this and to connect 2 sections of the city including the Elwyn Park neighborhood who use the ball fields and would be able to ride bikes there. He thanked the engineers for

their work to make less impact on residents and concluded by stating the SABR supports this moving forward.

Gabe Weinrob – stated he is a Portsmouth High student and is an avid biker and feels that this helps people who don't have their licenses yet and helps sustainability.

Mark Westgate – stated he is concerned that the gravel wetlands will affect his view. He stated he previously dealt with former Transportation Engineer Eby regarding the clearance from his house to the wetlands and is also concerned if they will be built 9' above flood stage. He concluded that otherwise he supports the project.

Dave Allan – stated he is in favor of the project and feels it does meet the public necessity purpose. He stated as a member of SABR and having a family of bicyclists, this will allow safe riding from the Elwyn Park neighborhood.

Seeing no one else wishing to speak, Mayor Becksted closed the public hearing.

IX. CONSIDERATION OF RESOLUTION

Councilor Lazenby moved to adopt the resolution as written, seconded by Assistant Mayor Splaine.

Councilor Lazenby discussed the history of the public process with adjustments made through the back and forth process to get to this point. He stated that perfect projects don't exist and feels this is a good solution to a difficult problem and will bring relief to this part of the city.

Councilor McEachern stated as a City Councilor he has become more aware of issues and more mindful and feels that this project calms the traffic by narrowing the road and feels this should move forward. He discussed this is a multi-layered approach and questions about the placement of or removal of trees etc. will happen after this phase. He stated this will connect one part of town to another which is one of the city's goals.

Councilor Kennedy stated there were questions raised tonight that she wants answered in regards to traffic studies and air quality as well as the issue of wetlands. She stated she is also not in favor of eminent domain.

Mr. Colburn reviewed the findings of several traffic and air quality studies done previously. He addressed air quality stating the analysis finds that adding sidewalks and bike lanes to the area will reduce the amount of cars on Peverly Hill Road and lower the carbon.

Councilor Kennedy asked about the gravel wetland on Greenleaf Avenue and if it will have to be designed 9' above the flood stage.

Mr. Colburn explained that it will be in the flow area and will be dealt with in the design. He stated it does not have to be 9' above flood stage as that would be hard to achieve.

Councilor Kennedy asked how often this will be cleaned.

Mr. Colburn stated it is required to be cleaned annually.

Public Works Director Rice clarified that the City has practices and procedures in place regarding cleaning of drainage structures.

Acting Deputy City Manager Woodland stated that the issue of the gravel wetland had been a tough issue from the beginning and she had previously asked if it could be located elsewhere for many reasons.

Mr. Colburn explained that the low point of Peverly Hill Road is at Greenleaf Avenue so this needed to be located in a lower area due to gravity and is why they looked at Greenleaf Avenue for parcels without buildings.

Councilor Tabor stated it is difficult when a Council has to decide to allow eminent domain and understands the residents' concerns. He stated we have to determine if it is for the public benefit and he feels that yes it is. He stated the current roadway encourages speeding as there are no sidewalks or curbing and gave Woodbury Avenue as an example of how adding these does reduce speed. He stated this will be an amenity to the neighborhood and the city as a whole and feels the project has gotten better through dialogue and is as low impact as possible.

Councilor Trace stated she does not favor eminent domain but sees the benefit to the community of a multi-use bike path. Next, she asked how difficult it is to limit the truck travel to only local deliveries such as has been done on Bartlett Street. She feels this would drop the number of trucks and help the air quality as well. Finally, she stated she does not like the taking of trees and understands there will be replacements but she wants the city to take care of them and challenges the City Manager and City Attorney to ensure this happens.

Councilor Huda stated she supports the bike path but doesn't like the impact of this project on one person and is concerned that this will proceed whether he gets fair market value or not. She asked if this can be separated from the other properties that have minimal impact.

Mayor Becksted stated that he agrees that from the land use perspective there can be stipulations added that the Council can be involved or not and he would like to ensure that the Council is involved sooner than later in the process. He stated that land in proximity to water is valuable and that needs to be taken into consideration as well.

Discussion ensued regarding the appraisal process and further permitting process that will be required.

Councilor Kennedy moved to include the following stipulations in the resolution, seconded by Councilor Huda.

This Resolution includes the following stipulations with respect to property at 375 Greenleaf Avenue:

1. The City Council shall be kept involved and have input over the negotiation process. Note: Deputy City Attorney Woodland advised the Council that this stipulation would be satisfied by bringing the appraisal to the Council before any offer is made to the land owner.

2. The acquisition by the City will not deprive the land owner of any regulatory position held at the time of taking, such as loss of frontage or any rights associated with water or wetland regulations.
3. The drainage structures are to be kept clean in accordance with the City's normal practices and procedures.

Motion to amend to include 3 stipulations passed on a 9-0 vote.

Main motion as amended passed on a 9-0 roll call vote.

X. ADJOURNMENT

Councilor McEachern moved to adjourn at 9:12 p.m. Seconded by Councilor Lazenby and voted.

Respectfully submitted:

Valerie A. French,

Deputy City Clerk

CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: MONDAY, OCTOBER 18, 2021

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

III. CALL TO ORDER

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

IV. ROLL CALL

PRESENT: Mayor Becksted, Assistant Mayor Splaine, Councilors McEachern, Whelan, Lazenby, Kennedy, Huda, Tabor and Trace

V. INVOCATION

Mayor Becksted asked everyone to join in a moment of silent prayer in memory of Mr. Styles and Attorney Pelech.

VI. PLEDGE OF ALLEGINANCE

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

VII. ACCEPTANCE OF MINUTES – OCTOBER 4, 2021

Councilor Kennedy moved to accept and approve the minutes of the October 4, 2021 meeting. Seconded by Councilor Tabor and voted.

IX. PUBLIC COMMENT SESSION

Roy Helse said during the Portsmouth Listens sessions on the McIntyre a majority of people want open space and the post office to return.

Josh Denton, Commander of VFW #168, spoke in support of the Optional Tax Credit. He said this credit fills a gap that exists for veterans. He stated this would be a \$500.00 credit and you would only qualify for one credit.

Ted Jankowski spoke in support of the motion by Assistant Mayor Splaine and Councilor Whelan later in the agenda for additional testing of the playing field for PFAS. He stated we now have PFAS at two fields. He spoke to the new methods of testing and protecting the health of kids for future generations.

Arthur Clough spoke regarding affordable housing in the City and work force housing. He discussed the cap in income for affordable housing and the need to appoint people to the land use boards that are in favor of affordable housing.

Zelita Morgan thanked the City Council for their work over the last two years. She said you showed leadership and confidence. She said during the budget process the taxpayers were considered and lead to a flat budget.

Tricia Donohue spoke on the request of Community Gardens and asked for the City Council's support.

Andrea Amico spoke in support for additional testing of PFAS on playing fields. She said finding fluorine in the field is a concern for her. She said the City needs to be more diligent with its testing of PFAS to assure the community that we are PFAS free. She requested that signs be placed on the fields regarding turf safety. She also requested that the water be tested coming off the field as well.

Robin Husslage spoke regarding noise caused from the PAN AM railroad. She spoke to the 20 large propane tanks that remain unattended and parking overnight in our downtown area. She would like to know if PAN AM can do anything regarding this matter.

William Downey spoke regarding McIntyre and the interim agreement that there would be an attempt to get it done. He said since the deadline was not met both parties could walk away in September 2019. He said the community needs to hear that the Subcommittee has done a professional job.

Diana Carpinone, Dover, NH, urged the City Council to pass the motion on testing for PFAS at the field. She said we cannot afford to have more chemicals in the environment. She said PFAS was found in every component for testing and the RFP only called for one test. She stated it is necessary to conduct more testing and holding the contractor responsible for the PFAS being in the field.

Diane Welockie, Oceanside, CA, spoke to California taking PFAS seriously. She said PFAS is a serious concern and there are up to 10,000 components of PFAS. She stated the plastic carpets contain the PFAS and more extensive testing is needed for the fields.

Jeffrey Desantis, York, Maine, spoke to the walkability of Portsmouth. He said Portsmouth is the best walkable small City in the United States. He stated he would like to see continued improvements on air and noise pollutants.

Melissa Paly, Great Bay Conservation Law Foundation, urged the City Council to approve the PFAS free status of playing fields. She stated the vendor needs to deliver what was agreed upon. She spoke to the investments made by the City regarding storm water and the need to know there are contaminants flowing into the Sagamore Creek.

Assistant Mayor Splaine moved to suspend the rules to take up Item XV. A.4. – Resolution Regarding Optional Tax Credit for Combat Service and XV. A.5. – Approval of Community Garden License Agreement. Seconded by Councilor McEachern and voted.

A.4. Resolution Regarding Optional Tax Credit for Combat Service

Councilor Kennedy moved to schedule a public hearing and adoption of the Optional Tax Credit for Combat Service Resolution at the November 15, 2021 City Council meeting. Seconded by Councilor Huda.

Councilor Lazenby said he is in favor of moving this forward for November.

Mayor Becksted stated that this is the regular process. City Attorney Sullivan said the public hearing is required because that is the process for adopting a resolution.

Motion passed.

5. Approval of Community Garden License Agreement

City Manager Conard stated that the City would be responsible for the installation of water at the site.

Councilor Kennedy moved to authorize the City Manager to execute the Community Garden License Agreement as presented. Seconded by Councilor Trace and voted.

City Manager's Informational Items

5. Report Regarding Request for Costs of McIntyre Consultants to Date

Councilor Lazenby asked about the interim agreement. City Attorney Sullivan said the theory of the lawsuit by RedGate/Kane the Development Agreement authorizes and signed the agreement that is in effect and compels the City to build the first proposal and we could discuss these matters later in a Non-Public Session.

XI. PUBLIC HEARING AND VOTE ON ORDINANCE AND/OR RESOLUTIONS

Third and Final Reading of Ordinances:

- A. Ordinance amending Chapter 7, Article XI, Section 7.1100 – SPEED LIMITS Sub-section E – Speed Limit: 25 MPH – Chevrolet Avenue

Councilor Kennedy moved to pass third and final reading of the ordinance as presented. Seconded by Councilor Huda and voted.

- B. Ordinance amending Chapter 7, Article XII, Section 7.1200 – Parking for the Walking Disabled

Councilor Kennedy moved to pass third and final reading of the ordinance as presented. Seconded by Councilor Huda and voted.

XII. MAYOR BECKSTED

1. Appointments to be Considered:
 - Hawk Furman appointment to the Audit Committee (2 year term)
 - Christopher White appointment to the Audit Committee (3 year term)

The City Council considered the appointments of Hawk Furman and Christopher White to the Audit Committee which will be voted upon at the November 15, 2021 City Council meeting.

2. Appointment to be Voted:
 - Sarah Lachance reappointment to the Economic Development Commission

Assistant Mayor Splaine moved to reappoint Sarah Lachance to the Economic Development Commission until October 1, 2025. Seconded by Councilor Kennedy and voted.

3. Appointment to the Mayor's Blue Ribbon Cemetery Committee (Not on Agenda)

Mayor Becksted announced the appointment of Eva Boice to the Mayor's Blue Ribbon Cemetery Committee.

XIII. CITY COUNCIL MEMBERS

A. ASSISTANT MAYOR SPLAINE & COUNCILOR WHELAN

1. Testing for PFAS On Artificial Turf Playing Fields

Assistant Mayor Splaine moved that the City Council requires the City Manager to commission independent third party test for PFAS of the new playing field. As recommended by independent experts, the testing shall use the non-targeted PFAS analysis and total oxidizable precursor (TOP) assay methods to look for the presence of PFAS in the synthetic turf, shock pad, and infill material. The results will be provided to the City Council within 30 Days. Seconded by Councilor Whelan.

Assistant Mayor Splaine said we heard testimony today and we need to make sure there is no PFAS in the field. He said this is a way to get the issue of whether there is PFAS cleared. He said next time we may look at turf we make sure there is no chemicals that could impact children.

Councilor Whelan spoke in support of the motion. He said he is active in water quality matters. He stated he does not want to see PFAS draining into our estuary. He said this City Council passed the resolution that the field would be PFAS free and we owe it to the community and children.

Councilor McEachern said we learned that the Biden Administration is moving forward on PFAS and we can thank Andrea Amico for this. He said we are the leader on this and we need to be certain that the field is PFAS free. He said we expect the field to be PFAS free and we need to create framework that we can agree on the testing.

Councilor Kennedy said she agrees with comments made and asked if 30 days would be enough time to provide a report back.

City Manager Conard said staff had a discussion with Weston and Sampson and we will need more time to make sure we have adequate testing. She said it makes sense to have a work session on this matter. She reported that the cost estimate for proper testing is in the \$15,000.00 to \$20,000.00 range.

Assistant Mayor Splaine said he would like a work session prior to the November 15, 2021 City Council meeting and would like it to include Ted Jankowski and Andrea Amico to speak on this matter.

Assistant Mayor Splaine moved to amend the motion that Mayor Becksted work with City Manager Conard to come up with a date and time up to a week before the next City Council meeting for a Work Session regarding this matter. Seconded by Councilor Whelan.

Acting Deputy City Manager/Deputy City Attorney Woodland said there is not a great deal of data on some of these and if you look at the report from Martha's Vineyard the report cost \$51,000.00. She said we want more information, data without context. She stated we need to know more about PFAS and we felt that we need to make sure we provide information that is useful to the City Council.

Councilor Lazenby said a work session is a good approach. He stated did we have an assurance from those that installed the field that they pay for testing. He said PFAS free, to be used must meet all three criteria and that was the guidance the engineering measured against but now there is a different definition. He said we might have a challenge and get another sample and have a chain of custody provided. He asked if we did a work session in November could they provide an estimate on the cost for a useful test and report. He asked what the range of cost would be and where in the budget would we pay for it.

Councilor McEachern said it is really important that we get a system in place to provide assurances to parents and we need to establish the proper way to test. He said he wants standards and spending to have community engagement.

Councilor Huda said she is looking for who would pay for this and stated they made the statement and they should pay for it.

Councilor Tabor supports testing and to see if we got our intent from Weston & Sampson. He said a work session would be beneficial.

Councilor Trace said she agrees with the comments made and there needs to be appropriate testing.

Assistant Mayor Splaine said this time it is totally understood that when we are sitting around the table that Ted Jankowski, Andrea Amico and others that they be involved.

Motion passed.

B. COUNCILOR McEACHERN

1. Letter requesting air quality testing in the immediate vicinity of the city railways

Councilor McEachern moved to request the City Manager to send a letter to the Department of Environmental Services requesting air quality testing in the neighborhoods abutting an active railroad. Seconded by Assistant Mayor Splaine.

City Manager Conard said Assistant City Attorney Ferrini has been working on this matter and the EPA has small air quality testing to be provided on public and private areas. She said we reached out to neighborhoods on good times for testing and we all worked through the EPA and DES on the testing.

Assistant Mayor Splaine said there are issues with the rail line sides and spoke to propane in the area being carried by railcars going through Portsmouth and Newington. He suggested the next City Council not be deterred to follow through on this.

Mayor Becksted said we received a letter from a resident on Kearsarge Way that we look at the entire rail road. He would like to do something with air quality issues and make a difference now.

Motion passed.

XIV. APPROVAL OF GRANTS/DONATIONS

- A. Donation to the Portsmouth 400th - \$10.00

Councilor Kennedy moved to approve and accept the donation from Valerie Rochon in the amount of \$10.00 as presented. Seconded by Councilor Huda.

City Manager Conard said that this was Valerie Rochon's kick off for the ability to make donations on the website.

Motion passed.

XV. CITY MANAGER'S ITEMS WHICH REQUIRE ACTION

A. CITY MANAGER CONARD

1. Request from Pontine Theatre for Shed

City Manager Conard reported that the Pontine Theatre wants to erect a shed for the storing of equipment and supplies.

Councilor Kennedy moved that the City Manager be authorized to approve Pontine's installation of the shed and to make such minor adjustments to the existing lease document as may be necessary to reference this new structure. Seconded by Councilor Huda.

Councilor Tabor asked if there is a give back on rent when a capital investment is made. City Manager Conard said they receive free rent and make necessary improvements.

Motion passed.

2. Surplus Granite and Portsmouth Housing Authority

City Manager Conard advised the Council that this is the community space area and that there is surplus granite available for the benches.

Councilor McEachern moved that the City Manager be authorized to release to the Portsmouth Housing Authority granite pieces for benches to be installed in the public community space areas as part of the Court Street work force housing project. Seconded by Councilor Whelan.

Mayor Becksted reported where the community space is located between the two buildings which is a park.

Councilor Huda asked if ownership will transfer to Portsmouth Housing Authority. City Attorney Sullivan that it is subject to an easement and requires Portsmouth Housing Authority maintain the property and we are just providing the granite.

Motion passed.

3. Eversource Pole and Vault License Request

Councilor Kennedy moved that the City Manager be provided with the authority to negotiate and approve a preliminary license agreement with Eversource for the excavation, conduit installation and other work needed ahead of the final pole licensing submission by Eversource. Seconded by Councilor Huda.

Councilor Huda asked if any businesses have been involved in this and how many businesses will this effect. City Manager Conard said this will provided initial power of utility lines. Councilor Huda said have we done a study on traffic flow. Acting Deputy City Manager/Deputy City Attorney Woodland said we have had meetings on this matter and communication with abutters and the McNabb Group sent out regular emails and Eversource communicated with us for a license and everyone attended the Eversource meeting. Councilor Huda asked how long this will take. Public Works Director Rice said we anticipate before Christmas with the most impact being Penhallow Street.

Motion passed.

XVI. CONSENT AGENDA

- A. Letter from Adam Benoit, The Greg Hill Foundation, requesting permission to hold the 9th Annual Jingle All The Way 5K Road Race on Saturday, December 4, 2021 at 10:00 a.m. – 11:30 a.m. (***Anticipated action – move to refer to the City Manager with Authority to Act***)
- B. Request for License to Install Projecting Sign for owner Emily Stearns of The Drift Collective LLC, for property located at 50 Daniel 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***
- C. Letter from Nick Diana, requesting permission to host the 5th annual Running Road Race on Saturday, April 23, 2022 from 9:30 a.m. to 11:30 a.m. (***Anticipated action – move to refer to the City Manager with Authority to Act***)

Councilor Kennedy moved to refer to the City Manager with Authority to Act. Seconded by Councilor Huda and voted.

XVII. PRESENTATION & CONSIDERATION OF WRITTEN COMMUNICATIONS & PETITIONS

- A. Presentation Regarding Conditional Use Permits by Interim Planning Director, Peter Britz and Principal Planner, Nicholas Cracknell

Principal Planner Cracknell provided a detailed presentation regarding the Use of Conditional Use Permits (CUP) for new development in Portsmouth's Character Districts. He reported that there are 16 categories for conditional use permits. He stated that 5 – 6 are available in the Central Business District for CUP. He spoke to different dimensional controls and that they looked at 52 acres and have over 60 cells in the spread sheet to look at from a building environment. He said that there are 14 major projects in the Central Business District, two use CUP for density incentives, 7 use "as of right" incentives, and 5 use no incentives or provide public benefits.

Councilor Trace thanked Nick and Peter for the presentation. She said she was expecting something on wetland CUP as well. Principal Planner Cracknell said a presentation could be provided on that matter in the future.

Councilor Tabor said this presentation was great and asked what requires developers to have work force housing. Principal Planner Cracknell said work force housing can only be required with a CUP. He said work force housing is a different business model and many choose community space over work force housing.

B. Email Correspondence

Councilor Kennedy moved to accept and place on file. Seconded by Councilor McEachern and voted.

XVIII. CITY MANAGER'S INFORMATIONAL ITEMS

2. Household Hazardous Waste Collection Day – October 30, 2021

City Manager Conard announced that Household Hazardous Waste Collection Day will be held on Saturday, October 30, 2021.

3. Report Back on August 2021 Monthly Summary Report

City Manager Conard asked if there were any questions relative to the report back on August 2021 Monthly Summary Report.

4. Little Harbor Road Paving

City Manager Conard spoke to the paving that will be taking place on Little Harbor Road.

5. Report Regarding Request for Costs of McIntyre Consultants to Date

Councilor Lazenby said the Principal Group will require an additional appropriation.

Councilor Whelan said the Principal Group will make another presentation on November 3, 2021 and moving forward we will have to come back to the City Council for more funding. He said we need to make a formal presentation to the National Park Service which will require more money and staff has estimated \$75,000.00. He said that this has been money well spent. He said we will try to get the project through the National Park Service.

Councilor Lazenby said the \$75,000.00 is not just for consultants, does it include the Principal Group or will there be more funding necessary. Councilor Whelan said the Principal Group and David Eaton will need to look at the project still.

Assistant Mayor Splaine asked what the process would be for expenditure of funds and bids. Councilor Whelan said we interviewed 4 different groups with an RFP. He stated the Committee has approved all expenditures as they have come through. Assistant Mayor Splaine asked if the votes were in public or non-public session. Councilor Whelan said they were in public session and all votes were unanimous.

Councilor Tabor said that this has been money well spent. He said we budgeted \$480,000.00 to carry the building and that is a savings of \$165,000.00.

XIX. MISCELLANEOUS BUSINESS INCLUDING BUSINESS REMAINING UNFINISHED AT PREVIOUS MEETING

Councilor McEachern asked about public realm dining and when that is set to expire and could we extend that to areas where bollards are not required.

City Manager Conard said dining is expiring on October 31st and it is important to note that some businesses can serve in an area outside a public street or parking space. She stated staff is looking to remove the bollards for November 1st but this is not a conversation that is equal because of the area. She said she would like to keep tables outside as long as we have the ability to do so.

Assistant Mayor Splaine said the City Council and staff could make this a year round activity and takes focus on working with businesses. He urged the City Council to find a way to do this on a year round basis. He said we need to move Portsmouth outdoors.

Councilor Lazenby asked City Attorney Sullivan regarding the Non-Public Session held on October 13th and that the person was not given the right to answer the questions in public session. City Attorney Sullivan said it has been thoughtfully considered it must be identified by the maker of the motion. He said he listed the sections under which he did that because there were several people that would fit that category. He further stated he did not have that person in mind that night. Councilor Lazenby said the identification became clear in the meeting and asked if that situation and person has been made aware. City Attorney Sullivan said he will answer the questions in a memorandum and what person was addressed. Councilor Lazenby said that there was some unconventional processes during that evening. City Attorney Sullivan said a Non-Public Session is a Non-Public Session of the City Council and any significant decisions should be made by the City Council as a whole. He stated in the future the City Council should vote on things. Councilor Lazenby said things such as taking of minutes in Non-Public Session.

Councilor Tabor said the Energy Advisory Committee has looked at Keene and surveyed residents on the project and the majority agreed to look at renewable rates. He said they will provide a report back in December to the City Council.

Councilor Trace said she would like the presentation regarding CUP's be placed on-line.

Councilor Huda said she would like a date for the Sagamore Creek project. Acting Deputy City Manager/Deputy City Attorney Woodland said we are going out for a re-bid and we would like to get new numbers and speak with residents. Councilor Huda asked when the RFP would be done. Acting Deputy City Manager/Deputy City Attorney Woodland said we will keep the City Council aware of what the schedule looks like.

Assistant Mayor Splaine reported that the Citywide Neighborhood Committee will be meeting on Wednesday at 7:00 p.m.

At 9:37 p.m., Councilor Kennedy moved to enter into Non-Public Session with City Attorney Sullivan to discuss McIntyre. Seconded by Councilor Huda.

XX. ADJOURNMENT

At 10:30 p.m., Councilor McEachern moved to leave Non-Public Session, seal the minutes of the Non-Public Session and adjourn the meeting. Seconded by Councilor Kennedy and voted.



KELLI L. BARNABY, MMC/CNHMC
CITY CLERK

SPECIAL CITY COUNCIL MEETING

MUNICIPAL COMPLEX
DATE: WEDNESDAY, OCTOBER 27, 2021

PORTSMOUTH, NH
TIME: 6:30PM [or thereafter]

I. CALL TO ORDER

Mayor Becksted called the special meeting to order at 6:30 p.m. and announced the purpose of the meeting and cited the RSA's for entering into a Non-Public Session for matters in Litigation and Legal Advice relating to SOBOW Square, LLC v. City of Portsmouth.

II. ROLL CALL

PRESENT: Mayor Becksted, Assistant Mayor Splaine, Councilors Whelan, Lazenby (6:33 p.m.), Kennedy, Huda, Tabor and Trace

III. MATTERS RELATING TO SOBOW SQUARE, LLC. v. CITY OF PORTSMOUTH, DOCKET NO. 218-2020-CV-00352– City Attorney Robert Sullivan and Attorney Michael Connolly of Hinckley Allen. ANTICIPATED NON-PUBLIC SESSION – MATTERS IN LITIGATION AND LEGAL ADVICE – RSA 91-A:3 II (i) & RSA 91-A:3 II (e)

Councilor Kennedy moved to enter into Non-Public Session as stated by Mayor Becksted. Seconded by Councilor Huda.

Assistant Mayor Splaine said he would like to hear more on whether the partner wants to meet with the City Council. City Attorney Sullivan said he received a request from a person who is not a member of government or the City Council asking to attend the special meeting this evening. He stated he spoke with Mayor Becksted and Councilor Whelan on the matter and Mayor Becksted said he has an agenda for the Non-Public Session and there is no place on the agenda for that person to speak directly to the Council. He further stated that if the Council wanted that person to attend, the Mayor would set another meeting and time for the person to attend. He said the purpose of the non-public session is to get advice from outside counsel on the matter of strategy and litigation and it would not be appropriate for anyone else to attend.

Councilor Tabor said the meeting is to get legal advice and asked if we expect to take a vote because he feels that should be in public.

Assistant Mayor Splaine stated he would vote opposed to going into Non-Public Session as he feels the person could have come before the City Council and spoke and we could of still had a Non-Public Session. He said he does not feel this was a wise decision to do.

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

Councilor Kennedy moved to come out of Non-Public Session. Seconded by Councilor Huda and voted.

Councilor Kennedy moved to seal the minutes from the Non-Public Session. Seconded by Councilor Huda and voted unanimously.

Mayor Becksted said Councilor Whelan, Chair of the Subcommittee will be making a statement.

Councilor Whelan read the following statement:

We are extremely disappointed that Redgate-Kane instructed its counsel to oppose the City's motion in court to continue the stay of litigation for another 90 days, so that we could continue on the track we were on. That is, negotiation of the terms to build the project that has received the support of the public, [those who responded to the survey.]

In the interests of transparency, we are releasing the Project Restart Agreement proposed by Redgate-Kane.

Assistant Mayor Splaine said it should be stated that we agreed to meet with Michael Kane in the near future.

Councilor Whelan said we will meet with Michael Kane in the near future. He also stated that the City signed the interim agreement to take over the management for the McIntyre and the building will be turned over to the City on November 1, 2021 at 10:00 a.m., which will include parking for the outside area. He said Parking Director Fletcher is aware of this and is prepared to start charging for those spaces.

IV. ADJOURNMENT

At 8:30 p.m., Councilor McEachern moved to adjourn. Seconded by Councilor Kennedy and voted.

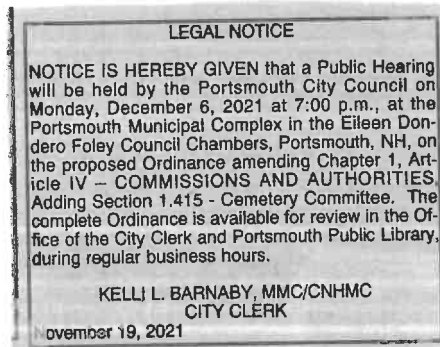


KELLI L. BARNABY, MMC/CNHMC
CITY CLERK

LEGAL NOTICE

NOTICE IS HEREBY GIVEN that a Public Hearing will be held by the Portsmouth City Council on Monday, December 6, 2021 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 1, Article IV – COMMISSIONS AND AUTHORITIES, Adding Section 1.415 - Cemetery Committee. The complete Ordinance is available for review in the Office of the City Clerk and Portsmouth Public Library, during regular business hours.

KELLI L. BARNABY, MMC/CNHMC
CITY CLERK



ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 1, Article IV Commission/Authorities, Section 1.415 – **CEMETERY COMMITTEE** 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 IV: COMMISSION / AUTHORITIES

Section 1.415: CEMETERY COMMITTEE

- A. Membership and Term: The Cemetery Committee shall consist of not less than twelve (12) or more than eighteen (18) regular members. The members shall be appointed by the Mayor subject to the approval of the City Council for a term of two (2) years, coterminous with the City Council term.
- B. Powers and Duties: The Committee shall provide advice and recommendations to the City Manager and the City Council with respect to all issues affecting municipal cemeteries, including the solicitation and acceptance of grants; the expenditure of any funds for specific improvements; and any expenditures from the Cemetery Trust Fund. Nothing herein shall limit the power of the City Council or City Manager to take immediate action in the event of exigent circumstances.
- C. It shall be the responsibility of the Cemetery Committee to encourage the restoration, preservation, and safeguarding of Portsmouth's historic cemeteries and their history for future generations.

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



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: Audit Committee JML

Name: Jesse Lynch Telephone: _____

Could you be contacted at work? **YES** NO If so, telephone# _____

Street address: _____

Mailing address (if different): _____

Email address (for clerk's office communication): _____

How long have you been a resident of Portsmouth? March 2012

Occupational background:

I have worked as an investment professional at Prime Buchholz for the past 9 plus years, advising endowment, foundation, and family office clients on asset allocation and fund selection within the real assets space. I am a Principal (owner) and currently serve as the Real Assets Committee Chair.

Prior to Prime Buchholz I worked in the commercial real estate lending sector at TD Bank in Boston and at MMA Realty Capital where I was responsible for monitoring a portfolio of commercial real estate loans.

I earned the CFA (Chartered Financial Analyst) designation in 2011.

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

On an on-going basis I review general partner and fund level performance and financial metrics. A key responsibility of mine at Prime Buchholz is to interview, analyze, and then select firms (and relevant strategies) which are appropriate for client investment. As part of the CFA designation process, I studied a rigorous curriculum spanning financial reporting, portfolio management, ethics, and performance measurement. I am involved in the investment industry on a day to day basis.

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: Community Service and a desire to get involved with the City

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

Volunteer Coach - recreational soccer and basketball, 5th Grade Dondero Girls

Basketball Coach

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

1) John Kennedy, /

_____ Name, address, telephone number

2) Eric Weinrieb, /

_____ 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

JESSE LYNCH, CFA

PROFESSIONAL SUMMARY

Driven investment professional with multi-cycle experience in the investment management industry. Skilled at real asset and private market manager assessment, selection, diligence, and monitoring. Demonstrated ability to develop and expand a successful real asset program over a multiyear period. Entrepreneurial approach to responsibilities including sourcing, relationship building, idea generation, and problem solving.

SKILLS

- Manager assessment, selection, diligence and underwriting
- Researching and analyzing real asset / private market trends
- Direct real estate investing, portfolio management, and asset management.
- Delegating to and developing junior team members
- Communication; written and verbal
- Project and relationship management

WORK HISTORY

Principal, Real Assets Committee Chair and Research Analyst, 02/2012 to Current

Prime Buchholz, LLC – Portsmouth, NH / Boston MA

- Lead selection, diligence, and underwriting of private and public real asset funds and managers.
- Set agenda for monthly real assets investment committee and asset class.
- Leverage existing relationships and consistently seek new relationships to source and identify prospect managers.
- Initiate and expand relationships with limited capacity private real asset funds.
- Present recommendations to internal firm investment committee as well as client investment committees
- Negotiated fee breaks on multiple private and public market funds as well as service providers.
- Research and monitor real asset and private capital market trends.
- Develop—and delegate to, junior team members.
- Participated in successful new business pitches.
- Responsible for client public and private real asset investment programs; including, implementation, commitment budgets, portfolio construction, manager selection, and pipeline.

Vice President & Portfolio Manager, Commercial Real Estate, 04/2010 to 02/2012

TD Bank – Boston, MA

- Responsible for monitoring and managing a 400 million commercial real estate loan portfolio consisting of loans secured by multifamily, office, industrial, and retail assets.
- Responsible for preparing relationship annual reviews, annual risk ratings, and quarterly criticized asset reports.
- Monitored compliance with required covenants and periodic financial reporting.
- Conducted annual site visits and managed day to day borrower relationship.
- Developed restructuring strategies for facilities in default.
- Negotiated in partnership with relationship manager, terms of loan restructuring, and modifications with borrowers.
- Underwrote over \$120MM in new commercial real estate loans in final 12 months.

Underwriter, Business Banking, 05/2009 to 03/2010

TD Bank – Burlington, MA

- Responsible for underwriting and making credit decisions on new loan requests within the Business Banking Group.
- Assigned to underwrite investment real estate loan requests as well as start-up credit requests.

Senior Analyst, MMA Realty Capital Division, 09/2005 to 02/2009

Municipal Mortgage & Equity, LLC, – Boston, MA

- Member of a three person team which performed a fiduciary role on behalf of a large insurance company.
- Evaluated office, retail, industrial, hotel, and multifamily loans.
- Performed asset analysis, market analysis, rent analysis, cash flow modeling, and stress tests on proposed and existing loans.
- Assisted in the selection, underwriting, and closing of approximately \$600 million in commercial mortgages for a life insurance company client.
- Assessed appropriate covenants and structure necessary to mitigate risks associated with proposed loans. Reviewed loan documentation for adequate lender protection and key loan provisions.
- Responsible for quarterly investment performance reporting and quarterly credit ratings of commercial mortgage in the \$1.4 billion portfolio.
- Analyzed proposed leases, changes to assets in the portfolio, and related issues with asset managers and borrowers.

Associate Retail Brokerage and Development, 11/2004 to 09/2005

Mercury Properties – Boston, MA

- Marketed retail spaces to tenants and researched numerous viable retail developments sites.
- Investigated possible assemblages to determine compatibility with the requirements of retail clients.

Regulatory Administration Associate, 09/2001 to 11/2004

PNC Financial Services Group – Boston, MA

- Promoted from State Coordinator to Regulatory Administration Associate
- Produced accurate and timely SEC filings and board of director meeting books.
- Managed 3rd party service providers and maintained regular contact with our client 's senior officers

EDUCATION

Bachelor of Arts: Political Science, 2000

Bates College - Lewiston, ME

Certificate: Commercial Real Estate, 2004

Boston University - Boston, MA

CFA Charterholder: Finance, 2011

CFA Institute



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: Conservation Committe

Name: Mika Court Telephone: _____

Could you be contacted at work? YES NO If so, telephone# same as above

Street address: _____

Mailing address (if different): _____

Email address (for clerk's office communication): _____

How long have you been a resident of Portsmouth? since July 2019

Occupational background:

I teach Sociology and History, with specific focus on Society and Technological Change at Colleges and High Schools. I have two Masters. I have studied Environmental Science within Sociological frameworks, specifically with an eye to how municipalities and stake-holders learn about best practices, on the one hand, and then organize and communicate to pass measures. I have studied long term practices.

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

My studies in Sociology related to how Environmental and Conservation groups work in municipalities like Portsmouth as well as my background learning about best practices for green school yards, which included interviews with a variety of stake-holders (Realtors, Developers, Environmental Scientists, Wetlands Experts, etc) give me background that may help see Portsmouth with fresh and informed eyes. I am also courageous and willing to speak up and build alliances.



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

No, I have not, however, I have spoken to Board members and understand the commitment.

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

Reasons for wishing to serve: _____

The choices that we make now will impact generations. We have serious problems that we inherited from prior generations -- from Pease and PFAS to Development on Wetlands and leaky Landfills. There are ways to create regenerative practices moving forward which cost-less than the present models and which would insure a healthy municipality in the present and for those who come after us. However, too often, short-sighted fear, greed, and lack of knowledge lead to allowing more toxic practices and structures to be passed rather than insisting on regenerative practices and structures.

Please list any organizations, groups, or other committees you are involved in: As a relatively new resident, I am not currently involved in any committees.

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

- 1) Dr. Aimee Huard, Great Bay Community College, Portsmouth, NH 03801 .
Name, address, telephone number
- 2) Jackie Lucas, (
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: [Signature] Date: 10/11/2021

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

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

[Large handwritten signature]



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: Economic Development Commission, Member

Name: Andrew M. Ward Telephone: _____

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

Street address: _____

Mailing address (if different): _____

Email address (for clerk's office communication): _____

How long have you been a resident of Portsmouth? 17 years

Occupational background:

See enclosed resume for occupational background and enclosed Colliers professional profile for current career information and projects.

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

As a commercial realtor living and working in Portsmouth, my role in matching businesses with the real estate they need to thrive is central to local economic development. Retaining the businesses we have in our community and allowing them to expand and access resources is very important . Recruiting start up businesses strengthens the fabric of Portsmouth by creating growth, industry diversity and economic security.

I have developed a deep local professional network through a high volume of real estate transactions in Portsmouth and I look forward to leveraging those relationships for this Commission.

 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 have a strong desire to give back to the community that has provided a high quality of life for my family. My motivation to serve is to position the next generation to enjoy the benefits and opportunities of living in an economically and socially strong community. Portsmouth has a rich history of citizen leaders who have guided the City and I wish to contribute in a similar meaningful way. I have attended several EDC meetings and my skill set closely aligns with the Commission and its mission of developing positive economic development policy and objectives.~~

Please list any organizations, groups, or other committees you are involved in:
See enclosed resume section "Community and Memberships".

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

1) Bob Rohrer, President, Colliers International|NH, '
Name, address, telephone number

2) Peter Gilmore, Exec. Dir. Seacoast Community School, 1
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:  Date: 10/15/2021

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

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

ANDREW M. WARD

1450 00001 000 017 0050 10

QUALIFICATIONS

- Keen ability to quickly identify the critical path and move toward success.
- Experienced negotiator with a "grow the pie" approach to finding mutually beneficial solutions.
- Proactive communicator and communication strategist.
- Strong entrepreneurial spirit and attention to detail.
- 17-year City of Portsmouth resident and homeowner with two children attending Portsmouth Middle School.
- Large local professional network developed through commercial real estate practice. \$12 million in total consideration within the City in the last year alone.

EXPERIENCE

- SENIOR BROKER: COMMERCIAL REAL ESTATE** 2012 – present
Colliers International (NASDAQ: CIGI), Portsmouth, NH
- Deliver first-rate results for sellers, landlords, buyers and tenants involving industrial, land and office properties.
- SALESPERSON: COMMERCIAL REAL ESTATE** 2011 – 2012
KW Commercial, Portsmouth, NH
- CONSULTANT: COMMERCIAL REAL ESTATE** 2011 – 2012
ARC Consulting, New Castle, NH
- Assisted with developing commercial real estate valuations and reviewing commercial appraisals for bank clients.
- LANDSCAPE ARCHITECT: COMMERCIAL REAL ESTATE DEVELOPMENT** 2004 – 2011
HBLA Inc., Portsmouth, NH
- Key position as the sole project manager consistently securing and coordinating site work for large construction projects.
 - Leadership in full spectrum of small business operations including relationship management, proposals, contract writing, hiring and managing staff, cash flow analyses and strategic planning.
- PROGRAM COORDINATOR** 2003 – 2004
Sustainability Institute, University of New Hampshire, Durham, NH
- Coordinated systems of sustainability across the curriculum, research and engagement activities of the University.
- LANDSCAPE DESIGNER: COMMERCIAL REAL ESTATE DEVELOPMENT** 1996 – 2003
Halvorson Design Partnership, Inc., Boston, MA
- Valued manager for wide spectrum of projects including high profile urban park installations.
 - Led a model production team that created an 18 foot 3-D model of Boston's Central Artery & Tunnel project, the largest civil engineering project in the U.S. Model used for City permitting meetings and photographed by the Associated Press.

LICENSURE AND EDUCATION

REAL ESTATE ASSOCIATE BROKER

Licensed in New Hampshire, number 067085 (15 hours annual CEUs)

2011 – present

Licensed in Maine, number BA 916380 (22 hours annual CEUs)

2012 –

present

LANDSCAPE ARCHITECT

Licensed in Maine, number 3136 (19-hour examination)

2006 – present

CORNELL UNIVERSITY

Ithaca, NY

1991 – 1995

- Bachelor of Science in Landscape Architecture
- Cornell National Scholar, Tribute Garden Scholar and Dean's List

COMMUNITY AND MEMBERSHIPS

BOARD MEMBER

Seacoast Community School, Portsmouth, NH

2018 – present

Chairman, HOME Committee (real estate and facilities)

Led lease negotiation effort to secure longer term tenancy for school. Focus on student safety and security.

TASK FORCE MEMBER

City of Portsmouth Business Retention and Expansion Program

2018

BOARD MEMBER

New Hampshire Commercial Property Exchange, Bedford, NH

2017

FOUNDER AND CHAIRMAN

Seacoast Commercial Leads, Portsmouth, NH

2012 – present

- Regional commercial real estate and commercial finance leads group generating over \$9,000,000 in new business for group members.

MEMBER

New Hampshire Commercial Investment Board of REALTORS, Concord, NH

2011– present

New Hampshire Association of REALTORS, Concord, NH

National Association of REALTORS, Chicago, Illinois

BOARD MEMBER

Granite State Landscape Architects, Concord, NH

2003 – 2005

- Instrumental in establishing title law and practice law for landscape architecture in NH, which succeeded in 2006.

AWARDS

INVESTMENT SALE OF THE YEAR (State of New Hampshire)

New Hampshire Commercial Investment Board of REALTORS

2015

MOST IMPROVED SALESPERSON

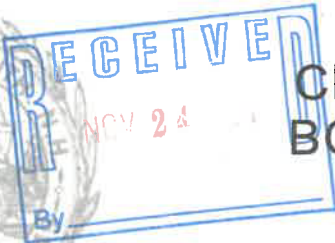
Colliers International | New Hampshire

2014

NEWCOMER OF THE YEAR

Colliers International | New Hampshire

2012



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: Planning Board

Initial applicant

Name: Jane Begala Telephone: _____

Could you be contacted at work? YES NO If so, telephone# (Redacted)

Street address: _____

Mailing address (if different): _____

Email address (for clerk's office communication): _____

How long have you been a resident of Portsmouth? 50 yrs. (?) - entire life

Occupational background:

Epidemiologist of infectious diseases - developed and managed national and local public health projects in participatory process, using a combination of public/private funds, including USAID and UNICEF.

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

- served two years as "alternate"
- extensive ability to review documents, understand bureaucratic language & processes, analyze and communicate with many "stakeholders" from diverse backgrounds.
- I have earned both MSPH and MBA degrees.
- Was a licensed DH realtor & passed all the certification tests but am no longer practicing

Have you contacted the chair of the Board/Commission to determine the time commitment involved? YES NO *Know this from previous service on this Board*

Would you be able to commit to attending all meetings? YES NO *exception is wedding in June, 2022*

Reasons for wishing to serve: I love my town and want to serve in order to achieve balance - for this community which is tourist dependent. I want to contribute to strengthening understanding and adherence to zoning ordinances and our city's master plan.

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

on Board of Haven
member of St. John's church

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

1) Stephanie Brown,
Name, address, telephone

2) Ann Tartton,
Name, address, telephone

BY SUBMITTING THIS APPLICATION YOU UNDERSTAND THAT:

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5. Application will be kept on file for one year from date of receipt.

Signature: James E. Bejals Date: 4/20/2021

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



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: Planning board

Name: Andrew Samonas Telephone: _____

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

Street address: _____

Mailing address (if different): _____

Email address (for clerk's office communication): _____

How long have you been a resident of Portsmouth? 11 years

Occupational background:

Real Estate Agent / Developer / Consultant
Member of Plan NH

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

- Conservation Commission (since Jan '20)
- Development Associate (Torrington Properties, Waterstone)
- Personally directed developments through approvals in Rye, Dover, Greenland
- Masters in Real Estate Development & Urban Design

➡ 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: Having been involved in real estate

professionally for the past 10 years I have been exposed to a variety of development methods + strategies that Portsmouth could benefit from. I completed my masters degree in Development + Urban Design so I could further understand the process from all vantage points and be

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

- Big Brothers Big Sisters Young Philanthropists
- Plan NH
- Portsmouth 400
- Portsmouth High School Lacrosse

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

1) John Bosen,
Name, address, telephone number

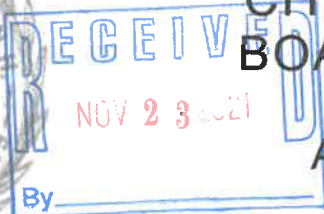
2) Eric Weinrieb,
Name, address, telephone number

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5. Application will be kept on file for one year from date of receipt.

Signature: [Signature] Date: 11/11/21

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



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: Planning Board

Initial applicant

Name: Franco DiRienzo Telephone: _____

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

Street address _____

Mailing address (if different): _____

Email address (for clerk's office communication): _____

How long have you been a resident of Portsmouth? 5 years

Occupational background:

Real estate sales, commercial real estate investments, property management and building/ construction

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

I have experience in planning and zoning issues regarding real estate, investment properties and mixed use buildings being converted.

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: _____

To be involved in the growth of the city, have a voice in helping the city to grow properly _____

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

none

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

1) Tyler Price - _____

Name, address, telephone number

2) Evan Cochran - _____

Name, address, telephone number

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Signature:  Date: 11/23/21

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



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: Trustees of Trust Funds

Name: Thomas R. Watson Telephone: _____

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

Street address: _____

Mailing address (if different): _____

Email address (for clerk's office communication): _____

How long have you been a resident of Portsmouth? 1983-1984; 1998 - present

Occupational background:
I am retired. I practiced law in the City of Portsmouth from March
1979 until July, 2021. See attached curriculum vitae for listing of firms.

Please list experience you have in respect to this Board/Commission:
I have served as a Trustee of Trust Funds for the City of Portsmouth since January,
2021 and chair of the Board since 2019.



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: _____

It has been a privilege to serve as a Trustee of Trust Funds for nearly a decade. We have overseen substantial growth of the funds and adopted initiatives (established five community scholarship funds, redesigned our webpage, negotiated lower management fees and will soon complete technology upgrades to allow online giving) that add value to citizens of the City. I would much appreciate the opportunity to

_____ continue this service.

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

Portsmouth Economic Development Commission

Portsmouth Blue Ribbon Committee on Implementation of Prescott Park Master Plan

Strawbery Banke Museum (Member, National Council)

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

1) James G. Noucas, Jr., _____
Name, address, telephone number

2) Dana S. Levenson, _____
Name, address, telephone number

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Signature:  Date: OCT. 20, 2021

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

6/27/2012

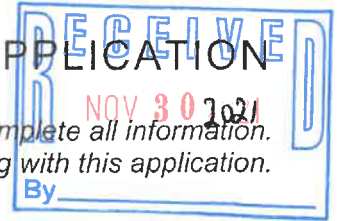
New term exp: January 1, 2025
Number of meetings 12 Number Absent: 0
original Appl. Date: 12/19/2011



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

Initial applicant

Name: Paul M. Mannle Telephone: _____

Could you be contacted at work? YES/NO If so, telephone # _____

Street address: _____

Mailing address (if different): same

Email address (for clerk's office communication): _____

How long have you been a resident of Portsmouth? 31 years

Occupational background:

35+ years in Financial Services as a consultant in the capacity of Business Analyst, BSA and/or project manager; 3+ years at DOS (NVC) as a data specialist with TI.

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

I have watched many deliberations + decisions by the ZBA over the years. I applied for + received my own variance request for my property in 2017.



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: To contribute back to the town
I've called home for over 30 years, to step forward
and possibly make a difference in regards to land
use.

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

Citywide Neighborhood Committee - 7 years
Portsmouth listens participant - 7x

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

1) Beth Margeson
Name, address, telephone number

2) Karen Bouffard
Name, address, telephone number

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Signature: Paul W. White Date: 11/30/21

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



28 State Street
Boston, MA 02109-1775
p: 617-345-9000 f: 617-345-9020
hinckleyallen.com

Michael J. Connolly
mconnolly@hinckleyallen.com

November 26, 2021

Via Email and U.S. Mail

Bruce E. Falby, Esq.
DLA Piper
33 Arch Street, 26th Fl.
Boston, MA 02110-1447

Christopher T. Hilson, Esq.
Donahue, Tucker & Ciandella, PLLC
111 Maplewood Ave., Suite D
Portsmouth, NH 03801

Re: Development Agreement and Agreement to Lease
NOTICE OF TERMINATION

Dear Bruce and Chris:

On Thursday, November 18, 2021, the Portsmouth City Council decided, by 5-4 vote, to terminate the Development Agreement and Agreement to Lease, (the “Development Agreement”), executed on or about August 29, 2019, by and between the City of Portsmouth and SoBow Square, LLC (“Developer”). This letter serves as formal notice of termination of the Development Agreement.

The City’s termination is necessitated by Developer’s repeated material defaults in performing its obligations under at least the following provisions:

Section 1.1 – requiring that the parties “work cooperatively to prepare and submit a joint Application to the National Park Service for acquisition of the Property by the City . . .,” “to allow time for additional public input and comment on the Project,” and “to negotiate the terms of a long-term ground lease (the “Ground Lease”) between the City as landlord and Developer as tenant. . . .”

Section 2.1.6 – requiring that Developer “shall cooperate with the City in preparing the National Park Service ‘Application to Obtain Real Property for Historical Monument Purposes.’”

Section 2.1.8 – requiring that Developer “shall negotiate in good faith with the City the terms and conditions of the Ground Lease.”

Section 2.1.16 – providing that “Developer understand that the Project will be subject to public review and comment as the state and local permitting process and the design and regulatory processes move forward,” and that “[i]f, after receiving additional public input and comments from regulatory authorities and agencies, Developer proposes making material changes to the Project and the City does not approve such proposed changes (which approval by the City shall

not be unreasonably withheld, conditioned or delayed), then unless Developer withdraws such proposed changes, either party may terminate this Agreement and the Developer shall receive a refund of its Deposit, (and all interest earned thereon) and the Parties shall have no further rights or obligations” under the Development Agreement.

Section 8.1 – providing that Developer and the City “agree to cooperate with each other, and to act reasonably and in good faith, in order to achieve the purposes of this Agreement and, in connection therewith, to take such further actions and to execute such further documents as may reasonably be requested by the City, Developer, or their representatives, agents, consultants, and any prospective or actual lenders, investors or tenants.”

Developer has refused to cooperate with the City, and has instead attempted, through litigation, the press, and social media campaigns, to strong arm the City into accepting Developer’s vision for the Project. Developer’s conduct is in clear violation of the Agreement’s express terms, as well as its spirit and intent, and regrettably renders further collaboration between Developer and the City untenable.

Developer’s offending conduct began in March 2020, when in the midst of active, good-faith negotiations regarding the terms and conditions of a Ground Lease, as contemplated in Sections 2.1.8, 3.1.5, and 4.6 of the Development Agreement, Developer interrupted all progress by filing a lawsuit against the City (the “Litigation”), which amounted to nothing more than a bad-faith effort to escape its obligations under the Agreement. Developer’s lawsuit badly mischaracterized the City’s actions and ignored the straightforward terms and conditions of the Development Agreement. In a tacit acknowledgment of those facts, Developer agreed in April 2020 to stay the Litigation to permit the parties to resume negotiations as to the Ground Lease and allow additional time to obtain needed comments and approvals from the National Park Service (“NPS”).

Over the course of the next eighteen months, the City, through a Subcommittee of the City Counsel dedicated to negotiating with Developer, worked diligently to fulfill the terms and obligations of the Development Agreement. For a time, the City was hopeful that it could work collaboratively with Developer. The City conducted a survey to gauge public opinion regarding the project. A conceptual plan involving modifications to the project was developed based on the survey results (the “People’s Project”), which later was submitted for review to the NPS and preliminarily approved.

The People’s Project triggered a precipitous decline in the City’s partnership with Developer. Beginning in the summer of 2021, the Developer, through Michael Kane, launched a campaign – in the press and on social media – designed to harass and attack the viability of the modified project and the credibility and integrity of several members of the City Council. In June 2021, Kane publicized Developer’s disdain for both the People’s Project and the Subcommittee and City Council members, telling reporters on June 9, 2021 that Developer does not “have an interest in being part of [the] conversation with NPS with regard to [the People’s Project].” Two days later Kane stated that the People’s Project “doesn’t look to us like . . . something NPS is

going to support.” (Notably, Kane turned out to be dead wrong as the NPS later preliminarily approved the People’s Project.) Kane’s remarks flew in the face of the Subcommittee’s efforts to incorporate feedback from both the public and NPS and were in direct violation of Developer’s obligations under the Development Agreement – including without limitation Sections 1.1, 2.1.6, and 2.1.16.

Kane’s efforts to undermine the project continued through the late summer and early fall, with Kane stating, on July 16, 2021, that Developer’s “patience [was] wearing thin” with regard to its collaboration with the City. On September 8, 2021, Kane further belittled the Subcommittee and City Council by suggesting they were amateurish, derisively characterizing their handling of the development project as “their first paper route.”

As the 2021 election approached, Developer launched a public campaign predicated on false allegations to undermine the People’s Plan in order to intimidate and coerce the City Council into accepting the earlier project design preferred by Developer. In late October 2021, Developer abruptly abandoned the ongoing negotiations with the Subcommittee and revived the previously-stayed Litigation, stating to the press, through Kane, that it “does not believe that a negotiated resolution (to the lawsuit) is possible or that the City has in good faith pursued one.” Kane added the following false accusations, “[w]e’ve been played, it’s a house of cards, it’s a sham and the thing they designed [(i.e. the People’s Project)] is unbuildable,” and that the Subcommittee had “broken their word. . . .”

Kane’s press remarks were paired with an onslaught of false and misleading Facebook posts attacking the City Council, including the following:

- That the People’s Plan “[had] been rejected by the National Park Service,” and “[would] cost millions of dollars in subsidies from the city,” and
- That “with any luck” following the election there will be “9 people who take a reasonable approach to this effort.”

Kane’s brazen misrepresentations regarding the status of negotiations and the conduct of the City Council were plainly designed to sway voters in advance of the November 8 election. The comments made clear that Developer was (and remains) unwilling to abide by project input from NPS, the public or the City. After the election, on November 9, 2021, Kane went to the press again to mock the outgoing City Council members, complaining that he had been “bullied,” and calling the People’s Plan “cartoonish.”

In advance of a November 18, 2021 meeting scheduled by the City Council in an effort to reestablish a collaborative partnership as is required by the Development Agreement, Kane stated to the Portsmouth Herald, “[w]e have no reason to meet with [the City Council],” and said “it’s over.” Developer’s decision to abandon negotiations that were productive and on a positive track in favor of litigation, Kane’s vitriolic hostility towards the City Council members, and

Bruce E. Falby, Esq.
Christopher T. Hilson, Esq.
November 26, 2021
Page 4

Developer's unwillingness to consider input from NPS, the public, and the City Council are all material defaults under the Development Agreement.


The Developer's material breaches constitute grounds for immediate termination of the Development Agreement under sections 2.1.6, 2.1.16, and 3.1.5. As of the date of this correspondence, the City will have no further obligations under the Development Agreement, and Developer is hereby instructed to cease any development work.

Please be advised that the City Council has voted to refund Developer its \$400,000 Deposit under Section 4.1 of the Development Agreement, with interest. Accordingly, a check will be issued to Developer in that amount as soon as possible.

The City expressly reserves all of its rights under the Development Agreement and the law.

Please contact me directly if you have any questions.

Sincerely,



Michael J. Connolly
MJC/smc



650 Elm Street
Manchester, NH 03101-2596
p: 603-225-4334 f: 603-224-8350

John H. Sokul
jsokul@hinckleyallen.com
Direct: (603) 545-6132

November 30, 2021

Via Overnight Delivery

Bruce E. Falby, Esq.
DLA Piper
33 Arch Street, 26th Fl.
Boston, MA 02110-1447

Re: SoBow Square, LLC – Refund of Deposit

Dear Bruce:

As you are aware, on November 26, 2021, the City of Portsmouth (the “City”) issued a formal Notice of Termination terminating the Development Agreement and Agreement to Lease (the “Development Agreement”), executed on or about August 29, 2019, by and between the City and your client, SoBow Square, LLC (the “Developer”).

This firm serves as escrow agent under the Development Agreement. In September 2019, Developer paid a \$400,000 deposit, which this firm has held in escrow pursuant to Section 4.1 of the Development Agreement. In connection with the Notice of Termination, the Portsmouth City Council voted to refund the \$400,000 deposit, with interest, to the Developer and instructed us as escrow agent to issue a check to the Developer in that amount. Accordingly, enclosed herewith please find a check in the amount of \$400,925.17 made payable to SoBow Square, LLC.

Sincerely yours,

A handwritten signature in blue ink, appearing to read 'JHS', written over a light blue rectangular background.

John H. Sokul, Esq.
JHS

Cc: Christopher T. Hilson, Esq. (via e-mail only)
Client

#61493344

An architectural site plan of a city block. The plan shows several buildings of varying sizes and shapes, some with detailed window and door placements. A network of streets is shown, including Market St on the left, Chapel St on the right, and Daniel St at the bottom. A central area is outlined with a red dashed line, indicating the site of interest. Green circles and patches represent trees and landscaped areas. The overall style is a technical drawing with a light blue background for water or sky at the top.

CITY OF PORTSMOUTH, NH
REQUEST FOR PROPOSALS

**DEVELOPMENT PARTNERSHIP FOR REUSE &
REDEVELOPMENT OF THE**

**THOMAS J. MCINTYRE FEDERAL PROPERTY
80 DANIEL STREET**

**PURSUANT TO THE HISTORIC SURPLUS PROPERTY PROGRAM
LETTERS OF INTENT TO SUBMIT PROPOSALS DUE:
DECEMBER 20, 2021 2:00 PM**



**THOMAS J. MCINTYRE FEDERAL PROPERTY
80 DANIEL STREET
PORTSMOUTH**

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REQUEST FOR PROPOSALS

DEVELOPMENT PARTNERSHIP WITH THE CITY OF PORTSMOUTH

FOR THE FEDERAL MCINTYRE PROPERTY

Sealed LETTERS OF INTENT responsive to and declaring interest in this Request for Proposals, plainly marked “RFP Letter of Intent -Development Partnership with the City of Portsmouth for the Federal McIntyre Property” on the outside of the mailing envelope, addressed to the Finance/Purchasing Department City Hall, 1 Junkins Avenue, Portsmouth, NH 03801 will be accepted until 2 p.m. on December 20, 2021. The Proposals due thirty days there after.

The City is interested in entering into a public/private partnership for reuse and redevelopment of the McIntyre Property, a 2.1 acre site in the City’s central business district located at 80 Daniel Street. The City has been invited to submit an application for acquisition of the property for Historic Monument purposes from the General Services Administration (GSA). The GSA has also recently handed over the property by lease agreement to the City of Portsmouth on a six month basis with an option to renew. The lease reviewable by GSA on a 45 day basis.

As such, the City is currently inviting Proposals from those eligible prospective partners who have been identified and selected through submission of previous Qualifications packages. However, proposals from other persons and parties deemed qualified may also be considered. This Request for Proposal details the City’s objective of building the “The Community Vision Plan” as designed by The Principle Group with input from the community of Portsmouth, and asks prospective partners to submit proposals that respond to this objective. To be considered, any prospective partner or party may not currently be in litigation with the City of Portsmouth or have been in litigation with The City of Portsmouth NH within the past five years. All proposals to be considered must include a refundable fee of \$ 100,000.00 payable to the “City of Portsmouth NH “.

Through this Request for Proposals process, the City hopes to select one proposal that best meets its objective and to negotiate with the selected proposer a Development Agreement and a long-term lease.

This Request for Proposals may be obtained by visiting the Finance/Purchasing Department section of the City of Portsmouth website at www.cityofportsmouth.com/finance. Addenda to this request, if any, including written answers to questions, will be posted on the City of Portsmouth website under the project heading. If you have any questions please contact the Finance/Purchasing Department at: (603)610-7227. In addition, the RFP and other project information are available at www.cityofportsmouth.com/planportsmouth.

The City of Portsmouth reserves the right to reject any or all submissions, to waive technical deficiencies, to proceed or not with any proposal or process, and to negotiate such terms and conditions of any proposal, agreement, lease or other contract that may be in the best interest of the City.

The City reserves the right to terminate or amend this process at any time.

II. SUMMARY OF THE CITY'S OBJECTIVES

The City of Portsmouth is pleased to invite eligible real estate development entities to submit their proposals for consideration to build "The Community Vision Plan" as designed by the Principle Group in conjunction with input from the community of Portsmouth and subject to eventual approval by the National Park Service. The submitted proposals for consideration of a public/private partnership opportunity that would realize the transfer (to the City) and redevelopment (pursuant to a long-term lease) of the Thomas J. McIntyre Federal property located at 80 Daniel Street in downtown Portsmouth, NH. This RFP seeks to solicit responses that will enable the City Council to select a preferred entity with which to partner for the successful transfer and redevelopment of the property pursuant to the Historic Monument Program (also known as the Historic Surplus Property Program).

The City's top priority is to partner with an entity capable of assuming all costs, obligations, and liabilities involved in any reuse and redevelopment of the site. The City also places a very high priority in forming a successful partnership that serves the community in a manner that a private might not be capable of achieving on its own.

Primary objectives in pursuing ownership of the property include:

- To capitalize on the rare opportunity to shape reuse and redevelopment of a downtown block in the City's best interests by promoting public/non-profit/commercial use of its ground floors, reconnecting the site with Daniel, Penhallow, and Bow Streets via the high quality urban design, "The Community Vision Plan", as designed by Principle Group. The design to include new

pedestrian ways, the introduction of meaningful public open space through the glass top Market Hall/Atrium and Grand Stair; public parking uses and revitalizing the area with new uses;

- To ensure redevelopment of the site meets the city's economic development and urban design goals, and which ideally embraces the Principle Group's community plan as the re-use/redevelopment proposal with a mix of uses;
- To accomplish the above in a fiscally prudent manner, through a public-private partnership. The City contemplates a long-term land lease with a qualified partner, pursuant to applicable federal regulations.

The City seeks proposals containing sufficient detail to demonstrate how the City's objectives will be achieved. Conceptual interpretation of The Principle Group's "The Community Vision Plan" design with details, market analysis, approx. square footage of uses proposed, redevelopment cost estimate, operating plan and financial pro forma, project schedule and implementation plan, and any proposed lease terms and conditions (in concert with Historic Surplus Property Program regulations, should all be part of this submittal.

III. BACKGROUND INFORMATION

1. REDEVELOPMENT SITE

The McIntyre Property comprises approximately 2.1 acres of land, with 245 feet of frontage on the northwest side of Daniel Street, 378 feet on the northeast side of Penhallow Street, and 186 feet on the southeast side of Bow Street. The property includes the McIntyre Building – a four story (plus basement level) steel-frame masonry building containing approximately 107,000 square feet (sf) of gross building area with forty-four (44) indoor parking spaces and a two-tier outdoor parking lot with ninety-one (91) spaces. The Property is within a short walking distance to Market Square, Portsmouth's commercial/retail center, located at the intersection of Market and Daniel Street and Portsmouth's historic harbor and waterfront commercial areas.

Net rentable area is approximately 73,000 sf (exclusive of the basement, parking garage, and mechanical penthouse). The existing structure is 60 +/- feet tall. The assessed value as of 2017 of the property and improvements is \$ 10,246,800.

The City of Portsmouth, population ~22,000, recently completed a MasterPlan (see, <https://view.publitas.com/city-of-portsmouth/portsmouth-master-plan-adopted-2-16-2017/page/1>) which outlines the community's goals and policies for future growth. Prospective Partners are encouraged to refer to the Portsmouth Listens charrettes and breakout sessions and the Principle Group design process to develop a thorough understanding of the community's articulated desires with respect to the site's context. "Thoughtful repurposing of the Federal Building ..." is just one of the public comments to have emerged.

2. HISTORIC PRESERVATION

All redevelopment proposals must be prepared in accordance with the *U.S. Secretary of the Interior's Standards for Rehabilitation*. Proposals must include familiarity with the Standards, and articulate how compliance with the Standards is achieved.

Constructed in 1966, the McIntyre building is an example of the New Formalist style, similar to many federal structures built during this period. The building is designated as a contributing structure in the Portsmouth Downtown National Register Historic District. The City expects that upon transfer, the deed from the federal government will include terms and conditions the outline how the property may be maintained and protected into the future.

The Historic Monument program is described in part on the GSA's web site as follows (emphasis added):

"Title 40 U.S.C. 550(h) authorizes conveyance to any State, political subdivision, instrumentalities thereof, or municipality, of all the right, title, and interest of the United States in and to any surplus real and related personal property which in the determination of the **Secretary of the Interior is suitable and desirable for use as a historic monument for the benefit of the public**. Conveyances of property for historic monument purposes under this authority shall be made without monetary consideration to the United States: Provided, that no property shall be determined under this authority to be suitable or desirable for use as an historic monument except in conformity with the recommendation of the National Park Advisory Board established under Section 3 of the Act of Congress approved August 21, 1935 (16 U.S.C. 463) and only so much of any such property shall be so determined to be suitable or desirable for such use as is necessary for the preservation and proper observation of its historic features. Property conveyed for historic monument purposes **may under certain circumstances be used for revenue producing activities to support the historic monument**.

All income exceeding the cost of repairs, rehabilitation, and maintenance shall be used for public historic preservation, park, and recreational purposes. Deeds conveying any surplus real property under this authority shall be used and maintained for the purposes for which it was conveyed in perpetuity and may contain such additional terms, reservations, restrictions, and conditions.”

3. APPLICATION FOR TRANSFER OF THE PROPERTY

The process for obtaining the McIntyre Building from the federal government involves the City’s preparation of an Application for Obtaining Real Property for Historic Monument Purposes that will be submitted to the National Park Service (NPS). The NPS will review the Application and work with the City to make any necessary revisions to ensure that all elements for the reuse and protection of the property in perpetuity are identified and addressed. The Application will require the input and review of the New Hampshire State Historic Preservation Office (NH SHPO). The NPS makes a recommendation to the Administrator of the General Services Administration (GSA) regarding the acceptability of the Application.

GSA is the agency that deeds the property and the deed will contain covenants regarding the proposed use of the property and will incorporate the Application so that it becomes a legally binding document. The selected partner will play an important role in assisting the City in completing the Use and Financial Plan components of the application to the Historic Monument Program.

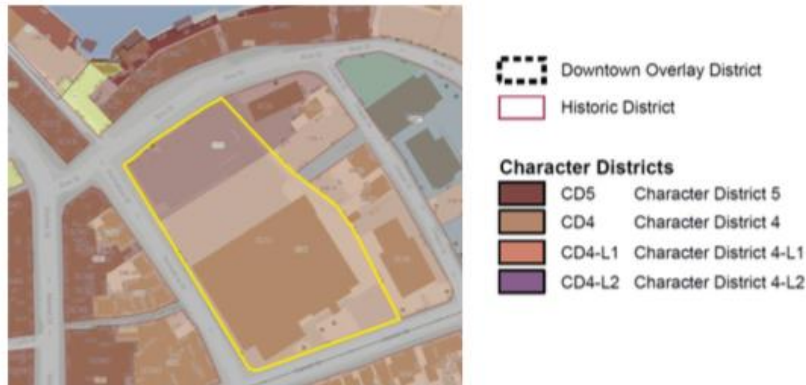
The City has prepared an analysis regarding the character-defining features of the property, included as Attachment A to this Request. This analysis is intended to guide respondents in preparing their proposals, but should not be interpreted as a strict, feature-by-feature list of what may or may not be allowed pursuant to the Secretary of the Interior’s Standards for Rehabilitation. The GSA intends to transfer the property to the City with a Preservation Covenant attached to the deed, which will provide for permanent protection of the historic character of the property, and ensure any changes to it will be made in accordance with Secretary’s Standards. Subsequent to the property transfer, we expect to work with our preferred partner to obtain approval of more detailed design plans in compliance with Covenant terms as drawn from, “The Community Vision Plan” - originally designed by Principle Group.

Prospective partners should seek their own professional and regulatory expertise in the further development of the “Community Vision Plan” that meets the Standards.

4. ZONING / LAND USE COMPLIANCE AND REGULATORY PERMITTING

In 2014, the City of Portsmouth adopted a character-based zoning ordinance that includes this property. The purpose of the Downtown Character District is to encourage development that is compatible with the established character of its surroundings and consistent with the City's goals for the preservation or enhancement of the area. This is accomplished by providing a range of standards for the elements of development and buildings that define a place. More information on the Downtown Character District can be found at:

<https://www.cityofportsmouth.com/planportsmouth>



The McIntyre building is primarily within the CD-4 district, with the rear parking area (approx.20,000 sf) within the higher density CD-5. The site is also within the Historic District, as well as the Downtown Overlay District.

The development or redevelopment of this property shall comply with the City's zoning ordinance and other related local, State, and Federal permitting processes and regulations. The City will work in close partnership with its chosen private partner to provide assistance in obtaining local regulatory approvals as required. Respondents should be aware that the site is also located within the City's Historic District, and consultation with the Historic District Commission will be required.

5. ENVIRONMENTAL CONSIDERATIONS

The structure is known to contain lead-based paint, asbestos containing materials, and underground storage tanks. Sprayed –on asbestos is believed to be considerable above all ceilings. The City has obtained further information on known environmental considerations from the GSA, which is available upon request.

IV. CITY'S DESIRED REDEVELOPMENT TERMS & CONDITIONS

The City will evaluate proposals based on all of the following preferences – each will be used to make qualitative comparisons, and together will form part of the basis for selection of a preferred partner. City Council seeks responses to this RFP that will optimally serve the public's interests. Of utmost importance, the City seeks a partner who is able to assume all costs and liabilities involved in any redevelopment of the site.

The City will also evaluate proposals based on the adherence to the Community Vision Plan Design currently under preliminary review by the NPS. The modified Designs “8” and “9” have been met with the most favorable response by the NPS - the difference between them being the placement of construction over the single story wing of the existing “monument”, The Thomas J. McIntyre Building. The Principle Group design can be located for reference at:

<https://www.cityofportsmouth.com/sites/default/files/2021-11/McIntyre%20Presentation%20to%20NPS%20Web%2020211117.pdf>

on the City of Portsmouth's website along with the history of the McIntyre Project. The most recent presentation to the NPS along with the history of the Community Vision Plan can also be accessed from the above link.

1. PREFERRED USES

In addition to a commitment by proposals to build the City endorsed design, “The Community Vision Plan”, the City expects proposals to be attentive to the broadly –stated objectives in the Summary section of this Request. In building the Community Vision Plan the prospective partner will commit to, at the least, the following:

- Provide significant opportunity for the public to gather and enjoy the property by providing a benchmark of at least 25% meaningful public open space on site; public rooftop access also expected.
- Involve a mix of uses on the site which will contribute to the overall success of the downtown; preferred uses to include a retail post office¹, office and/or residential space (which may include workforce housing, artist live-work space, extended stay), and other types of uses that will engage public activity (cultural, indoor farmers' market, retail, restaurant, etc.).

- Preserve a daytime employment base on site. Proposals should provide information as to estimated jobs to be retained on site;
- The ground floor(s) of the building(s) on site should be occupied by uses that invite public use; and
- Parking that is available to the public is desired.

Proposals should address how preferred uses were considered and incorporated into the Community Vision Plan and provide explanation as to why any preferences were not able to be accommodated within the proposal.

2. URBAN DESIGN

In addition to preferred uses, the City seeks proposals that understand and make use of the Community Vision Plan’s achievement of a high quality of urban design and it’s ability to “reconnect” the site to the surrounding urban fabric.

- Redevelopment of the site will be consistent with the surrounding historic context in terms of height, volume, and massing. Additions and/or new buildings on the site must comply with the Secretary Standards in addition to the character-based code. For additional guidance, please see:
 - Secretary of the Interior Standards for Rehabilitation: <https://www.nps.gov/tps/standards/rehabilitation/rehab/stand.htm>
 - New Exterior Additions to Historic Buildings: Preservation Concerns: <https://www.nps.gov/tps/how-to-preserve/revisingpb14.htm>
- New buildings and alterations of existing buildings to be consistent with the Design Guidelines for the Historic District as adopted by the Historic District Commission. <https://www.cityofportsmouth.com/planportsmouth/historic-district-commission-design-review-guidelines>
- New buildings along Bow Street will be compatible with the existing built environment along Bow, and should take care to not overshadow the street.
- All street-facing facades should include ground-floor non-residential activities with transparent glazing to activate the street edge. Residential use is prohibited from the first floor within the Downtown Overlay District.
- Inviting pedestrian circulation through the site is desired; continuation of “Commercial Alley,” and reintroduction of a public, pedestrian way extending from Daniel to Bow Street is desirable. Placement of interpretive kiosks and/or other means of commemorating local history is encouraged.

¹The USPS has indicated a need of 5,000 s.f. to perform retail services at the site; the current design accommodates this function on the site in an accessible location.

3. INNOVATION, CREATIVITY, AND SUSTAINABILITY

The City seeks thoughtful responses to the Principle Group's, Community Vision Plan and it's improvement of the public realm. In using this creative and innovative design, proposals should seek to integrate the site with the downtown area and foster increased downtown vitality.

The City is an Eco-Municipality; proposals that incorporate sustainable building practices and /or net zero energy efficiency are encouraged.

4. PUBLIC SPACE AND LANDSCAPING

Public access and enjoyment of the site is a high priority.

- Redevelopment of the site should enhance the pedestrian environment, incorporating sidewalks along public streets and, where feasible, public pedestrian alleyways through the site (see also Urban Design).
- Redevelopment of the site should incorporate active public outdoor spaces such as plazas, courtyards, and pocket parks.
- Landscaping should be provided within the site and on the perimeter of the site to break up impervious areas, soften architectural and structural materials, and provide storm water management benefits where possible.
- The project will need to comply with the City's 1% for Art program, and should incorporate public art into the site redevelopment at a minimum cost of 1% of construction costs up to \$ 15,000,000.

5. TRANSPORTATION AND CIRCULATION

- Redevelopment of the site to include sufficient off-street and public parking to serve the needs of the site and to support downtown activity. To this end, incorporation of a multi-level parking structure is encouraged.
- The incorporation of the Community Vision Plan design of the Project site must comply with the Americans with Disabilities Act (ADA). As a public entity, the City is subject to Title II of the ADA, and proposers should consider guidelines of both Title II and III.
- Redevelopment of the site should include parking for bicycles.

6. DEVELOPMENT AGREEMENT AND LAND LEASE TERMS

Proposals should take into consideration and address the City's expected redevelopment terms and conditions provided below. Unless a proposer states otherwise in its submittal, the City will expect any final agreement to be consistent with the terms in this section.

As part of this partnership effort, the City intends to retain ownership of the land and lease development and management rights to a partner entity. Detailed terms of this arrangement are subject to regulations of the Historic Surplus Property Program and will be negotiated with the City.

Development Agreement

- Under the Development Agreement the selected partner will be responsible for 100% of the funding to be provided to complete the redevelopment and construction of the Project, pursuant to equity, debt, or some combination thereof, including assurances for covering cost overruns. In a timeframe to be established the selected partner will be required to demonstrate to the City that 100% of the construction funds are committed.
- The Development Agreement must include appropriate risk allocations and will at a minimum require the selected partner to defund, hold harmless and indemnify the City for any costs, expenses or losses arising from the selected partner's activities related to its due diligence and for the design and construction and operation of the Redevelopment Project.
- The selected partner will be responsible for compliance with all regulatory requirements.

Lease Agreement

At this time, anticipated lease terms include:

- Payment of taxes on the leasehold interest in accordance with RSA 72:23 I (b);
- Lease payment to City, term, and insurance requirements;
- Hold harmless and indemnity clauses;
- On-going compliance with a Preservation Covenant;
- Regular reporting pursuant to Historic Monument Program regulations; and
- Pursuant to Historic Monument Program guidelines, all excess income beyond a negotiated reasonable return being returned to the City.

7. FINANCIAL PERFORMANCE

Given the unique opportunity presented by this project, a successful and sustainable urban redevelopment of the site is the City's overarching goal. However, the project must also demonstrate positive financial return to the City.

Therefore, pro forma financial projections associated with the redevelopment proposal will be evaluated for terms most favorable to the City within the context of the proposal itself; in other words, excess income returned to the City is a factor weighed in proposal evaluation, but does not override all other objectives.

V. PARTNER SELECTION & PROJECT OUTLINE

Partner Selection
Deadline for Letter of Intent
Deadline for Submission of Questions
Introduction to Teams*
Final Addenda to RFP
Proposals Due
Proposals reviewed & evaluated for responsiveness
Council Shortlists proposals. Chooses teams to interview
Proposer Interview(s)
Council Selects Preferred Partner*
Council Approves Application to Historic Surplus Property Program; Application submitted to NPS
Project schedule
Execution of Development Agreement
NPS Reviews & Recommends Application to GSA
Partner Selection
GSA Approves Application and Begins Transfer Process of Deed to the City
Execution of Ground Lease and Lease Commencement

*alternatively, negotiations continue and final and best proposals are invited prior to selection

The Council will host an “Introduction to the Teams” public meeting. The purpose of this session is to a) introduce interested teams to the community and invite them to present their team’s qualifications. b) solicit additional public inquiry and comment on the project, and c) if necessary, use the meeting as an opportunity to clarify questions pertaining to the RFP for use in a subsequent addendum.

The partner selection schedule anticipates interviews conducted by the City Council with proposers. Presentations of redevelopment proposals will be made in public session.

The City reserves the right to negotiate further with potential partners, after interviews, to invite final and best proposals prior to selection of a project partner.

The project schedule is dependent on the full property transfer under the GSA ‘s Monuments Program through application known as “Obtaining Real Property for Historic Monument Purposes”. At this time, proposers should develop project schedules that assume the City will take formal possession of the property under the program with completion of the Application for after selection of partner and informal approval of the “Community Vision Plan” by the NPS.

VI. SUBMITTAL CONTENT REQUIREMENTS

Each submittal should include the information requested in this section for the redevelopment of the McIntyre Property, taking into consideration the regulations pursuant to the Historic Surplus Property Program, and the City’s desire to establish a public-private partnership that benefits the City as a whole, with an entity capable of implementing a successful redevelopment in a timely manner.

Submittal requirements are intended to enable the City Council to make an objective comparison of each proposal, and to select a partner that best meets the City’s stated objectives for redevelopment and that demonstrates the financial and technical capacity to complete and deliver the “Community Vision Plan” design enhancing the City’s urban environment. In addition the selected partner must provide sufficient detail to enable completion of the Application for “Obtaining Real Property for Historic Monument Purposes,” immediately thereafter selection.

The selected partner will be expected to execute a Development Agreement with the City immediately following selection.

1. COVER LETTER AND EXECUTIVE SUMMARY

The cover letter is the proposer’s official letter transmitting the complete proposal to the City. The cover letter must include:

- the full name and address of the proposer’s organization(s);
- the state of incorporation or in which it is licensed to operate; and
- the form of business, and the name and contact information for your organization or team for this proposal.

The cover letter should identify who will be the key business negotiator and be signed by an individual who is authorized to commit the proposer to the obligations contained in the proposal. In addition, the team member who will be assigned primary responsibility for public presentations and interaction should be identified.

If the proposer consists of a team or joint venture, an authorized representative of each of the participating organizations is required to sign the letter. Respondents must include a chart or diagram explaining the intended form and structure of any proposed partnership or joint venture.

The Executive Summary must be presented as a separate document summarizing in clear and concise language, easily understood by persons not having a technical background, the information contained in the proposal. The Executive Summary shall be limited to three (3) pages, including tables and graphs.

2. PROPOSER INFORMATION

Any qualification information of proposer(s) must be submitted to the City of Portsmouth as a part of this submittal. Qualifications must be specific with regard to team members, respective roles, and resumes, when submitted as part of this proposal.

In addition, provide the following information: the legal name and contact information of the organization, history, type of ownership, legal structure, officers and directors, and number of employees. Provide any contractual litigation, arbitration, and mediation cases for the last (5) years that are material and relevant to this proposal. Failure to provide such may result in disqualification.

Formation submittal requirements shall include:

- Articles of incorporation
- Certificate of Status/Good Standing
- By-Laws
- Certificate of Organization (if applicable)
- Operating/Partnership Agreement (if applicable)

3. PROPOSER FINANCIAL INFORMATION

Provide proof of the capacity of the proposer entity to perform the Project such as credit information regarding the proposer entity, credit references for the proposer entity, and relevant audited financial statements of the proposer entity and/or its parent guarantor. Note to proposers: under the Development and Lease Agreements, the City reserves the right to require a guaranty or other form of recourse liability from any entity on which the selected partner relies upon for financial capacity.

The following Financial Documents shall be submitted:

- Financial Statements or Annual Reports for three most recent fiscal years for Proposer and/or parent companies (if applicable)
- Interim Financial Statements for Proponent and/or parent companies (if applicable) (most recent month ending within thirty days)
- Financial Statements of any tenants, lessees and occupants extra to Proponent and intended to occupy the promises (if applicable)
- Preliminary financing commitments or project specific letters of interest from recognized funding sources
- Evidence of Proposer's financial capacity to undertake the proposed project. Recent experience in capital formation for similar type projects of comparable size may be included.

Submission of this information should be made in a separately-sealed envelope labeled "Proposer Financial Information," and marked confidential in accordance with RSA 91-A. A Proposer must clearly designate in its Proposal those portions of the Proposal, if any, that the Proposer believes are trade secrets or are maintained for the regulation of commercial enterprise that, if disclosed, would cause substantial injury to the competitive position of the Applicant. To the extent the law permits the City will use reasonable efforts to hold the designated portions of the Proposal in confidence.

4. DEVELOPMENT AGREEMENT AND LEASE AGREEMENT TERMS

Proposals should take into consideration the City's expected redevelopment terms and conditions provided above. Where expressly noted, proposals should specifically address the requirements. Unless a proposer states otherwise in its submittal, the City will expect any final agreement to be consistent with the terms in this section.

The proposal must include at a minimum the following proposed terms and conditions. A proposer may elect to include additional terms and conditions. The City expects a Development Agreement will guaranty its partner's commitment to the project, and enable the partner to assume all financial and legal obligations associated with the cost of developing and operating the project upon the property being transferred to the City.

- Confirmation that proposer will bear all costs of development and operation of the Project; specify the amount to be deposited annually into a maintenance reserve fund; and specify any circumstances under which the City will bear any costs of repairs/replacements, environmental remediation, or other capital expenditures.
- Guaranteed lease payments, lease payment escalators during the initial term, and (if different) during renewal options.
- Initial proposed term of Lease Agreement, as well as any renewal options.
- Covenants related to the safe operation of the construction site, diligence and obligations related to regulatory efforts, etc.
- Confirmation that proposer has made themselves familiar with the regulations of the Historic Surplus Property Program, including its provisions pertaining to income-producing properties.
- Specify any contingencies in favor of proposer that proposer will request in the Development Agreement, and confirm that no later than execution of the Development Agreement the selected partner shall pay to the City a deposit to be negotiated. Upon substantial completion of selected partner's obligations under the Development Agreement and commencement of rent under the Lease Agreement, such deposit shall be credited toward rent coming due under the Lease Agreement.
- Taking into consideration the City's objective of negligible City financial participation, specify any governmental assistance of any nature that the proposal will request from the City or any other governmental entity in connection with redevelopment of the Project, including any in-kind contribution; any use of governmental facilities (other than the project) or services.
- Confirmation that any possible modification to the currently proposed conceptual designs will continue to comply with the Secretary of Interior Standards for Rehabilitation.

5. PROJECT NARRATIVE & CONCEPTUAL DEVELOPMENT DRAWINGS & PLANS

Provide a detailed narrative description of your proposal as it incorporates the Community Vision Plan as designed by Principle Group, including the plans for public use, enhancement of the City’s pedestrian streetscape/urban design, and public parking. Include anticipated interpretation of daytime and evening population expected to make use of the site – e.g. employment and/or tenant counts, visitor counts, and anticipated parking demand and any transportation demand management measures anticipated. Also include any sustainable design elements incorporated on site. If the work will be phased, describe each phase and indicate corresponding time schedule.

Identify any portions of the property to which public access will be denied or restricted. Establish the suitability of the property for the proposed uses and the compatibility of the proposed revenue producing activities with the historic and/or architectural character of the property.

Using the provided “Character Defining Features Analysis” provided in Appendix A, describe all work to be performed on the site in relation to its effect on the architectural/site features or interior spaces. An outline description should be used to detail each work item, e.g.:

SAMPLE	
Original Uses and Changes to Present	Proposed Changes and Uses
All upper floors are designed and used for offices.	Tenant fit out and modifications to partition layouts and service systems are envisioned, as required by building code and approved by property management. Efforts to preserve existing stairwells and service core will be made. Continued office use is anticipated.

Conceptual drawings and plans should illustrate all proposed uses at scale, with exterior elevations, massing diagrams, floor plans, cross sections, and other drawings needed to convey design intent. General site plan, with sustainable transportation (transit, walking, and bicycling), parking, access and loading docks/areas identified.

6. PROJECT SPECIFIC FINANCIAL SUBMISSION

Each Proposer shall provide a development pro forma that includes

rehabilitation/new construction costs. Information to be provided but is not limited to:

- Description of Project Components: show the gross square footage and the rentable square footage for each proposed use and for the total development.
- All Hard Costs: The breakdown must include: environmental testing and remediation (if required), site preparation, site improvements, demolition, building shell and core, tenant finishes, specialty finishes, general contractor's overhead and profit, and any other major expense categories pertinent to the proposed project. Include the basis for estimating these costs.
- All soft costs: The breakdown must include: architectural, engineering, specialist consultants, legal, accounting, developer's fees, mortgage/syndication brokerage fees other professional fees (e.g., construction manager owner's representative, marketing, leasing, etc.), and other soft cost categories pertinent to the proposed project. Amortization and depreciation costs should be included here, not as part of any maintenance/ operating pro forma.
- An implementation plan for the proposed development, including a development schedule with key milestone dates and a projected occupancy date. The development schedule should outline the required regulatory approvals for the proposed development and the anticipated timing for obtaining such approvals. If the Proponent intends to sublease the proposed development, the Proponent should provide a description of the proposed users and the marketing and leasing plan for the development, and should clearly indicate what percentage of the development must be leased (if any) prior to the commencement of the various stages of the development and construction process. Include a phasing plan if proposed.
- All contingencies: Specify whether the contingency is for hard costs, soft costs or total costs, design or construction, financing or other critical components of the total project costs.
- Sources of debt and equity for the total project cost. Any key commercial terms required by financing parties including form of estoppels, form of Subordination, non-Disturbance, and Attornment (SNDAs), form of construction easements, etc.

- All assumptions regarding financing terms on acquisitions, predevelopment, construction, and permanent loans. The breakdown must include financing fees, interest rates, drawdown schedule and term, participation, amortization and other critical information.
- Any other project related expense not included in the above categories.
- Calculation of total project costs.

10 YEAR OPERATING PROFORMA

Each Proposer shall provide a 10 year operating pro forma (submitted in Excel in addition to hard copies and .pdf) that includes all of the information normally found in a real estate operating pro forma, on an annual basis. This information includes, but is not limited to:

- Tabulation of gross and net rentable square feet.
- Proposed fixed rent payments, percentage rent, and/or other forms of rent payable to the City of Portsmouth and corresponding market data supporting all occupancy, rent, and revenue assumptions.
- Proposed “reasonable return,” expressed as a cash-on-cash figure.
- Schedule of all revenues – total and per square foot.
- Detailed projected capital and itemized operating expenses pertinent to the development project – total and per square foot. Any direct allocation to or reimbursement by tenant of any operating expenses must be identified, and explained in detail.
- A description of operating management plan and fees (including whether ongoing operations will be managed by the proposing entity or subcontracted).
- All “other” expense, capital expenditure and vacancy assumptions used to determine cash flow.
- Anticipated primary leasing, including free rent, lease up schedules, tenant improvement allowances, and any other adjustments to market rent which yield an “effective rent” lower than the “nominal rate.”

Twelve paper (12) copies of the Proposals must be submitted. Proposers are encouraged to avoid the use of synthetic report covers and partitions. A single CD/DVD with an electronic PDF copy of their proposal shall also be included.

VII. SELECTION PROCESS

The City Council will choose a partner to facilitate transfer and redevelopment of the site. The City will subsequently submit application, with the selected partner's assistance, to the Historic Monument program, enter into negotiations with a preferred developer to enter into a development agreement, and ultimately, if a successful transfer is made, lease the site and its improvements.

The selection process will include public input, and select respondents will be asked to make public presentations of their Proposals as part of an interview process.

1. EVALUATION CRITERIA

The intent of this RFP is to with the City of Portsmouth to realize the reuse and redevelopment of this 2.1 acre parcel in a manner that meets the community desires and enhances the long term vitality of this important City block by utilizing the "Community Vision Plan."

Proposals will be evaluated according to the following:

- Responsiveness to submission requirements
- Comparable development experience
- Strength of entity members/completeness of the team
- Understanding of required project work and schedule
- Financial capacity
- The extent to which the overall redevelopment proposal meets or is likely to meet the City's objectives, as outlined in Section IV.

2. SELECTION PROCESS

- Proposals will be reviewed and evaluated by the City for responsiveness to this RFP.
- The City may select, by vote of the City Council, one or more entities to invite to be interviewed, which will involve a public presentation of proposals for the site's redevelopment. Additional questions regarding specific proposals may be asked at this time. Interviews will be a factor in the overall qualitative evaluation of Proposals.
- Based upon all of the evaluation criteria and interview, the City may select a preferred partner. Alternately, the City reserves the right to negotiate with selected proposers to further refine the proposal(s) and to invite a "last and best" submittal for consideration, prior to final selection;
- The City, with its partner's assistance, will submit an application for full transfer of the property from the GSA to the City, and the City will begin lease and property management negotiations with a preferred development entity.
- If the City is unable to reach agreement with its preferred partner, the City may enter into negotiations with another team whose proposal was deemed also to be advantageous to the City.

VIII. ADDITIONAL INFORMATION AND DISCLOSURE

The City of Portsmouth is currently involved in litigation with a past development partner. For further information please contact the City of Portsmouth Attorney, Robert P. Sullivan at City Hall, 1 Junkins Avenue, Portsmouth NH 03801 &/or by email rpsullivan@cityofportsmouth.com .

All requests for additional information regarding the McIntyre Project, including the "Community Vision Plan" and the design concepts known as "numbers 8 & 9", all questions should be directed, in writing, to Deputy City Manager, Suzanne Woodland, at smwoodland@cityofportsmouth.com . All responses , if applicable will also be posted to Purchasing web page at <https://www.cityofportsmouth.com/finance/purchasing-bids-and-proposals>. In addition, responses will also be posted to the McIntyre Project page at <https://www.cityofportsmouth.com/mcintyre-project>.

IX. RESERVATION OF RIGHTS

The City reserves the right to undertake such investigation as it deems necessary to evaluate the Proposals of the development entity and to evaluate its submittal. Respondents may be asked to submit releases as part of the investigation and review of Proposals. Failure to provide a release if requested will result in disqualification.

The City reserves the right to request additional information as part of this selection process. The City of Portsmouth also reserves the right to reject any or all submissions, to waive technical or legal deficiencies, to proceed or not with any proposal or process, and to negotiate such terms and conditions of any proposal or contract that may be in the best interest of the City. The City reserves the right to terminate or amend this process at any time.

Character Defining Features Analysis

Thomas J. McIntyre Federal Building Portsmouth, New Hampshire Character-defining Features Analysis

Alisa McCann, Architectural Historian

Note: for ease of discussion about the building, the following compass points will be used in describing the property and building: Daniel Street – south, Penhallow Street – west, Bow Street – north, and Chapel Street – east. In addition, the building is discussed in three sections: the Main Building, the one-story section on Penhallow Street, and the one-story wing on Daniel Street (the location of the current Post Office), with all exteriors described before all interiors.

The Thomas J. McIntyre Federal Building was designed in the New Formalist style by the architectural firm of Koehler and Isaak for the U.S. government. It was completed in 1967 and, in 1981, the building was rededicated and named for New Hampshire's U.S. Senator from 1962 to 1979, Thomas J. McIntyre.

In September 2003, the General Services Administration published "Growth, Efficiency and Modernism: GSA Buildings of the 1950s, 60s and 70s" based on a study of federal building construction within the larger context of American architectural history and the history of federal building construction. The full text of this publication can be found at <https://www.gsa.gov/graphics/pbs/GEMbook.pdf> The following discussion contains excerpts from this document to place the construction and architectural style of the Thomas J. McIntyre Federal Building in the context of the federal government's mid-20th century building program:

The federal government often constructed its buildings in the current architectural style and as the era of Modern Architecture unfolded, the federal government embraced this style for their needs. "One of the most noticeable changes in Modern Architecture was the diminishing distinction between public and private buildings. In the past, the symbolism of public buildings was important, and formal, hierarchical sequences of ceremonial spaces were common. However, the Modern era ushered in an emphasis on functionalism, and the economy of interior space reflected this new design mode. Grand lobbies were absent from Modern designs; instead, plazas served as exterior gateways to sites, while the use of transparent building materials served to visually unite exterior and interior spaces."

"Office spaces also changed dramatically. Individual offices became less common and large open areas, referred to as either universal space or flexible plans, became common. Moveable room dividers allowed spaces to be altered as necessary. "

"Modern architecture sought to break from the past by embracing new technology. Using electrical and mechanical innovations and methods and materials—such as steel, glass, plastic, and reinforced concrete—that were previously unavailable, buildings took on appearances that were wholly different

from their predecessors. Architecture was influenced by Modern art and used abstract forms, space, light, and sometimes bold colors. Also coupled with this new architectural aesthetic were social goals. Architects hoped that the machine age would bring about equality and democratic values for all citizens.”

“More so than in the past, architecture became practical. Functional efficiency, coupled with economic efficiency, overshadowed elaborate buildings of earlier eras, and perhaps one of the greatest reasons for the success of Modernism is that it was substantially less expensive than previous methods of building.”

From its creation in 1949, GSA utilized private architects and architectural firms to create designs for federal buildings, eventually relying on private architects almost exclusively. “In the United States, conservative private architects rather than notable, cutting-edge architects were increasingly responsible for the design of Federal buildings. Generally, more concerned with efficiency and economy than with aesthetics, designers planned buildings that were utilitarian in nature. It was also during this era that the prominent, ceremonial entrances previously found on most public buildings all but disappeared. Cautious use of Modernism appeared with varying degrees of success. While public buildings followed the trends and technology of the larger architectural community, it was often with hesitation and delay. No longer were Federal buildings at the forefront of innovative design. However, technological advances in building design—most notably the use of metal skeletons sheathed with glass and other types of panels—were incorporated into Federal buildings.”

“In 1962, the Public Buildings Service (the branch within GSA assigned civilian construction responsibilities) (PBS) issued a series of design objectives for new and remodeled spaces in buildings that were GSA-controlled. These objectives were as follows:

- A high ratio of net usable space to gross area.
- Maximum flexibility of space assignment and utilization.
- Maximum economy and efficiency in the operation of buildings.
- Constant improvement of office space to improve employee morale, reduce personnel turnover, and increase employee efficiency.
- Protection of life and property.”

“To realize these objectives, PBS recommended that the circulation “core” of the building be carefully designed using adequate but minimum permanent corridors, toilets, stairways, elevators, and lobbies. The general office space was to be designed on approved “modular lines” with full flexibility of fenestration, lighting, power, and air-conditioning in order to permit the installation of movable partitions. Special-purpose space and custodial space was to be carefully designed for long-range usefulness derived from “painstaking” research and effective contacts with the tenant agencies. The partition layouts were to be responsive to

the functional space studies as well as consistent with good architectural and engineering practice.”

“In 1962, GSA declared that economical, functionally suitable, and, where possible, aesthetically acceptable materials should be used. Specifications were to be written to permit the most favorable use of the optional materials and those produced in the general locality of the project. Consideration was given to local products when they were suitable and cost effective. The use of foreign stone was prohibited. Architects were to list marble and granite by trade names, and give specifications as to the appearance of acceptable limestone and sandstone. “

“In 1963, GSA issued a directive regarding materials and finishes for projects with construction costs of \$1 million or more. The following materials and finishes for exterior features were stipulated:

- wall facing: brick, stone, cast stone, ceramics
- trim: stone, granite, aluminum, stainless steel, enameled iron
- spandrels: brick, tile, stone, marble, aluminum, steel
- window frames: aluminum, bronze, steel
- entrance doors: aluminum, stainless steel
- title letters: aluminum, stainless steel
- flat roofs: composition
- pitched roofs: slate, copper”

“Stipulations involving interior spaces were more detailed and were outlined according to the intended use for the space. Generally, spaces such as basements, rooms containing mechanical equipment, storage spaces, and holding cells were finished in unpainted concrete. Typical office spaces and public toilets were finished with mid-grade materials such as vinyl flooring, plaster or ceramic tile walls, and acoustical tiles or plaster ceilings. Public spaces such as entrances and elevator lobbies and courtrooms were finished in higher-quality materials. There were generally terrazzo or tile floors, marble or wood wainscot, and plaster walls and ceilings. Ease of maintenance was repeatedly cited as a factor in choosing materials.”

From 1967 to 1997, the public Post Office functions were located in the first floor of the Main Building- the Box Lobby was north of the elevators – and in a portion of the one-story wing east of the Main Building – the location of the Service Lobby (six windows for public services) and offices for Post Office officials. Access to the Service Lobby was through the set of double doors in the east wall of the vestibule. At the north end of the first floor were the areas for receiving, distributing and sorting mail. In 1997, the Post Office moved its public functions and access into the one-story wing to the east of the Main Building, modifying this wing to allow for public access and change in use. As with the exterior, the finishes on the interior of the first

floor are different from those of the upper floors – the first floors of both the exterior and interior are where any elements of higher grade materials or details are concentrated.

Determining Character-defining Features

While the Thomas J. McIntyre Federal Building has suffered its share of significant alterations over its short life span, it retains many original features that convey its purpose and the New Formalist style of its time. It is interesting to note that some of these changes, while removing historic fabric and altering the original design of the building, used the same (or visually similar) materials and were composed in such a way that they are often mistaken for original features and designs.

Primary features are those that, in and of themselves, identify this particular building as the Thomas J. McIntyre Federal Building and as no other. Secondary features are those that contribute to this identity and/or of a particular architectural style but, in and of themselves, do not distinguish this building from any other. In distinguishing between “primary” and “secondary” features, the condition of the feature, if original, was taken into account. Those original features that are altered or significantly deteriorated were determined to also be “secondary.” More recent alterations, such as the remodeling of the one-story wing as new space for the Post Office in 1997, are considered neither a reflection of an important event nor have these modifications existed long enough in time to be evaluated as significant to the redesign of the McIntyre Building (the general time frame used in this kind of evaluation is 50 years). They are, therefore, determined to be non-character-defining features.

This document does not presume to identify which specific features of the Thomas J. McIntyre Federal Building must be retained or may be altered in a rehabilitation that meets the Secretary of the Interior’s *Standards for Rehabilitation*. These ten standards collectively call for the sensitive treatment of features and specific materials of a historic property as it is returned to “an efficient contemporary use” in order to “assist the long term preservation of a property’s significance through the preservation of historic materials and features.” This document does, however, identify those features with which great caution and care **must** be taken in contemplating any changes to them.

Any evaluation of retained, altered, or removed features must be evaluated in separate process. The evaluation of any changes to **any** feature of the property must be evaluated within the context of any individual rehabilitation proposal and its proposed total impact on the property. These impacts can be very positive or deleterious and the combination of these impacts should be evaluated on a case by case basis.

Site/Setting (See photos 1-9, 12, 14, and 15)

The Thomas J. McIntyre Federal Building occupies the southern half of a 2.1-acre parcel in downtown Portsmouth. The site is bounded by Daniel Street, Penhallow Street, Bow Street, and the rears of structures on the west side of Chapel Street; the main entrance and elevation are on Daniel Street. The immediately surrounding blocks of this downtown area are densely developed with most buildings built to the property lines and three stories high. The site is

bounded on three sides by city-owned, concrete sidewalks. It drops in elevation thirteen feet from Daniel Street to Bow Street, a grade change of 4%. Immediately adjacent to the east of the McIntyre Building on Daniel Street is the Old City Hall, a red brick, two-and-one half story, gable end building combining elements of both Greek Revival and Italianate Styles. It is set back from the sidewalk approximately 25 feet behind a grass lawn.

Although approximately one half of the site is given to parking, there are remnants of the landscaping and public spaces created on Daniel Street when the building was constructed. While the small parking lot on Daniel Street (public parking for approximately ten cars) has not been altered, the area that is the entrance to the current Post Office has been greatly modified. The grassy area along Daniel Street has been reduced in size and paved to allow for the installation of mail drop boxes and the grass strip that originally existed between the walkway from the parking lot to the main entrance has now been almost completely lost to a handicap ramp and additional paving. A new brick portico was constructed in 1997 when the Post Office moved to the one-story wing and created a new entrance by enlarging a former window. It is four red brick piers supporting a pyramidal Plexiglas skylight. Along the east elevation of the one-story wing (current Post Office) is an area of shrubs, grass, a brick path, and a picnic table. The path ends at the wall of the loading docks.

Along the main (south) elevation is a small, low concrete planting box against the building's foundation at the west corner and there is a ground-level planting area in front of the western-most bay of the one-story wing (current Post Office). There are also concrete planting boxes with knee-high walls on either side of the entrance on Penhallow Street, also against the foundation. There are free-standing planters presumed to be placed after September 11, 2001 – six at the Daniel Street entrance and one at the entrance on Penhallow Street.

The north half of the property is occupied by parking – a two-tiered parking facility as well as surface parking. The extent of surface parking found on this site is an anomaly in the historic downtown. The first floor of the north elevation of the building contains seventeen loading docks. On Penhallow and Bow Streets, brick walls capped with concrete (approximately five feet in height) surround and shield the view of the parking; these walls are original to the construction of the building. There are three points of egress to/from the parking – one on Penhallow Street and two on Bow Street; these seem to be the original locations.

There are two flag poles: one at the corner of Daniel and Penhallow Streets (original) and a second pole erected in 1997 in front of the current Post Office entrance.

Site/Setting		
Primary features	Secondary features	Non-character-defining features
Urban pattern of building to/nearly to property line	Parking lot on Daniel St.	1997 portico for new Post Office
Limited public space and green space on site	Remnants of grassy area on Daniel St.	Concrete planters from post-September 11, 2001
Original concrete planters on Daniel St. and at Penhallow St. entrance	Modified green space along east elevation of one-story wing (current Post Office)	Flag pole added 1997
	Flag pole at corner of Daniel and Penhallow Streets	Parking lot north of building
	Brick walls surrounding north parking area	

Building

The Thomas J. McIntyre Federal Building has three major design components and, although each will be discussed separately to facilitate the description, it is important to note the original design intent of the interplay of the height and massing of the three components and the use of single-story elements at the main entrance on Daniel Street and along Penhallow Street. The red brick and limited use of concrete details seems to be a clear intent to be harmonious with the overall character of downtown Portsmouth.

The three main components for discussion purposes are:

- Main Building – four stories, seven by seventeen bays
- One-story section along Penhallow Street
- One-story wing to the east of the Main Building, currently the Post Office

Main Building – Exterior

(See photos 1-5, 9, 10, and 17; for photo of main entry showing columns of arcade without stainless steel sheathing, go to <http://www.nh1.com/news/bomb-squad-called-portsmouth-federal-building-exacuated-after-discovery-of-suspicious-backpack/page/15/>)

A four-story (with basement), steel frame, red brick and concrete rectangular building with a tar and gravel flat roof. It has two primary elevations on Daniel and Penhallow Streets, a secondary elevation on Bow Street, and a tertiary elevation facing Chapel Street.

The building above the first floor is red brick with a flat concrete fascia and cast concrete brackets with parallel raised edges. The brackets on the south and east elevations have been encased in a wire mesh netting since 2008 to capture any falling pieces of failed concrete (first in a temporary black netting and currently in a heavy duty beige netting). The single-pane,

aluminum frame pivoting windows are equally spaced and are aligned both vertically and horizontally within each elevation; they are deeply recessed from the exterior plane of the building and are set within large-aggregate, unadorned white cast concrete window frames.

The main entrance to the building on Daniel Street is recessed two bays behind three flat segmental arches supported by four concrete columns currently encased in stainless steel (sometime after September 2015); each column is surmounted by a single concrete bracket in the same design as those at the roof line. This covered entryway has a cast concrete groin vaulted ceiling the springing of which rests on single fluted concrete pilasters opposite the columns. There are three full-height glass walls aligned with each arch and vault of the entry surmounted by demi-lune transoms above a concrete lintel; the center glass wall contains the main entry doors. These full-height glass walls are divided into three vertical components which is the common pattern found in all of the full-height glass elements in the McIntyre Building: squares at the top and base with a single pane of glass in between approximately three times the height of the squares; they are either five or six bays wide. At the entry on Daniel Street, a pair of glass and aluminum doors have been inserted to the right and a single glass door (access to a stairwell) is to the left; the original configuration was a pair of doors in both of these openings. In front of the windows to either side of the entrance are balustrades, originally aluminum panels with oval openings, now replaced with simple square wrought iron balusters and railing.

The first floor of the north elevation contains nine of eighteen loading dock bays that are protected by a cantilevered concrete roof.

There are solar panels on top of the mechanical room on the roof.

Main Building – Exterior		
Primary features	Secondary features	Non-character-defining features
Height, scale and massing	Loading docks	Replacement doors
South and west elevations	North elevation (east elevation is tertiary)	Balustrades in front of windows on Daniel St.
Regular pattern of windows on upper floors/relationship of solid to void	Failing cornice brackets	Roof material
Materials: red brick, concrete details, aluminum, glass		Solar panels
Flat roof		
Recessed entry and open arcade		
First floor full-height windows and entry and their configuration		
Upper floor single-pane, deeply recessed, pivoting windows		
Concrete window surrounds		
Concrete brackets at cornice and main entry		

One-story section along Penhallow Street (See photos 2, 3, 11-13)

This section of the building is set back two bays from the Daniel Street façade and extends northward the entire length of the Main Building. It is red brick with a flat concrete parapet. On the small portion of this section facing Daniel Street is mounted both sides of the Great Seal of the United States, the name of the building (1981), and the corner stone. Note: when the building is transferred out of federal ownership, these signs must be removed.

Nearly centered in the west elevation is a second entrance to the Main Building, originally the 24-hour entrance to the Box Lobby. To the north of this entrance is a flat brick wall, and to the south are three bays of full-height windows alternating with recessed brick wall panels. These full-height windows have the standard pane configuration (see description under Main Building) although some have been modified to provide for the insertion of operable window panes.

The entrance is recessed with the portion located within the one-story section covered by skylight covered pergola while the portion located within the Main Building has a plaster ceiling. The standard full-height window wall has been modified to accept a pair of glass and aluminum entry doors to the right and a single glass and aluminum entry door to the left (access to a stairwell).

One-story section, Penhallow Street – Exterior		
Primary features	Secondary features	Non-character-defining features
Height, scale and massing	Signage	
Flat roof	Cornerstone	
Materials: red brick, concrete, glass and aluminum		
Recessed entry and pergola		
Full-height windows		
Blank brick wall north of entrance		

One-story wing east of the Main Building, current location of the Post Office
(See photos 1, 5-8, 15, and 16)

Constructed of red brick with concrete details, this one-story wing is recessed three bays from the façade of the Main Building and extends northward its entire length. As originally constructed, the Daniel Street elevation consists of three sections:

- The western-most section abutting the Main Building contains a full-height window of the standard design. [This was the location of the Service Lobby.]
- The center section projects from the two side sections and originally was punctuated by three single-pane, pivoting, deeply recessed windows with concrete window frames alternating with two slightly bowed, full-height windows of the standard design. The center single-paned window was removed and a new entryway installed in 1997.

- The eastern-most section was a flat blank brick wall. A new full-height window replicating the original first floor full-height windows was installed in this wall in 1997.

There are currently four full height windows on the east elevation of this wing. The two center windows are original and helped to provide light to the large Workroom. The two flanking windows are new openings from the 1997 renovation, replacing narrow slit windows providing light into the locker rooms.

There is a flat concrete cornice atop this wing with the exception of the section abutting the Main Building; this section is capped by a wider parapet.

One-story wing east of Main Building – Exterior		
Primary features	Secondary features	Non-character-defining features
Height, scale, set back and massing		New entry (1997)
Materials: red brick, concrete, aluminum and glass		New full-height windows (1997)
Remaining original full-height window and pivoting, single-pane window with concrete frame		

Main Building – Interior, First Floor

(No photos can be made available due to security concerns.)

Entry to the vestibule from Daniel Street is through a pair of glass and aluminum doors. The east wall of the vestibule is a full-height, glass wall with a pair of doors in the center; all glass is opaque. [These are the doors that lead to the Service Lobby in the one-story wing.] The west wall is covered with a veneer of polished white marble panels; a building directory (aluminum case with two locking glass doors, not original) is attached to the wall and a single solid metal door to the left (south) of the directory leads to a full-height stairwell. The north wall of the vestibule is a full-height glass partition wall.

Immediately beyond this partition is the Elevator Lobby: to the west is the hallway to the offices in the one-story section on Penhallow Street and two elevators. On the wall to the left of the elevators is a bronze plaque commemorating the rededication and naming of the building in 1981 (this is likely the location of the original Building Directory). On the west wall opposite the elevators is a built-in, tripartite aluminum and glass document case. In the early 1960s, document cases began to be added to public lobbies of federal buildings. These cases were designed to hold replicas of the Constitution, the Declaration of Independence, and the Bill of Rights. In the upper corners of the center section of the case are both sides of the Great Seal of the United States in brass, surmounted by a brass American eagle with its wings unfurled. All of the walls are covered with a veneer of polished white marble panels in a pattern that replicates those of the full-height windows: squares at the top and base with a single piece of marble in between approximately three times the height of the squares.

Beyond the Elevator Lobby area is the former Box Lobby; the boxes were located on the east wall and two bulletin boards and Lobby Desks were located on the west wall; there are no extant original fixtures to indicate the use of this space. [The boxes measured 5'6" above the baseboard with plaster wall above to the ceiling.] All of the walls are covered with a veneer of polished white marble panels, as are the walls to the vestibule to the Penhallow Street entrance; the marble on the east wall dates from the 1997 renovation. Inside the Penhallow Street entrance, on the north wall, is a bronze plaque commemorating the construction of the building in 1967. On the east wall are doors to the loading dock area, former storage areas for envelopes and mail bags, and modern office spaces (inserted into the former Workroom).

All visible floors in the vestibule, lobbies and hallway area are terrazzo; the cornice and ceilings are plaster.

Main Building – Interior, Floors Two Through Four

(No photos can be made available due to security concerns.)

Note: As of May 2017, access to spaces beyond the hallways was severely limited due to security issues for the federal agencies occupying the offices.

Typical of most federal office buildings, the floors with no, or limited, public access meant for federal workers are devoid of any architectural interest in spaces or finishes. It is instructive to note that on the original drawings for the second floor (meant to be typical for floors two through four), the only spaces shown in any detail are the stairwells, rest rooms, elevators, duct chases, and utility closets; the remainder of the entire floor is blank and marked "General Office Space." See discussion on page two of GSA's design intent for office space.

Each floor is dedicated to office space with a north-south hallway immediately adjacent to the elevators. The fiberboard walls are punctuated by doors; there are no windows or transoms in the hallways. On the second floor, directly opposite the elevators is a pair of wood and glass doors providing public access to the Social Security Offices. Restrooms and service closets are clustered near the elevator core and stairwells. Full-height stairwells are located in the northwest and southwest corners of the Main Building; the northwest stairwell provides access to the roof. The floors throughout are carpeted. Each window has a deep window sill; there is no trim.

Main Building – Interior, Basement Level

(No photos can be made available due to security concerns.)

Half of the basement floor area is dedicated to underground parking; the remainder contains spaces and uses typical of a basement: boiler room, trash collection, and storage areas. The parking garage is concrete with concrete encased steel columns. The finishes in the interior spaces are linoleum floor tile, dropped ceilings, boxed fluorescent light fixtures, and a mixture of fiber board and concrete block walls.

Main Building, all floors – Interior		
Primary features	Secondary features	Non-character-defining features
Height of lobby ceilings	Vestibule	Modern partition walls
Sequence of and distinction between vestibule, Elevator Lobby and Box Lobby	Two bronze plaques	Hallway finishes
Open plan of Box Lobby	Stairwells	Polished white marble veneer on east wall of Box Lobby
Polished white marble wall veneer (with exception of east wall in Box Lobby)	Consolidation of service functions surrounding elevator core	Finishes in basement level
Terrazzo floors in main lobby		Parking garage
Aluminum and glass document case		
Window recess		

One-story Section on Penhallow Street – Interior

(No photos can be made available due to security concerns.)

Offices and a conference room line the exterior walls of this section. There is a dedicated hallway accessed from near the main entrance on Daniel Street as well as near the entrance on Penhallow Street. The hallway to these spaces is behind the elevators. On the opposite side of the hallway, directly behind the elevators are restrooms and storage rooms; originally an office for a secretary was located here, the only dedicated office in this area on the original drawings. The conference room is paneled in wood and the offices have dropped ceilings with boxed fluorescent lighting features and modern partition walls. There is no conference room identified on the original drawings so it is presumed that the wood paneling is from a later date. The hallway floor is terrazzo.

One-story section on Penhallow Street – Interior		
Primary features	Secondary features	Non-character-defining features
The location of office spaces on exterior walls	Terrazzo floor	All modern office partitions, ceilings, light fixtures and finishes

One-story wing east of the Main Building, current location of the Post Office

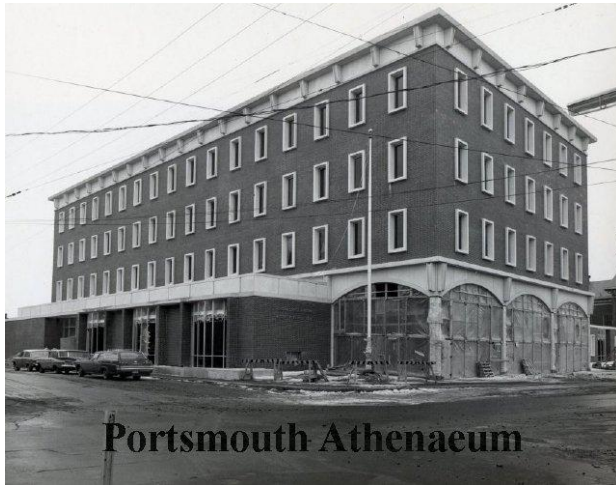
(No photos can be made available due to security concerns.)

The Service Lobby was located in this wing with six service windows. Past the Service Lobby, along Daniel Street from west to east, there was a reception area; the Post Master’s Office; an area with a hall, storage and a toilet; the Assistant Post Master’s Office; an office for the

Superintendent of Mail; and, behind the blank brick wall, the Women’s Swing and Locker Room and Toilet. At the north end of the wing were the Men’s Swing Room, Locker Room and Toilets. The center of this wing, and the majority of the floor space, was given over to a Workroom. There were two vaults near the Service Lobby.

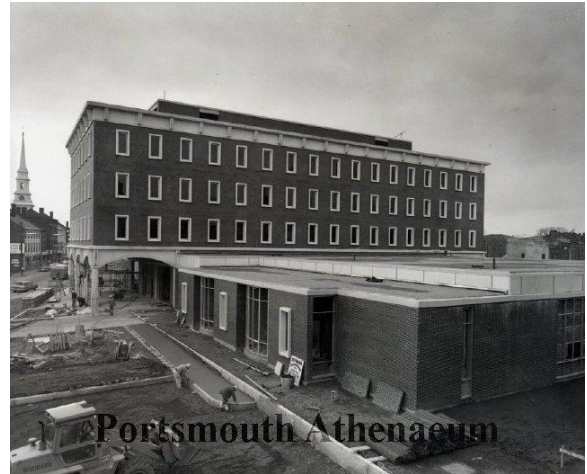
In 1997, the public Post Office functions moved to this wing and a separate entrance directly into this space was created by converting a window opening to a doorway. As far as is visible, all historic finishes were removed with the exception of some of the polished marble wall veneer at the area that was the entrance to the Service Lobby from the vestibule.

One-story wing east of Main Building - Interior		
Primary features	Secondary features	Non-character-defining features
	Remaining marble veneer in former Service Lobby	All interior finishes (1997) in public post office space
		Mail sorting and support spaces



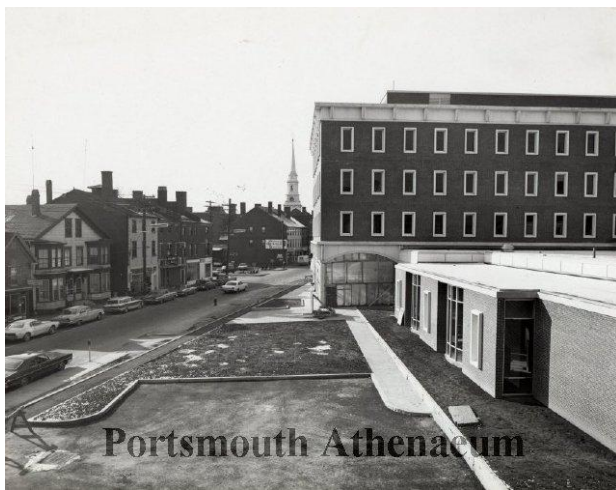
Portsmouth Athenaeum

Under construction, circa 1966/1967



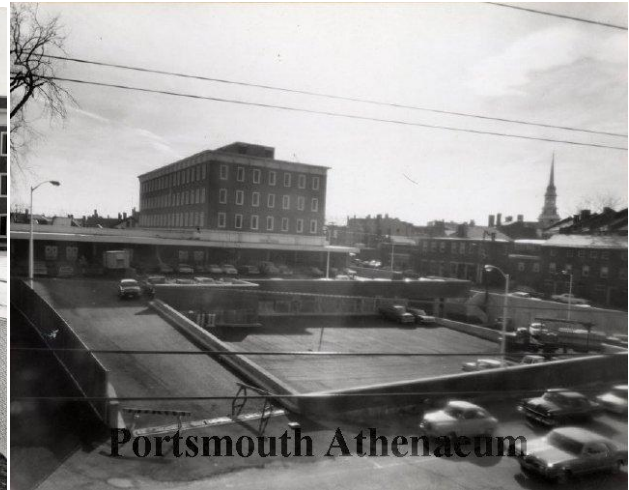
Portsmouth Athenaeum

Under construction, circa 1966/1967



Portsmouth Athenaeum

Under construction, circa 1966/1967



Portsmouth Athenaeum

Shortly after construction, circa 1967

T.J. McIntyre Federal Bldg.
Character-defining Features Analysis/August 2017



Photo 1

South elevation (Daniel Street)



Photo 2

South and west elevations



Photo 3

South elevation

T.J. McIntyre Federal Bldg.
Character-defining Features Analysis/August 2017



Photo 4
North elevation



Photo 5
North and east elevations



Photo 6
East elevation of one-story wing

T.J. McIntyre Federal Bldg.
Character-defining Features Analysis/August 2017



Photo 7

South elevation – Daniel Street parking lot



Photo 8

East elevation – new mail drop boxes



Photo 9

East elevation – Main Building

T.J. McIntyre Federal Bldg.
Character-defining Features Analysis/August 2017



Photo 10

South elevation - Stainless steel encased columns



Photo 11

West elevation - One-story section
Penhallow Street



Photo 12

West elevation - Penhallow Street
entrance

T.J. McIntyre Federal Bldg.
Character-defining Features Analysis/August 2017



Photo 13

West elevation - Penhallow Street entrance



Photo 14

South elevation - One-story wing (current Post Office)



Photo 15

South elevation - One-story wing (current Post Office), south elevation, 1997 modifications



Photo 16

South elevation - One-story wing (current Post Office), 1997 new entry detail



Photo 17

South elevation detail – protective wrapping around failing cornice

As Appendix B, the names and contact information for the Principle Group can be found below. The Principle Group is an independent planning, design, and development firm founded by Russell Preston. Principle Group was hired by the City of Portsmouth as a consultant for purposes of designing the “Community Vision Plan” with public input. Russell Preston and his team of Architects, Urban Designers & Planning Experts have been leading the informal review process with the National Park Service through a series of presentations in conjunction with consultation and input from Lisa McCann an expert in understanding The National Park Service and Historic Preservation as applied to the McIntyre and The Historic Property Surplus Program.



Location

791 Tremont Street
Studio W513
Boston, MA 02118

Phone

+1 786 361 5285

General Inquiries

studio@principle.us



Russell Preston, Founder & Director



LETTERS OF INTENT DUE DECEMBER 20, 2021

PROPOSALS DUE THIRTY DAYS THEREAFTER ON JANUARY 19, 2022

THANK YOU FOR YOUR INTEREST

CITY OF PORTSMOUTH.



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 2, 2021

To: Honorable Mayor Rick Becksted and City Council Members

From: Suzanne Woodland, Acting Deputy City Manager

Re: Acting Deputy City Manager's Comments on City Council Agenda of December 6, 2021

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

A. **Public Hearing and Second Reading of Ordinance Amending Chapter 1, Article IV – Commissions and Authorities, Adding Section 1.415 – Cemetery Committee:**

Attached please find a proposed ordinance amending Chapter 1, Article IV – Commissions and Authorities.

If the City Council would like to proceed, I recommend that the City Council move to pass second reading, and to schedule a third and final reading regarding this amendment to Chapter 1, Article IV at the December 20, 2021 City Council meeting.

XIV. Approval of Grants/Donations:

A. **Acceptance of Donation to Portsmouth 400th - \$20:**

The City received a donation of \$20 from Geoff T. Smith for the Portsmouth 400th.

I recommend that the City Council move to approve and accept the donation as presented.

B. **Acceptance of Donation to the Skateboard Park - \$2,100:**

The City received a donation of \$2,100 from Steve De Trolio for the Skateboard Park.

I recommend that the City Council move to approve and accept the donation as presented.

XV. City Manager's Items which Require Action:

1. **Approval of 2022 City Council Meeting Calendar:**

Attached please find the proposed 2022 City Council meeting calendar.

I recommend that the City Council move to approve the 2022 proposed meeting calendar as presented.

2. Sale of Commercial Safe:

The Tax Department has a **commercial safe** that is in need of disposal, the safe is no longer adequate for the needs of the city. The gaskets are missing, so it is no longer fireproof, the doors require some force to close and the combination dial is a little difficult to read.

The City will use GovDeals, an online auction site where items are sold to the highest bidder, to dispose of the safe. Utilizing this online auction site has proven to result in more competitive bidding than through the sealed bid process.

According to City Ordinance Section 1.505, property valued at \$500.00 or more must receive approval from the City Council prior to bidding.

I recommend that the City Council move to authorize the sale of the commercial safe as presented.

3. Request for Public Hearing and Adoption of Bond Resolution in the Amount of \$10,000,000 for the Acquisition of Community Campus:

I am requesting that the City Council establish a public hearing on the **proposed Bonding Resolution** for the December 20, 2021 City Council meeting to purchase the Community Campus.

The total purchase price of the Community Campus is \$10 million, and this is the total amount that the City is requesting be authorized to spend in the resolution.

This purchase will be funded through various sources, detailed in the resolution to include bonding. The City will be utilizing:

- Revenue sources totaling \$6.76 million from various sources to include Trusts and recently received ARPA funds from the federal government.
- The School Department is waiting to get final approval from the New Hampshire Department of Education, to utilize ESSER Funds (Elementary and Secondary School Emergency Relief Fund) to utilize \$2,000,000 to fund a portion of the purchase of the community campus.
- The City is seeking an authorization for bonding of up to \$3,250,000 to fund the remaining portion of the Community Campus purchase:
 - If the School is NOT able to obtain permission to utilize the \$2,000,000 in funding from ESSER, the City will bond all \$3,250,000 to complete the purchase.
 - If the school IS able to obtain permission, the City will only be bonding \$1,250,000 to complete the purchase.

I recommend that the City Council move to authorize the City Manager to bring back for public hearing and adoption, a resolution for the purchase of the Community Campus using various revenue sources and bonding, as presented, for the December 20, 2021 City Council meeting.

4. **Request for Public Hearing Regarding Supplemental Appropriation for Operating Expenses of Community Campus Upon Acquisition for Fiscal Year Ending June 30, 2022:**

The City's acquisition of Community Campus will result in additional operational obligations which require a **supplemental appropriation** to cover operation and maintenance expenses for the remainder of Fiscal Year 2022. Based on a review of past operating expense records a supplemental appropriation of \$116,000 is necessary. These monies will cover utilities, custodial services, and maintenance of the facility. Future budgets will be developed based on the City's actual operations expenses once staff have fully programmed the Campus and existing contracted service agreements have expired.

I am requesting that the City Council vote to establish a public hearing at the December 20, 2021 City Council Meeting for the purposes of considering a proposed Supplemental Appropriations Resolution in the amount of \$116,000 to cover operational expenses for the Community Campus.

5. **Request for Public Hearing and Supplemental Appropriation in the Amount of \$75,000 for the McIntyre Principle Group Work:**

Over the past year, the Sub-Committee of the City Council has been working with the Principle Group (the city's design consultants) and Lisa McCann, an architectural historian retained by the City who previously worked at the National Park Service (NPS) in order to design a conceptual redevelopment plan for the former Federal McIntyre Building located on Daniel Street in Downtown Portsmouth.

After making several modifications to the plan, representatives of the NPS have recently suggested that the City should now proceed to submit a revised application under the Federal Monument Program in order to formalize the review and approval from the NPS.

In doing so, the City will need to provide detailed elevations and floor plans as well as provide detailed cost estimates and other financial and programmatic information that will ultimately determine the overall feasibility of the project and its eventual approval by the NPS. To that end, the next steps involve the Principle Group retaining in-house technical assistance from civil, structural, and geo-technical engineers as well as architectural and landscape architectural services in order to prepare the required plans. Thus, I am seeking a **supplemental appropriation in the amount of \$75,000** in order to finalize the current concept plan preliminarily reviewed by the NPS as well as complete the items needed to prepare a revised formal application to the NPS.

I recommend that the City Council establish a public hearing at the December 20, 2021 City Council Meeting for the purposes of considering a proposed Supplemental Appropriations Resolution for Expenditures Related to Design Services for the McIntyre project.

6. **Request for Public Hearing and Supplemental Appropriation in the Amount of \$75,000 for McIntyre Litigation:**

In light of the City Council's vote of November 15, 2021 to terminate the Development Agreement with SoBow Square Ltd. for the redevelopment of the McIntyre building, additional litigation is anticipated. In order to provide a source of funds to continue to retain the services of outside counsel, Hinkley Allen, I am seeking a **supplemental appropriation in the amount of \$75,000** to be applied to litigation defense.

I recommend that the City Council establish a public hearing at the December 20, 2021 City Council Meeting for the purposes of considering a proposed Supplemental Appropriations Resolution for \$75,000 for McIntyre related litigation defense purposes.

7. **Street Naming for 83 Peverly Hill Road:**

At the October 21, 2021 meeting of the Planning Board, the Board voted to name the newly approved city street off of Peverly Hill Road, Sage Lane. **Attached please find the Planning Board letter of decision** and a **list of alternative street names** that could be used if the City Council finds they would like to select a different name than Sage Lane. The list of names provided has been reviewed by emergency services and the Post Office, as well as the Town of Newington for conflicts. Any other names selected should be vetted for conflicts before final approval.

I recommend that the City Council authorize the City Manager to proceed with the naming of Sage Lane as described.

8. **Request to Join Opioid Settlement Agreement:**

The State of New Hampshire has reached a preliminary settlement agreement with three major opioid distributors, McKesson Corporation, Cardinal Health and Amerisource Bergen, to resolve claims arising out of opioid distribution. The Attorney General's office has notified 48 New Hampshire municipalities, including the City of Portsmouth, of the option to join in the settlement agreement. By opting to join in the settlement agreement, the City would increase in the amount of money paid to the State for opioid abatement purposes, and it would waive any claim the City has against these distributors. The settlement funds would be held by the State, and the City could apply for distributions of these funds for the purposes of opioid abatement. More information regarding the settlement agreement may be found in the **attached press release**.

I recommend that the City Council move to authorize that the City Manager join in the State's settlement with McKesson Corporation, Cardinal Health and Amerisource Bergen regarding opioid claims.

XVI. Consent Agenda:

B. Projecting Sign License – 23 Portwalk Place:

Permission is being sought to install a projecting sign at **23 Portwalk Place** that extends over the public right of way, as follows:

Sign dimensions: 24” x 36”

Sign area: 6 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.*

XVIII. City Manager’s Informational Items:

1. Report Back on the Recommendation from Planning Board Regarding Community Campus:

At its regularly scheduled meeting of November 18, 2021, **the Planning Board considered the proposed acquisition of the Community Campus property** from the Foundation for Seacoast Health. Said property is shown on Assessor Map 266 Lot 4 and located within the Industrial District. The Planning Board found that this proposal was appropriate considering the context of the City's comprehensive planning and voted to recommend the acquisition of the Community Campus property to the City Council.

The minutes and audio recording of this meeting are available through the Planning Department.

2. Report Back on Parking for Individuals with Disabilities as Requested by Councilor Kennedy:

Please find **attached a report back on concerns related to parking enforcement protocols for individuals with disabilities** as requested by Councilor Kennedy at the November 15th City Council meeting.

3. **Report Back on Unaudited FY21 Results as Requested by Councilor Huda:**

In response to the request of Councilor Huda for information relative to final, unaudited FY21 budget surplus/deficit amounts and a status update on the current audit work, please see the [attached report back](#).

4. **Turf Athletic Field – Updated Staff Report of PFAS Testing Options and Manufacturer Response to Inquiry:**

Please find [attached a staff report](#) regarding this item.

**2022 SCHEDULE OF CITY COUNCIL MEETINGS
AND WORK SESSIONS**

Regular Meetings - 7:00 p.m.

January *3 and 24
*(Inauguration)

February *7 and 22 (Tuesday)
*(Public Hearing on CIP)

March *7 and 21
*(Adoption of CIP)

April 4 and April 18

May 2, *9, and 16
*Public Hearing on FY23 Budget Tuesday @ 6:30 p.m.

June *6 and 21 (Tuesday)
*Adoption of Budget

July 11

August 1 and 22

September 19

Work Sessions - 6:30 p.m.

January 13th (Audit Work Session – Thursday @ 6:30 p.m.)
January 19th (CIP Work Session - Wednesday @ 6:30 p.m.)
January 25th (Budget Work Session – Tuesday @ 6:30 p.m.)

May 10th (Public Safety – Police & Fire Review/Listening Session Tues. @ 6:30 p.m.)
May 11th (School Dept. Review/Listening Session Wed. @ 6:30 p.m.)
May 12th (General Government Depts. Review/Listening Session Thurs. @ 6:30 p.m.)
May 18th (Water & Sewer Depts. Reviewing/Listening Session Wed. @ 6:30 p.m.)
May 23rd (Budget Review Mon. @ 6:30 p.m.)
May 31st (Budget Review Thurs. @ 6:30 p.m., if necessary)

TURN OVER FOR REMAINING DATES

October 3 and 24

November 14

December 5 and 19

All Work Sessions will be held in Council Chambers unless otherwise indicated

***Footnote:** Additional Work Sessions can be scheduled at the call of the Mayor

Adopted 12/06//21

CM Action Item #2



CM Action Item #2





CITY OF PORTSMOUTH
TWO THOUSAND TWENTY-ONE
PORTSMOUTH, NEW HAMPSHIRE

RESOLUTION # _____

A RESOLUTION APPROPRIATING \$10,000,000 TO PAY COSTS OF ACQUIRING THE COMMUNITY CAMPUS FROM THE FOUNDATION FOR SEACOAST HEALTH, INCLUDING THE PAYMENT OF COSTS INCIDENTAL AND RELATED THERETO.

BE IT RESOLVED:

- 1) THAT \$10,000,000 is appropriated to pay costs of acquiring the Community Campus from the Foundation for Seacoast Health, and for the payment of all costs incidental and related thereto, and that to meet this appropriation, (i) up to \$8,766,179 shall be transferred from available funds, as more particularly described in Exhibit A hereto, and (ii) the City Treasurer, with the approval of the City Manager, is authorized to borrow up to \$3,250,000 under and pursuant RSA 33 (the Municipal Finance Act), or pursuant to any other enabling authority, and to issue bonds or notes of the City therefor. To the extent that the total amount of available funds, together with the amount authorized to be borrowed by this resolution, exceeds \$10,000,000 the amount authorized to be borrowed shall be reduced by the amount of any such excess.
- 2) THAT the discretion of fixing the dates, maturities, rates of interest, forms and other details of such bonds is hereby delegated to the City Treasurer with the approval of the City Manager.
- 3) THAT the useful life of property to be acquired by this borrowing is determined to be in excess of 30 years.
- 4) THAT this resolution shall take effect upon its passage.

APPROVED:

RICK BECKSTED, MAYOR

**ADOPTED BY CITY COUNCIL:
DECEMEBR 20, 2021**

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

Note: This authorization requires a 2/3 vote by roll call.

Exhibit A

City of Portsmouth
 Funding Availability
 Community Campus
 12/6/2021

Purchase Price of Community Campus		\$10,000,000.00
Packard Settlement	<u>500,000.00</u>	
Capital Outlay - Land Acquisition	<u>193,727.39</u>	
Sale of Mariners Village Proceeds	<u>229,412.43</u>	
ARPA Funds-Revenue loss calculation	<u>5,190,000.00</u>	
Peirce Estate Recreational & Environmental Trust (from Middle School Expansion)	as of 06/30/21 <u>627,496.53</u>	
Daniel Street Trust (Sale of Connie Bean Dec 2012 \$1,500,000) 06/14/19 used \$1,525,000 on Senior Center	as of 06/30/21 <u>25,542.95</u>	
Total Available Funding as of December 6, 2021		6,766,179.30
Sub Total Borrowing Needed:		\$3,233,820.70
Awaiting Final Approval from New Hampshire Department of Education:		
School ESSER Funds	<u>2,000,000.00</u>	
Total Available Funding if ESSER funds are approved		8,766,179.30
Funding Needed if Use of School ESSER Approved		\$1,233,820.70

**CITY OF PORTSMOUTH, NEW HAMPSHIRE
SUPPLEMENTAL APPROPRIATION
FOR THE FISCAL YEAR ENDING JUNE 30, 2022**

RESOLUTION # -

A RESOLUTION AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM UNASSIGNED FUND BALANCE FOR OPERATING EXPENDITURES OF THE COMMUNITY CAMPUS UPON ACQUISITION FOR FISCAL YEAR ENDING IN JUNE 30, 2022.

RESOLVED:

BY THE CITY COUNCIL OF THE CITY OF PORTSMOUTH, NEW HAMPSHIRE ASSEMBLED AS FOLLOWS:

THAT, the City Council has determined that the sum of **ONE Hundred Sixteen (\$116,000) Dollars** is to be appropriated from Unassigned Fund Balance to defray the operating expenditures of Community Campus upon acquisition for fiscal year ending in June 30, 2022. These funds shall be transferred to a new Special Revenue Fund designated Community Campus which will utilize other revenues specific to Community Campus for the operations of the facility.

THAT, to meet this appropriation, the City Manager is authorized to transfer these funds from Unassigned Fund Balance.

APPROVED BY:

RICK BECKSTED, MAYOR

**ADOPTED BY CITY COUNCIL
DATE**

KELLI BARNABY, CMC/CNHMC

CITY CLERK

SECTION 7.14-AMENDMENTS TO BUDGET AFTER ADOPTION

No appropriation shall be made for any purpose not included in the annual budget as adopted unless voted by a two-thirds (2/3) majority of the Council after a public hearing held to discuss said appropriation. The Council shall, by resolution, designate the source of any money so appropriated.

**CITY OF PORTSMOUTH
TWO THOUSAND TWENTY-ONE
PORTSMOUTH, NEW HAMPSHIRE**

RESOLUTION # -

A RESOLUTION AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM UNASSIGNED FUND BALANCE FOR NECESSARY EXPENDITURES RELATED TO DESIGN SERVICES FOR MCINTYRE.

RESOLVED: BY THE CITY COUNCIL OF THE CITY OF PORTSMOUTH, NEW HAMPSHIRE ASSEMBLED AS FOLLOWS:

THAT, the City Council has determined that the sum of **Seventy-Five Thousand Dollars (\$75,000.00)** is to be appropriated from Unassigned Fund Balance to defray the expenditures related to Design Services for McIntyre for the Fiscal Year ending in June 30, 2022.

THAT, to meet this appropriation, the City Manager is authorized to transfer these funds from Unassigned Fund Balance.

APPROVED BY:

RICK BECKSTED, MAYOR

ADOPTED BY CITY COUNCIL

KELLI BARNABY, MMC/CNHMC

CITY CLERK

SECTION 7.14-AMENDMENTS TO BUDGET AFTER ADOPTION

No appropriation shall be made for any purpose not included in the annual budget as adopted unless voted by a two-thirds (2/3) majority of the Council after a public hearing held to discuss said appropriation. The Council shall, by resolution, designate the source of any money so appropriated.

**CITY OF PORTSMOUTH
TWO THOUSAND TWENTY-ONE
PORTSMOUTH, NEW HAMPSHIRE**

RESOLUTION # -

A RESOLUTION AUTHORIZING A SUPPLEMENTAL APPROPRIATION FROM UNASSIGNED FUND BALANCE FOR NECESSARY EXPENDITURES RELATED TO OUTSIDE LEGAL COUNSEL FOR THE MCINTYRE LITIGATION.

RESOLVED: BY THE CITY COUNCIL OF THE CITY OF PORTSMOUTH, NEW HAMPSHIRE ASSEMBLED AS FOLLOWS:

THAT, the City Council has determined that the sum of **Seventy-Five Thousand Dollars (\$75,000.00)** is to be appropriated from Unassigned Fund Balance to defray the expenditures related to Outside Legal Counsel for the Fiscal Year ending in June 30, 2022.

THAT, to meet this appropriation, the City Manager is authorized to transfer these funds from Unassigned Fund Balance.

APPROVED BY:

RICK BECKSTED, MAYOR

ADOPTED BY CITY COUNCIL

KELLI BARNABY, MMC/CNHMC

CITY CLERK

SECTION 7.14-AMENDMENTS TO BUDGET AFTER ADOPTION

No appropriation shall be made for any purpose not included in the annual budget as adopted unless voted by a two-thirds (2/3) majority of the Council after a public hearing held to discuss said appropriation. The Council shall, by resolution, designate the source of any money so appropriated.



CITY OF PORTSMOUTH

Planning Department
1 Junkins Avenue
Portsmouth, New
Hampshire 03801
(603) 610-7216

PLANNING BOARD

November 29, 2021

Philip J. Stokel and Stella B. Stokel
Stella B. Stokel 1993 Trust
83 Peaverly Hill Rd
Portsmouth, NH 03801

RE: Planning Board Request for 83 Peaverly Hill Road, Continued from the October 21, 2021 Meeting (LU-21-74)

Dear Mr. and Mrs. Stokel:

The Planning Board, at its regularly scheduled meeting of **Thursday, November 18, 2021**, considered your application for naming the new 2,950-foot public road to serve the approved 56 single-family homes, public space, and associated utilities as approved at the October 21, 2021 Planning Board meeting. Said property is shown on Assessor Map 242 Lot 4 and lies within the Single Residence A (SRA) and Single Residence B (SRB). As a result of said consideration, the Board voted to recommend the City Council approve to name the new public street, located at 83 Peaverly Hill Road as approved in Land Use Application LU-21-74 on October 21, 2021, "**Sage Lane.**"

The Board's decision may be appealed up to thirty (30) days after the vote. Any action taken by the applicant pursuant to the Board's decision during this appeal period shall be at the applicant's risk. Please contact the Planning Department for more details about the appeals process.

This site plan approval shall not be effective until a site plan agreement has been signed satisfying the requirements of Section 2.12 of the City's Site Review Approval Regulations.

Unless otherwise indicated above, applicant is responsible for applying for and securing a building permit from the Inspection Department prior to starting any project work.

The Planning Director must certify that all stipulations of approval have been completed prior to issuance of a building permit unless otherwise indicated above.

This site plan approval shall expire unless a building permit is issued within a period of one (1) year from the date granted by the Planning Board unless an extension is granted by the Planning Board in accordance with Section 2.14 of the Site Review Regulations.

The minutes and audio recording of this meeting are available by contacting the Planning Department.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Dexter R. Legg". The signature is written in a cursive, somewhat stylized font.

Dexter R. Legg, Chairman of the Planning Board

cc: Paul Garand, Interim Chief Building Inspector
Rosann Maurice-Lentz, City Assessor

Peter H. Rice, Director of Public Works

Philip J. Stokel
J. Corey Colwell, TFMoran
Green & Company

November 18, 2021 Planning Board Meeting

IV. PUBLIC HEARINGS -- OLD BUSINESS

The Board's action in these matters has been deemed to be quasi-judicial in nature. If any person believes any member of the Board has a conflict of interest, that issue should be raised at this point or it will be deemed waived.

F. Request of Green & Company, (Applicant) and Philip J. Stokel and Stella B. Stokel, (Owners) for property located at **83 Peverly Hill Road** to name the new 2,950-foot public road to serve the approved 56 single-family homes, public space, and associated utilities approved at the October 21, 2021 Planning Board meeting. Said property is shown on Assessor Map 242 Lot 4 and lie within the Single Residence A (SRA) and Single Residence B (SRB) Districts. Please note: this discussion item was postponed from the October Planning Board meeting. (LU-21-74)

Project Description

The application of Green & Company, (Applicant) and Philip J. Stokel and Stella B. Stokel, (Owners) for the development of 56 single-family homes located at 83 Peverly Hill Road was approved at the October 21, 2021 Planning Board Meeting. Included in this approval was the construction of a new public road to service the approved homes. The proposed street has been accepted (see chapter 11 Article 3: Layout and Construction of Streets) and must now be named. City Ordinance Chapter 11, Article 5: Street Names and Numbers is provided below.

City Ordinance, Chapter 11
 ARTICLE V: STREET NAMES AND NUMBERS

Section 11.501: STREET NAMES

- A. The naming of all public streets and rights of way which are to receive or have received legal status by acceptance shall be subject to approval by the Planning Board and all existing public street and right of way now of legal status and as such are shown upon the tax maps, may be renamed by the Planning Board as it determines necessary for the welfare or convenience of the public. Such renaming may be considered upon the motion of the Planning Board or upon petition by the owners or occupants of such land as may be located upon said public streets and rights of way and such determination shall be made by the Planning Board after due public hearing of the matter.
- B. 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. The extension of an existing street shall have the same name as the existing street.

November 18, 2021 Planning Board Meeting

At the applicants request, Sage Lane has been proposed as the first choice for this street name and Bramble Lane as the second. Please note the applicant's original application materials indicated the proposed name for this street was Bayberry Path. After considering that Portsmouth has a similar Barberry Lane, the applicant withdrew that request.

Both Sage Lane and Bramble Lane have been reviewed by GIS Manager James McCarty and there are no existing naming conflicts. Staff have reached out to Newington, NH Town Administrator Martha Roy to inquire with any potential conflicts within the Town of Newington and the Town of Newington has found no conflicts with the proposed street names.

Upon approval, Staff will forward recommendation to the Portsmouth City Council for formal name acceptance.

Staff Recommendation:

Vote to recommend to name the new public street, located at 83 Peverly Hill Road as approved in Land Use Application LU-21-74 on October 21, 2021, Sage Lane.

Possible Alternative Street Names: These were used and discontinued sometime in the past. Names are acceptable for use today.

FORMER STREET NAMES

ACKERMAN STREET
 ARK LANE
 AUBURN STREET
 BUCK STREET
 CAMBRIDGE STREET
 COW LANE
 CREEK STREET
 CROSS STREET
 DIVINITY STREET
 GRAFFORT'S LANE
 GRAVES END STREET
 JOSHUA STREET
 KING STREET
 MARGINAL WAY
 MARLBOROUGH STREET
 MASON STREET
 MASSY STREET
 MAUDLIN LANE
 MYSTIC STREET
 NORTH ROAD
 PITT STREET
 QUEEN STREET
 REBELLION ROAD
 RIVER ROAD
 ROSEMARY LANE
 SIFTON STREET
 STETON STREET
 TOMBS STREET
 WHITE'S ROAD

Possible Alternative Street Names: NAMES OF CITY MAYORS

BADGER, DANIEL W. (1911-1913)
 BAILEY, JOHN H. (1864)
 BERRY, CHARLES P. (1893-1894)
 BROUGHTON, JOHN H. (1876-1877)
 BUTLER, THEODORE R. (1952-1953, 1954-1955)
 DALE, CHARLES (1926-1927, 1943-1944)
 DEXTER, OREL A. (1924-1925)

ELDREDGE, MARCELLUS (1885-1886)
EMERY, JOHN W. (1897)
FAYE, EDMUND S. (1889-1890)
GOLDSMITH, KENNARD (1937-1940)
GOODRICH, MOSES H. (1874-1875)
GRAVES, BRUCE R. (1974-1977)
HACKETT, WALLACE (1907-1908)
JENNESS, RICHARD (1956)
LAIGHTON, JOHN (1851)
LASKEY, JOHN J. (1891-1892)
MORRISON, ROBERT (1857)
NEAL, CECIL M. (1948-1949)
PAGE, CALVIN (1884, 1899)
PENDER, JOHN (1902)
REDING, JOHN RANDALL (1860)
ROWE, STEWARD E. (1941-1942)
SISE, WILLIAM H. (1878-1881)
TILTON, JOHN S. (1898)
TOPPAN, CHRISTOPHER S. (1852)
TREAT, JOHN S. (1882-1883)
YEATON, HARRY B. (1914-1915)

Other names are encouraged for submission and review by the EOC. Submit any name choices to the Police or Planning Departments.

New Hampshire

Department of Justice

Office of the Attorney General

News Release

For Immediate Release

September 28, 2021

Contact:Kate Giaquinto, Director of Communications
kate.giaquinto@doj.nh.gov | 603-573-6103James T. Boffetti, Associate Attorney General
james.t.boffetti@doj.nh.gov | (603) 271-0302

New Hampshire to Join \$21 Billion National Opioid Settlement with Distributors McKesson Corporation, Cardinal Health and Amerisource Bergen

Concord, NH – Attorney General John M. Formella has indicated the State’s intention to join a \$21 billion national opioid settlement with three major distributors, McKesson Corporation, Cardinal Health and Amerisource Bergen.

As part of the settlement process, the Attorney General today sent a letter to 28 New Hampshire subdivisions that filed their own opioid lawsuits against these defendants. The letter was also sent to the 18 subdivisions identified by the defendants as primary non-litigating subdivisions. The letter notifies these cities and towns of the State’s intention to join the Settlement and invites them to join the settlement in order to maximize the amount paid to the State.

- [Letter Issued to 28 NH Subdivisions](#) 
- [NH Subdivisions Contact List](#) 

As stated in the letter, the identified New Hampshire subdivisions, regardless of whether or not they have brought their own claims against these distributors, may join the settlement with the State. The more New Hampshire’s political subdivisions that sign on to the settlement, the larger the amount of money that comes to the State for opioid abatement purposes. See NH RSA 126-A:83-86.

The national Settlement, if finalized, would resolve all opioid litigation brought by states and local political subdivisions and would require that the Distributors:

- Pay up to \$21 billion over 18 years (with approximately \$115 million over 18 years to the State of New Hampshire), with most of those funds being dedicated for remediation and abatement of the impacts of the opioid crisis;
- Provide injunctive relief, requiring oversight of opioid marketing, sale and distribution practices. The defendants would be required to implement additional safeguards to prevent diversion of prescription opioids.

“New Hampshire remains committed to taking strong action to hold those responsible accountable,” said Governor Chris Sununu. “This necessary financial relief will help New Hampshire continue to make substantial progress in our fight against this crisis and this settlement will deter irresponsible actions that would fuel this epidemic further.”

“This settlement agreement is the result of years of hard work and dedication by attorneys at the New Hampshire Department of Justice and throughout the nation,” said Attorney General John Formella. “I would like to thank Associate Attorney General James Boffetti for leading these efforts on behalf of our Office, and for achieving a result which will bring much needed resources to our State’s work to combat the opioid crisis.”

Detailed information about the Settlement may be found at: nationalopioidsettlement.com.
New Hampshire specific information can be found on our website: www.doj.nh.gov/opioid-settlement.

The Attorney General had previously filed a complaint in Merrimack County Superior Court against McKesson Corporation and Cardinal Health. That litigation is stayed by order of the Court until January 31, 2022 to allow additional time to finalize the terms of the national settlement. If a national settlement is not reached, the litigation in New Hampshire will proceed.

The Attorney General has not joined a separate settlement with Johnson & Johnson/Janssen and is proceeding with the state’s litigation against those defendants in Merrimack County Superior Court. A trial in that case is set to begin on February 1, 2022.



Portable Document Format (.pdf). Visit nh.gov for a list of [free .pdf readers](#) for a variety of operating systems.

New Hampshire Department of Justice
33 Capitol Street | Concord, NH | 03301
Telephone: 603-271-3658

November 23, 2021



Mayor Rick Becksted
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

Dear Mayor Becksted/City Council,

Plans for the 25th Annual Cisco Brewers Portsmouth Memorial Day 5K are beginning to take shape and once again we look for your approval to hold the race. This year's race is scheduled for Sunday, May 29, 2022 at 11:00 a.m. All the logistics remain the same with the start and finish continuing to be at the Cisco Brewery on Pease International Tradeport. One hundred percent of the proceeds from the race will be donated to Krempels Center, based out of the Community Campus here in Portsmouth.

We look forward to your support once more, with almost 1500 virtual runners last year as well as thousands of supporters and volunteers, we're very excited for a cautious, safe, and successful in-person event this year. Voted as one of New England's top 100 races by New England Runner Magazine, this race attracts runners and visitors from all over New England making it a wonderful asset to the entire Portsmouth community. Please consider granting us your permission to conduct this important event, while raising pertinent funds for an incredibly inspiring nonprofit organization. The Cisco Brewers Portsmouth 5K Race has always given 100% of its proceeds to charity and will continue to do so. As always, we will work closely with the police department and the Pease Development Authority to ensure we are abiding by all necessary rules and regulations.

Thank you for your time and consideration.

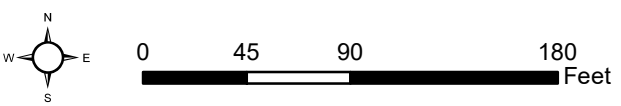
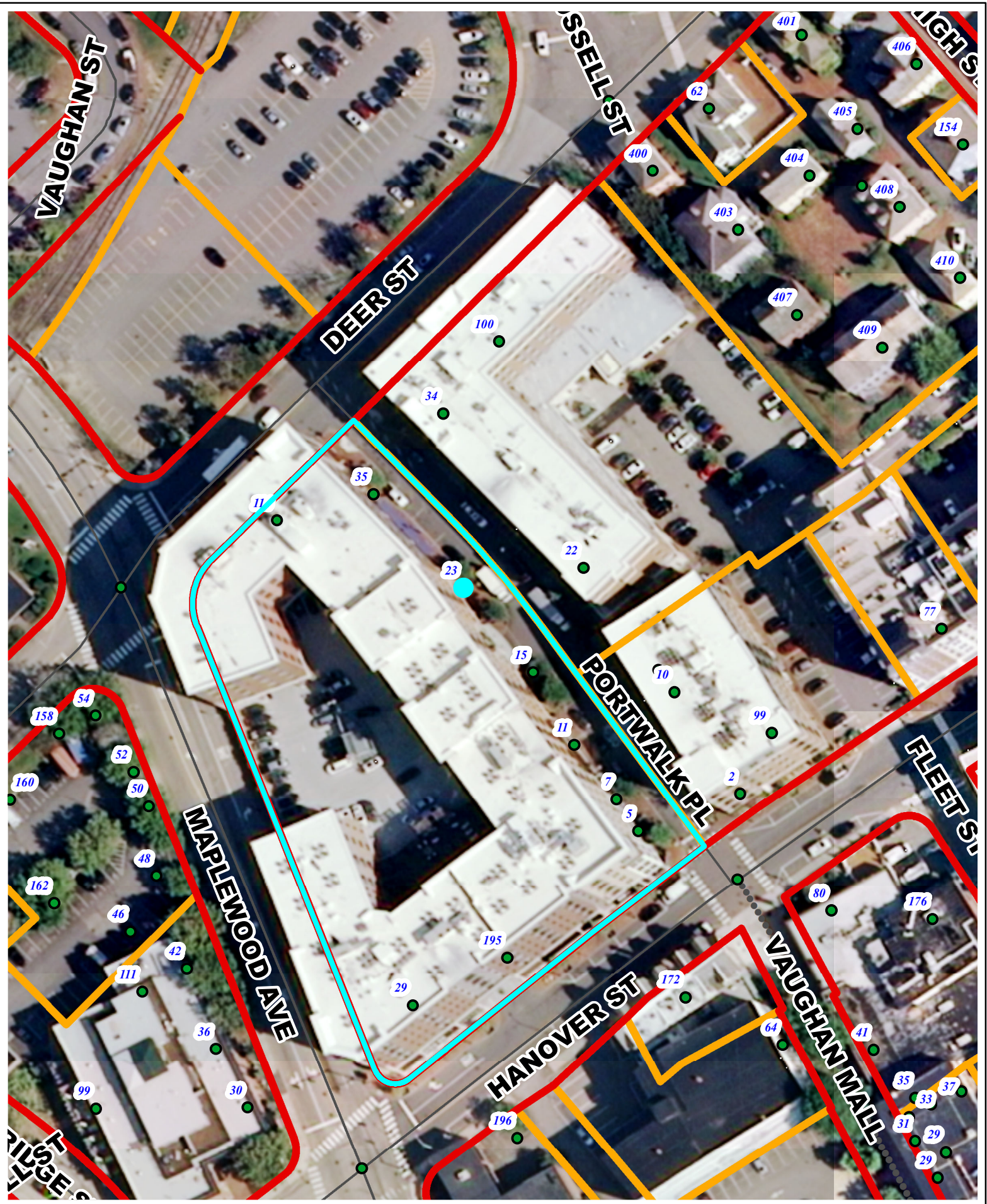
Wishing you and the City of Portsmouth a wonderful holiday season and a bright, healthy new year.

With Gratitude,

Becky Kates

Becky Kates
Krempels Center
bkates@krempelscenter.org

cc: Karen Conard, City Manager



**Request for license
23 Portwalk Place**

36"



24"



80"



STROLL™

CAFE & WINE BAR

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COFFEE

ROW 34

CITY COUNCIL E-MAILS

Received: November 12, 2021 (after 5:00 p.m.) – December 2, (before 9:00 a.m.)

December 6, 2021 Council Meeting

Below is the result of your feedback form. It was submitted by Eben Tormey (eben.tormey@gmail.com) on Monday, November 15, 2021 at 10:52:19

address: 108 Jones Avenue

comments: Good Morning Mayor and Councilors. I am writing to request that the appointment of any new land use board members be delayed until the new City Council is seated in January. The new Council has the overwhelming support of residents to move Portsmouth forward and tackle the challenges of affordable housing, managing future development and growth sustainably, and planning for climate change. The land use boards will play a critical role in this and the appointments (and/or re-appointments) should reflect the forward-looking policies of the new Council. The appointments up for consideration tonight for the Planning Board (note that the applications were filed after the election) are very clearly political in nature and an attempt by the narrow majority on the current Council to leave their mark on the land use boards after being swept from the Council in this month's election. Please take a minute and think about the future of Portsmouth and listen to the residents of Portsmouth who have spoken with their votes in the recent election and allow the newly elected Council the opportunity that they have earned to shape the future of our great City.

Thank you.

Eben Tormey

includeInRecords: on

Below is the result of your feedback form. It was submitted by Robert Bogardus (R.bogardus3@gmail.com) on Tuesday, November 16, 2021 at 13:48:24

address: Park Street

comments: As I have learned from Todd Henley. When the turf fields were put in & "approved" the turf/invironmental regulations were met.
The suggestion that "field signage" raising concern's is totally out of line. My understanding is that other/area community's have the same field materials.
Can you imagine a "guest team" seeing, such signage?

includeInRecords: on

Below is the result of your feedback form. It was submitted by Chase Hagaman (chase.hagaman@gmail.com) on Thursday, November 18, 2021 at 23:45:39

address: 17 Staysail Way, Portsmouth, NH

comments: Good evening, Mayor Becksted and City Council members:

I write to you in strong support of reappointing for another term to the Portsmouth Zoning Board of Adjustment Dave Rheume and Chris Mulligan.

It is well within your purview to nominate and appoint Board members of your choosing, and no member is entitled to remain on the Board beyond their appointed term. However, each member should be given thorough consideration when his or her term is coming to an end and they have interest in continuing to serve.

Rheume and Mulligan are worthy of that consideration, and in my view, should remain ZBA members. Both are objective, thoughtful, knowledgeable, considerate, and insightful members. They approach each application with careful consideration of the facts and circumstances before the Board, the potential impacts of requests being made, and the legal requirements and standards that the Board is expected to consider and weigh with each application.

Moreover, current Chair Rheaume artfully facilitates meetings, urging fellow members to engage in the process, guiding the Board when needed, and ensuring that the public and members of our community have a robust platform on which to participate. He also has the trust and confidence of his fellow Board members, exhibited by virtue of his continued, unanimous election as Chair.

Losing these two key members could have an enormously negative impact on Portsmouth's ZBA, resulting in an abrupt departure of important institutional and procedural knowledge, as well as leadership and subject matter expertise. Such a statement is not intended to discount the significant contributions of other Board members, as I have regularly been impressed with each member in my more than three years of service as an alternate on the ZBA.

However, before making a final decision on whether to replace Rheaume and Mulligan, I ask that you consider the importance of the Board's role, including the long-lasting nature and even the legal implications of its decisions. Members with experience, expertise, and an understanding of the complexity of many of the applications and issues brought before the Board should be retained, when possible. By virtue of losing Rheaume and Mulligan, in a very short period of time, the Board could be composed of a near majority of members with limited experience serving in this kind of capacity.

In fact, my time as an alternate member has solidified my belief that new ZBA members should have in-depth and relevant experience and expertise or benefit from serving as an alternate first. Such an approach helps ensure members develop a firm grasp of the process and standards in which the Board operates, as well as a comfort and confidence in their ability to interact with the public in a respectful and deliberative fashion and make decisions on cases in accordance with the legal analysis required.

With all of that in mind, members Rheaume and Mulligan are needed on our ZBA. I hope you take into account their record of objectivity, experience, expertise, and commitment to serving our community to the best of their abilities and reappoint them for another term.

Thank you for your consideration, and I appreciate your time.

Best,

Chase Hagaman

includeInRecords: on

Below is the result of your feedback form. It was submitted by Michelle Anderson (anderson.michl@gmail.com) on Friday, November 19, 2021 at 07:45:38

address: 236 Cate St

comments: Councilors: The meeting last night was a complete disgrace to our City. The agenda was vague and did not include a public comment section. I have a full-time career at a local company and I am the primary parent of 2 children- one in high school and another in kindergarten. My husband also has a full-time career along with a 45 minute commute each day. It is rare that we are able to attend meetings in person and we often rely on emailing my opinion in via the City website, like I am doing now. Our situation is not unique by any means. There are many residents who can't drop their life to show up to a Special Meeting.

Councilors, last night you negated my voice and the voice of many other citizens. That is not acceptable. The United States is a democracy and ALL voices of ALL residents have a right to be heard. It was abundantly clear that some members of the Council and the audience knew EXACTLY what last night's meeting was about so why wasn't Councilor Whelan's motion made public ahead of time? He was reading from a prepared statement in which he started off by saying "Tonight the City of Portsmouth is at a crossroad". This was juxtaposed by Mayor Becksted having earlier apologized TWICE within the first ten minutes of the meeting about the lack of communication regarding this meeting (once to the other councilors not in his 'clique'- and I truly shudder to use that word in reference to fully grown adults, but sadly the shoe fits in this situation- and again to Michael Kane). If the meeting was not properly communicated, then the motion should have been tabled. If we were at a crossroad last night, the citizens should have been informed ahead of time. Hard stop.

My anger is less about the decision that the Council made, although I wholeheartedly disagree that negating the contract and opening us up to litigation was the right way to move forward. I am angry because the Council did not allow me and others to voice our opinions ahead of time. It was underhanded and unethical.

Please know that I intend on being a long-time resident of Portsmouth and the actions of the Becksted 5 have fueled me to become more involved. I volunteered for and donated to Progress Portsmouth and intend to continue advocating for candidates who are for transparency and ethical actions in our city government.

includeInRecords: on

Below is the result of your feedback form. It was submitted by Matt Anderson (fankzoo@gmail.com) on Friday, November 19, 2021 at 11:39:00

address: 26 Cass St.

comments: To the members of the Council, I am writing to you in regards to the City Council meeting that was held last night, November 18, 2021. I would first like to say thank you for your service to the city. Yours is not an easy job and volunteering your time should be commended.

That being said the kangaroo court you held last night was a disgrace. The meeting was held without proper notice of your true intent (apparently even the four dissenting sitting councilors were not aware of the intention for there to be a motion to breach the city's contract with Redgate/Kane), no indication there would be an opportunity for public comment (as confirmed by the city attorney to Councilor Lazenby), and the vote was held against the recommendation of your own city attorney (let alone consultation with the attorney the city hired to advise/represent us on this exact topic).

The five of you who were resoundingly rebuked in the recent election have significantly increased the liability of our city in the litigation with Redgate/Kane. Multiple attorneys stated as much last night. And Councilor Kennedy and Huda call this a "gift". That's a gift that shouldn't be given. You have continued the cycle of a current council making the job of the incoming council more difficult which is not in the best interests of our city. I appreciate there are a small number of residents who are excited by your actions, it appears to be the residents you were texting with yesterday Mayor Becksted, but make no mistake that tiny applause you received last night does not represent the will of the majority of our city. I have no doubt your actions will be undone, and in short order, but the fact you are willing to potentially cost the city millions out of spite shows who you truly represent and invalidates all of your talk of cutting spending and decreased tax rates.

I would like to thank Assistant-Mayor Splaine, Councilor Lazenby, Mayor-Elect McEachern, and Councilor Tabor for attempting to stop this vote from being jammed through. The many points you made last night were valid and appreciated. Mayor Becksted, I hope that you will issue a public apology for the way you spoke to City Manager Conard last night. It was the most embarrassing part of the evening which is a real feat. Beyond coming across like a petulant child with the heavy sighing every time someone said something you didn't like, yelling at the City Manager and pointing your finger in her face is an ugly look and will not be tolerated by any Mayor of our fine city.

If there is an upside to last night it is that the five of you have affirmed the right choice was made in the recent election. You claim to care about the city budget, claim to be open to hearing from the public, and claim to advocate for transparency in government. Last night made it clear that those claims only apply when you want them to. I hope that you will stop trying to sabotage our city and the incoming council in the time that is left in your term.

Thank you for your time and I hope you all have a wonderful Thanksgiving.

includeInRecords: on

Below is the result of your feedback form. It was submitted by Jonathan Sandberg (jfsandberg@yahoo.com) on Friday, November 19, 2021 at 16:10:13

address: 160 Bartlett Street

comments: I watched yesterday's special council meeting in which you voted to dissolve the city's partnership with Redgate/Kane with utter dismay. For the better part of the past two years, although I generally disagreed with the decisions of five members of the council, I believed they acted in good faith to improve the community that they cared about. Yesterday's action was nothing less than a bomb meant to lay carnage to our city. Holding a vote of such consequence, without legal council and proper public input, demonstrated utter contempt and disregard for the public. It was childish and despicable.

I hope that you five who voted for it feel shame. I am disgusted for you.

includeInRecords: on

Below is the result of your feedback form. It was submitted by Nick Scuderl (nickscuds@yahoo.com) on Saturday, November 20, 2021 at 02:36:42

address: 311 Spinney Rd

comments: I am disappointed in the decision made tonight by 5 of the outgoing council members, I believe this was done in bad faith and malice after ignoring multiple request from Cliff and others. It definitely appears like you can be held personally liable if you act in bad faith, fraud, malice or intentional misconduct. I hope the incoming council members have the city lawyers hold them fiscally responsible for this decision.

includeInRecords: on

Below is the result of your feedback form. It was submitted by Gerald Duffy (Gduffy44@gmail.com) on Tuesday, November 30, 2021 at 15:36:19

address: 428 Pleasant Street #3

comments: Dear Mayor and Council:

I ask you to read something that was written two years ago.

“Congratulations to Mayor-elect Becksted, the incoming City Council, and the Portsmouth Citizens Alliance for their election victory. While I may have knocked on every voter’s door in four plus wards, my efforts were no match for their massive Get Out The Vote operation that included a unified signage effort, volunteers leafleting entire neighborhoods, and an unprecedented phone banking operation that I credit for their increased voter turnout.”

Isn’t it refreshing to hear such humility, respect, dignity, and grace in defeat? They are the words of councilor-elect Josh Denton who had just been voted out in 2019.

A month ago, the voters of Portsmouth gave this council a performance review. Let’s give them some credit and assume they knew what they were doing. They fired five of you.

Now you may think otherwise, but no-one hoodwinked these Portsmouth voters, who turned out in record numbers. Ward 5 had an unprecedented turnout of 45%. The McIntyre Project and everything to do with it barely registered with voters.

People are tired of it.

These voters could not care less who is a Democrat, Republican, or Independent. The negative stuff from both Preserve Portsmouth and the spoof web site that mocked it didn’t move the needle one bit. Nobody cared. Portsmouth voters are smarter than that.

Nor did money buy votes, any more than it did in 2019 when developer money flowed through the Revisit group and candidate Tyler Goodwin spent \$7,400 to little avail.

Above all else, voters wanted good governance. And now you have made a reckless decision on a major project and are rushing through land use board appointees on your way out the door. That is not good governance. Your actions are demonstrating yet again why voters turfed you out. How do you suppose voters feel now as they watch you disrespect their decision and stick to business as usual?

I urge you to set aside all important business that remains this year and let the next council handle it. Please reach for your better selves, show some humility, and leave with at least some dignity. It’s the right thing to do and you know it.

Gerald Duffy

includeInRecords: on

Below is the result of your feedback form. It was submitted by Arthur Clough (arthurclough@hotmail.com) on Wednesday, December 1, 2021 at 21:04:30

address: 431 Pleasant

comments: Good Evening to the City Council, I read the post of Mr. Duffy's recent letter to the council and his quoting of Josh Denton and his "graceful" exit from office.

I'd like to remind this council of a speech that Mr. Denton gave to this council in which he reminded everyone that he was voted out of office because of the McIntyre Building and the desire of the citizens to be part of process (Revisit McIntyre).

If you have forgotten what Mr. Denton had to say, you can find a video here:

<https://www.youtube.com/watch?v=leCR4q-aqS0>

It was disappointing that the current Council couldn't get the McIntyre project completely over the goal line, but I don't know how you could have with the way that the developer refused to cooperate and threatened the city.

To those who voted to end the partnership, THANK YOU. The citizens were betrayed by the developer, not by our hardworking Council.

If you do not receive the hyperlink to the Youtube video, please email me.

Arthur

includeInRecords: on

Below is the result of your feedback form. It was submitted by David Witham (withamarchitecture@gmail.com) on Thursday, December 2, 2021 at 07:35:04

address: 238 Walker Bungalow Road

comments: Dear Mayor Becksted & City Council Members,

I am writing to you all to strongly endorse the reappointments of both Dave Rheume and Chris Mulligan to the Zoning Board of Adjustment.

While serving on this board for 15 years, I can personally share that I was privileged to have chaired the ZBA while both these members were on the board and can attest to their professionalism and sense of civic responsibility. They both exhibit a great deal of institutional knowledge that cannot be easily replaced.

It is no secret that there are some on this Council who have felt a need to "cleans" our boards and commissions as these volunteer boards are somehow individually responsible for the development over the past decade in our city that some find offensive. I cannot disagree with this sentiment more, as the reality is that our boards and commissions are tasked to uphold the Zoning Ordinance, not write it. Most all of the development in our city that has caused some tension is the result of what our zoning allows, not what board members decided individually. To that extent, both members Rheume and Mulligan are staunch supporters of our Zoning Ordinance and the criteria set before them in making decisions.

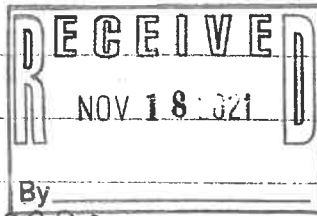
It should also be shared with the council that it is inevitable for all towns and cities throughout the state to have decisions made by their boards and commissions to end up in court, whether they supported a project or denied it. I am proud to say that at least during my tenure on the ZBA, the City of Portsmouth had one of the highest litigation success rates in the state and members like Rheume and Mulligan were all part of this success. In essence, the courts were stating that the Portsmouth ZBA was doing an excellent job with their task. I thus challenge any notion that the ZBA is indeed one of the boards that needs to be cleansed.

I cannot stress enough to you all the tremendous loss I feel it would be to the City to lose both Rheume and Mulligan on the ZBA which is arguably the most difficult board or committee to sit on. The dedication and institutional knowledge that they both bring would take years to recover from.

Respectfully submitted,

David Witham

includeInRecords: on



City Clerks Office
Portsmouth, N.H.

Gentlemen,

I am told that taxies have not needed to have meters for a long time and now they no longer need roof signs either. This is very unwise, because any con man can say, "I am a taxi," and any taxi, uber or whatever can charge whatever they want to for a fare and if it is unreasonable, no one can do anything about it.

Think about it and I have every confidence that you all in this cities government will do the right thing

There should also be a taxicab commission

Sincerely, Robert Ayers



112 Penhallow Street
Portsmouth, New Hampshire 03801
603-436-6343 www.portsmouthfabric.com

11/8/21

To the City Manager and City Council,

I am writing to express my concern about the future possibility of restaurants in Portsmouth being given access to public parking spaces to establish outdoor dining. For the past 20 months, retailers in Portsmouth have faced the same Covid pandemic as the restaurants. For 15 of the past 20 months, retailers in Portsmouth have faced the loss of approximately 69 parking spaces in the downtown at the cost of over \$300,000 (\$4,348 per parking space) in lost revenue for the city due to restaurants expanding their dining to the outdoors without any expense to them. For 15 of the past 20 months, retailers have heard daily complaints from their customers asking "what has happened to all the parking downtown" while looking at all the empty tables day after day.

On Penhallow St where I have had a retail business for 42 years, we have fielded complaints about parking from customers for that many years. However, during 15 of the last 20 months, the complaints have grown exponentially. Out of 30 parking spaces along the entire length of Penhallow St, only 9 spaces were left for metered parking for the public. What appeared to be a romantic scene of dining in the street a few nights a week came at the dear cost of lost parking during the day especially when vacant tables which are not used all day long take up valuable parking spaces! Also, many evenings the outdoor seating was vacant due to rain, oppressive heat or the restaurant being closed. **The retailers are just as important to attracting customers to the downtown as restaurants and the scenario of 15 of the last 20 months is not sustainable for supporting retailers in the downtown.**

Many customers come to Portsmouth Fabric Company to purchase sewing machines and have their sewing machines serviced at the shop. This entails getting large, heavy boxes into the customer's cars or customers dropping off and picking up their machines for service. These customers are not able to carry their machines back and forth to the garage. Parking on Penhallow St must be made available beyond the 9 spaces that were left during 15 of the past 20 months. **Please invite retailers to any meetings convened about downtown parking so that their voices may be heard along with those of the restaurants to ensure that the decisions being made incorporate all business owners who make downtown Portsmouth a desirable place to be.**

Thank you,
Gretchen Rath
owner

RAINBOTH, MURPHY & LOWN, PA
ATTORNEYS AT LAW • PROFESSIONAL ASSOCIATION



received
11/22/21

November 17, 2021

MICHAEL P. RAINBOTH *†
KENNETH D. MURPHY **
BRADLEY M. LOWN †
JAMES E. COUGHENOUR, JR. †*

VIA FACSIMILE & 1ST CLASS MAIL
(603) 427-1526

Rick Becksted, Mayor
& City Council
City of Portsmouth
1 Junkins Avenue
Portsmouth, NH 03801

RE: Worth Lot Parking Agreement Revision

Dear Mayor Becksted & City Council:

This office represents the Worth Condominium Association. I am writing in reference to the Worth Lot Parking Agreement between the Association and the City dated August 29, 2006, as amended. I enclose a copy of the Agreement and the Amendments.

We are requesting two (2) changes to the Agreement:

1. Hours

The current agreement provides that “The term ‘daytime’ shall be defined to match as closely as possible the manner in which ‘daytime’ is used in connection with the issuance of parking passes to the High Hanover Parking Facility.” (HH) There are no longer daytime-only monthly passes at HH. We are requesting that the Agreement specify that the hours shall match instead the weekday meter schedule in the Worth Lot (currently 8 am-8 pm) for all days including Sunday. It’s important to specify weekday because on Sundays the meters are noon-8, and the Association needs spaces to be reserved 8am-8pm. Otherwise, restaurant employees would have to move their cars mid-day I would suggest language that if the City changes the hours again that Worth shall be entitled to park until the new time in order to avoid this issue arising again in the future. My understanding is that the City has verbally agreed to this change with Dan Wallace, the prior Property Manager for Worth Condo. Association.

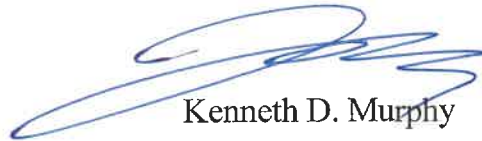
2. Rate

We are also requesting that the Agreement be amended to specify the payment. The rate is currently tied to that same daytime HH monthly pass rate. When the City switched to a 24-hr-only pass, the City initially requested that the Worth Condo pay the full monthly pass rate. The Association does not need the spaces at night and it was agreed between the parties that payment would be 80% of the HH monthly pass resident rate and that is what Worth has been paying for a long period of time. This amount is currently \$160. We are requesting that the Agreement specify that payment shall be 80% of the HH monthly pass resident rate.

It is my understanding that City staff may also be seeking to make additional amendments to the Parking Agreement. Therefore, we are requesting that the Council authorize City staff to reopen discussions in regard to the Agreement so that both parties may make requested amendments.

I look forward to working with you on this matter.

Very truly yours,



Kenneth D. Murphy

:aar

cc: Robert Sullivan, Esquire (via Fax: 603-427-1577)
Karen Conrad, City Manager (via Fax: 603-610-7202)

AGREEMENT

NOW COME the City of Portsmouth, Portsmouth, New Hampshire (the "City") and Worth Development Corporation, 282 Corporate Drive, Portsmouth, New Hampshire ("Worth").

WHEREAS the parties to this Agreement have entered a lease wherein Worth has leased a certain parking lot known as the Worth Parking Lot to the City under Lease dated January 17, 1973; and,

WHEREAS said Lease provides for a conveyance of said lot by Worth to the City; and,

WHEREAS the parties have agreed to the terms of said conveyance; now,

THEREFORE, the parties agree as follows:

1. This agreement is intended by the parties to implement the settlement concept outlined in a certain memorandum addressed to City Manager John P. Bohenko of the City of Portsmouth from City Attorney Robert P. Sullivan dated January 13, 2006 and approved by the City Council on January 23, 2006.

2. Worth will execute and deliver a Warranty Deed conveying the Worth Parking Lot to the City, to be recorded at the Rockingham County Registry of Deeds along with this agreement. The City and Worth agree, however, that this agreement is not in any way secured by that deed. The property conveyed by the deed shall be free and clear of any reverter, right of entry or any other interest of Worth except as expressly referenced in the deed.

3. Worth waives any claim to the air-rights associated with said parcel and by its warranty deed intends to convey all of its rights in the parcel to the City. Said conveyance is for nominal consideration and will be treated as a gift from Worth to the City in reliance upon a

053872

2006 AUG 30 AM 9:40

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

certain letter addressed to Robert Shaines of Worth Development Corporation from Michael J. Asselin, CPA of Cummings Lamont & McNamee, P.A. of dated May 26, 2006. .

4. The City will continue to allow Worth, its successors or assigns, to reserve for daytime use of its tenants, exclusive of Sundays and Holidays, twenty-three (23) parking spaces in the Worth Lot. The spaces will be selected and designated by the City. In consideration of the use of the spaces, Worth will pay to the City in six month increments in advance a sum equal to the City's monthly daytime parking rate normally charged by the City for vehicle parking in the High Hanover Parking Facility. The term "daytime" shall be defined to match as closely as possible the manner in which "daytime" is used in connection with the issuance of parking passes to the High Hanover Parking Facility. As long as Worth makes timely payment of the said sum this provision shall remain in effect until such time as the City notifies Worth that it has chosen to build a parking facility or other structure upon said lot which would eliminate the use of said spaces, or for a period of twenty-five (25) years from this agreement, whichever first occurs. Worth shall have no parking rights under this agreement during the construction period for any building constructed on the said lot.

5. In the event the City builds a parking garage or other structure upon the Worth Lot, it agrees to continue to maintain at least one hundred ten (110) public parking spaces (inclusive of the spaces represented by the 35 passes reserved for Worth under item #6 below) following such construction.

6. If at any time the City determines to construct a parking garage upon said Worth Lot, Worth, its successors and assigns shall be given the right to reserve for use by tenants of the Worth building up to thirty-five (35) parking passes in said parking garage. The parking fee will

BK 4701 P6 0531

be 75% of whatever monthly fee is charged for daytime parking at the High-Hanover garage or any successor to the High Hanover garage. Said rate will be paid monthly in advance by Worth or its successors or assigns. As long as Worth makes timely payment of the said rate, this provision shall expire on the twenty-fifth anniversary date following the opening of the garage on the Worth parcel.

7. The right of the City to develop the Worth parking lot shall be subject to its obligation to provide public parking as set out above and will be further subject to the City retaining ownership of said parcel for forty years from the date of this agreement. The sole remedy available to Worth for violation of this provision shall be specific performance. The City may out source the operation of any parking activity subject to its obligations under this agreement.

8. In the design, construction and maintenance of any parking facility constructed on the Worth Lot, the City shall provide for the following:

- A. Walkway access to the parking facility from the second floor of the Worth Development Corporation property on Congress Street and from the top floor of the Shaines & McEachern building, so long as the design, construction and maintenance of such walkways is done at the expense of the property owners to be benefited by the walkways and with the requirement that the walkways be maintained by the owners of those properties.
- B. The City shall provide an annual license allowing the current dumpster, or a similar facility to be maintained on the property. The dumpster agreement will be renewable annually and may be adjusted by the parties to deal with changing circumstances.
- C. The City shall provide an accommodation to allow the continuation of existing PSNH transformers which are on the Worth Lot at the present time.

BK 4701 PG 0532

9. The parking credit attributable to the Worth building under Article XII, Section 10-1201(A)(5) of the City's zoning ordinance will be determined by the City's Planning Department and provided to Worth on reasonable request

10. Worth hereby grants an annual renewable license to the City to continue to maintain parking meters along the northerly portion of other property of Worth as they now exist.

11. The parties agree land conveyed will be appraised as of the date of transfer by an agreed upon Member of the Appraisal Institute (MAI) and that said appraisal will be accepted by the parties, and the City agrees to provide documentation to Worth to acknowledge a gift in that amount. The City makes no representation regarding any use, for tax purposes or otherwise, of this information.

12. This agreement will survive the deed referenced in item #2 above and will be recorded in the Rockingham County Registry of Deeds.

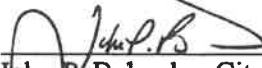
13. The Worth Development Corporation, pursuant to corporate vote taken by the Directors on July 18, 2006, has authorized Robert A. Shaines to execute this agreement.

14. The City of Portsmouth, by vote of the City Council, taken on January 23, 2006 has authorized its City Manager, John Bohenko, to execute this agreement on behalf of the City.

15. This agreement shall be binding on the heirs and assigns of the parties.

Dated: August 29, 2006

CITY OF PORTSMOUTH

By: 
John P. Bohenko, City Manager
Pursuant to vote by the City Council on
January 23, 2006.

BK 4701 P6 0533

**WORTH DEVELOPMENT
CORPORATION**

Dated: August 29, 2006

By: *Robert A. Harris*
Its Authorized Officer *President*

3

MAIL TO

BK 5671 PG 0604

~~SHAINES & MCEAGHERN~~
~~PROFESSIONAL ASSOCIATION~~
~~282 CORPORATE DRIVE~~
P. O. BOX 360
PORTSMOUTH, N.H. 03802-0360

051574

ASSIGNMENT OF AGREEMENT

THIS ASSIGNMENT OF AGREEMENT (the "Assignment") is made this 22nd day of October 2015, by WORTH DEVELOPMENT CORPORATION (the Assignor"), a New Hampshire corporation with a business address of 282 Corporate Drive, #2, Portsmouth, NH 03801, and delivered to WORTH DEVELOPMENT I CONDOMINIUM ASSOCIATION (the "Assignee") of 10 Vaughan Mall, Portsmouth, NH 03801, with a mailing address of P.O. Box 4734, Portsmouth, NH 03802-4734, and by this Assignment Worth Development Corporation, hereby SETS OVER, TRANSFERS AND ASSIGNS to Worth Development I Condominium Association all of its rights, title and interest in the Agreement as amended and further described as follows:

2015 NOV 18 AM 9:36

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

- Agreement between the City of Portsmouth and Worth Development Corporation dated August 29, 2006, and recorded in the Rockingham County Registry of Deeds on August 30, 2006 in Book 4701, Page 0529, relating to a certain parking lot now owned by the City and known as the Worth Parking Lot, and the Amendment to Agreement dated September 2, 2011, and recorded in said Registry on September 6, 2011 in Book 5241, Page 2018.
- Assignment of Parking Space between Worth Development Corporation and Ganem Properties, LLC dated November 21, 2006 and recorded in said Registry in Book 4735, Page 1123 relating to parking space 7 in the Worth Parking Lot, so-called.

- Assignment of Parking Space between Worth Development Corporation and Ganem Properties, LLC dated January 12, 2010 and recorded in said Registry in Book 5082, Page 1454 relating to parking spaces 1 and 9 in the Worth Parking Lot, so-called.
- Assignment of Parking Space between Worth Development Corporation and Go Zen LLC dated July 19, 2013 and recorded in said Registry in Book 5461, Page 2600 relating to parking spaces 2, 3 and 4 in the Worth Parking Lot, so-called.


and Worth Development I Condominium Association by this Assignment hereby accepts such Agreement accepts to fulfill the duties of the Assignor under the terms of said Agreement.

Executed as an instrument under seal as of the day and year first written above.

ASSIGNOR:
Worth Development Corporation



Witness


By: 

Arnold Fishbein, Treasurer

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

The foregoing instrument was acknowledged before me this ___ day of October 2015, by Arnold Fishbein, Treasurer of Worth Development Corporation, and executed the same as his voluntary act and deed, for the purposes therein contained, in his said capacity.





Notary Public/Justice of Peace
My Commission Expires:

ASSIGNEE:
Worth Development I Condominium
Association

Celia A. Bailey
Witness

By: Edward Ganem
Edward Ganem, President

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

The foregoing instrument was acknowledged before me this 23 day of October 2015, by Edward Ganem, President of Worth Development I Condominium Association, and executed the same as his voluntary act and deed, for the purposes therein contained, in his said capacity.

Jennifer Martin
Notary Public, Justice of Peace
My Commission Expires: _____

JENNIFER MARTIN, Notary Public
My Commission Expires December 5, 2017

Return to: MAIL TO 

SHAINES & McEACHERN
PROFESSIONAL ASSOCIATION
282 CORPORATE DRIVE
P. O. BOX 360
PORTSMOUTH, N.H. 03802-0360

BK 5241 PG 2018

AMENDMENT TO AGREEMENT

NOW COME the City of Portsmouth, Portsmouth, New Hampshire (the "City") and Worth Development Corporation, 282 Corporate Drive, Portsmouth, New Hampshire ("Worth") and hereby state as follows:

WHEREAS the parties entered into an Agreement which was recorded at the Rockingham County Registry of Deeds on August 30, 2006 and recorded at Book 4701, Page 0529; and,

WHEREAS the City's recent adoption Sunday parking fees has affected the terms of the Agreement due to the fact that when the Agreement was written there was no fee for Sunday parking; and,

WHEREAS Worth had been provided the use of 23 parking spaces to reserve at an agreed upon daytime parking rate for Monday to Saturday and Worth desires that now those spaces now be made available on Sunday under the same terms; now,

THEREFORE, the parties agree as follows:

1. Item #4 of the Agreement recorded in the Rockingham County Registry of Deeds at Book 4701, Page 0529 shall be amended as followings:

The City will continue to allow Worth, its successors or assigns, to reserve for daytime use of its tenants, exclusive of ~~Sundays~~ and Holidays, twenty-three (23) parking spaces in the Worth Lot. The spaces will be selected and designated by the City. In consideration of the use of the spaces, Worth will pay to the City in six month increments in advance a sum equal to the City's monthly daytime parking rate normally charged by the City for vehicle parking in the High Hanover Parking Facility. The term "daytime" shall be defined to match as closely as possible the manner in which "daytime" is used in connection with the issuance of parking passes to the High Hanover Parking Facility. As long as Worth makes timely payment of the said sum this provision shall remain in effect until such time as the City notifies Worth that it has chosen to build a parking facility or other

037492

2011 SEP -6 AM 10:45

ROCKINGHAM COUNTY
REGISTRY OF DEEDS

structure upon said lot which would eliminate the use of said spaces, or for a period of twenty-five (25) years from this agreement, whichever first occurs. Worth shall have no parking rights under this agreement during the construction period for any building constructed on the said lot.

2. This agreement will be recorded in the Rockingham County Registry of Deeds.

3. The Worth Development Corporation, pursuant to corporate vote taken by the Directors on Sept 2, 2011, has authorized Robert A. Shaines to execute this agreement.

4. The City of Portsmouth, by vote of the City Council, taken on June 20, 2011 has authorized its City Manager, John Bohenko, to execute this agreement on behalf of the City.

5. This agreement shall be binding on the heirs and assigns of the parties.

Dated: August 31, 2011

CITY OF PORTSMOUTH

By: [Signature]
John P. Bohenko, City Manager

Pursuant to vote by the City Council on June 20, 2011.

Dated: 9/2, 2011

WORTH DEVELOPMENT CORPORATION

By: [Signature]
Its Authorized Officer [Signature]

Case Study



The TOF and EOF results are within experimental measurement uncertainty but demonstrate a large difference between the conventional targeted LC-MS/MS analysis, meaning that there are considerable amounts of unknown PFAS in the above example. These unknown PFAS are most likely precursor compounds which could be identified using LC-QToF-MS or a TOP assay.

Regarding the “Method Acceptance for PFAS” and “Comments” on various test methods.

1. To my understanding, yours is not a “regulatory” body and your contract was not for PFAS discharging products within “regulatory” parameters. To my understanding your contract was for “PFAS-free”.
2. A quick call to a Eurofins PFAS specialist will confirm the level of scrutiny their “experimental” laboratory testing withstands, and information on data quality is included in the laboratory reports.
3. Given the known breakdown of PVDF under UV radiation (see reference in my 11/21 communication), the extreme oxidation of the TOP assay is well justified.

Simplified Table of Testing

<p>What should be tested?</p>	<ul style="list-style-type: none"> ● Any athletic field system component promised to be PFAS free in the bid/contracts, and ● Any further item the Council deems fit.
<p>What tests should be performed? Please Note: Because of the UV radiation degradation of the PFAS Dr. Laura Green mentioned being used in field production, as documented in my communication dated Sunday, November 21, 2021, my recommendation is that components undergo UV radiation. This was not mentioned in the table provided for comment, but I raise this issue to you again. After sun exposure, the PFAS available to leach into stormwater is extremely likely to increase over time.</p>	<ol style="list-style-type: none"> 1. UV oxidation (enough to simulate years of sunlight exposure) 2. Synthetic Precipitation Leaching Procedure (SPLP) Extraction (to simulate what will go into stormwater) 3. PFAS Analysis of the resulting samples, by <ol style="list-style-type: none"> a. Total Oxidizable Precursors (TOP) Assay (isotope dilution), and b. Eurofins Non-Specific PFAS (HRMS) (Quadrapole MS)
<p>Who should pay for it?</p>	<p>The people who promised you a PFAS free installation.</p>

Regarding the “Outstanding Questions Regarding Analyses”

1. **What size sample (1 in x 1 in; 1ft x 1ft)? composited from several?**
 - a. I defer to the Laboratory Manager to let you know what they would need. I’m sure they will be happy to help you create the project and walk you through it in a completely legally defensible way that protects all parties involved.
2. **In Fill is natural material that could have been impacted during its growth, is sampling appropriate?**
 - a. Sampling absolutely is appropriate, *especially* because the in-fill may have natural materials that were contaminated during their growth or production.
3. **What will be the acceptable reporting limits for each analysis?**
 - a. The Laboratory Manager, equipment, and conditions, sample matrix conditions, and available standards will determine the reporting limits.
4. **What preparation and extraction methods should be used? (cryopulverization?, 1 gram of "whole" sample manually crushed, methanol?)**
 - a. Answered in Simplified Table of Testing.
5. **How do we compare TOP assay results to actual PFAS mass?**
 - a. In my opinion, you don’t need to because your promise was “PFAS free.” However, in the Martha’s Vineyard project they determined a stormwater PFAS concentration of 12ppt. If you’d like to see how the calculations were performed, you can find them here: https://www.mvcommission.org/sites/default/files/docs/2021-02-26%20%28TurfAnalysisReport_FINAL%29.pdf

Total Organofluorine Analysis & PFAS Investigations

What is TOFA?

The PFAS National Environmental Management Plan (NEMP) January 2018 defines TOFA as the Total Organic Fluorine Assay and states "Total fluoride in organic and inorganic forms" are included in the analysis and the NEMP goes on to say "Can be used in conjunction with a US EPA method (viz 537 or 821) to understand the total presence of organic fluorine in a sample and compare this to the organic fluorine equivalent detected by the US EPA method". Eurofins has invested in automated combustion ion chromatography instrumentation to allow this analysis to be conducted for AFFF concentrates, water and solid samples such as soil, biosolids, granulated and powdered activated carbon as well as wipes or filter samples.

Total Organofluorine - Combustion Ion Chromatography (TOF-CIC)

Samples are contained in ceramic boats and are introduced into the furnace where pyrohydrolysis occurs at 900–1000 °C in a humid, O₂-rich environment. The samples are oxidised under these conditions, breaking the strong carbon-fluorine bond, and the vapours are sparged through an absorption solution using Ar. The HF evolved from combustion of organic fluorine dissociates to form H⁺ and F⁻ ions in the absorption solution, which also contains an internal standard to calibrate the analytical results. The samples are then transferred to the ion chromatograph for analysis where fluoride is measured. The method, LTM-INO-4370, is derived from NATA-accredited (ASTM D7359-08 compliant) in-house method LTM-INO-4150 (Part A) for fluoride analysis in solids.



Direct combustion of materials results in a LOR of 0.05 mg F/kg that is well below the NEMP's landfill acceptance criteria and also meets the Interim soil criteria for ecological direct exposure for public open spaces. Note that the criteria expressed for PFOS/PFHxS and PFOA must take into consideration that TOF, as determined by the TOF-CIC method, is only approximately 60% of these values given the relative molecular weights of the molecules and their total fluorine content.

Adsorbable Organofluorine (AOF)

For the trace level determination of adsorbable organic fluorine (AOF) in water, the sample must first be passed through a mixed-mode weak anion exchange solid-phase extraction (SPE) cartridge thereby adsorbing the PFAS compounds. AOF is then determined by eluting the contents of the SPE cartridge with NaOH in methanol, evaporating and reconstituting the extract, and finally determining the fluoride

content of the extract by CIC. The LOR is dependent on the volume passed through the SPE, so the presence of suspended solids does impose limits on the procedure, but for clean waters the LOR is 0.001 mg F/L. Where significant levels of suspended solids are encountered the LOR may be limited to 0.01 mg F/L and the suspended solids may be determined separately by direct combustion.

Extractable Organofluorine (EOF)

For solid samples, where LORs lower than the direct combustion method of 0.05 mg F/kg are required, extraction can be performed using the same solvent systems used for conventional targeted LC-MS/MS methods. The resulting concentrate is then combusted giving an extractable organofluorine result. A LOR of 0.02 mg F/kg is achievable.

Case Study



Total Organic Fluorine (TOF)	410 mg F/kg
Extractable Organic Fluorine (EOF)	390 mg F/kg
LC-MS/MS ΣPFAS (n=28)	120 mg/kg

The TOF and EOF results are within experimental measurement uncertainty but demonstrate a large difference between the conventional targeted LC-MS/MS analysis, meaning that there are considerable amounts of unknown PFAS in the above example. These unknown PFAS are most likely precursor compounds which could be identified using LC-QToF-MS or a TOP assay.

Eurofins | mgt Expertise

If you would like to discuss details for your upcoming projects then please contact your local Analytical Service Manager or one of our Business Development team listed below.

Technical support can be provided by contacting Dr Edward Nagul or Dr. Bob Symons.

Global Leader - Results You Can Trust

EnviroNote No. 1080 - October 2018

ABN 50 005 085 521

Contacts for further information

Rhonda Chouman
Charl Du Preez
Jonathon Angell

+61 3 8564 5000
+61 2 9900 8460
+61 7 3902 4606

Michael Horne
Peter Gratwick
Matt Deaves

+61 499 810 009
+61 448 176 035
+61 8 9251 9600

Technical Support

Dr Bob Symons
Dr Edward Nagul

+61 2 9900 8400
+61 3 8564 5000

Laboratories

Melbourne
Sydney
Brisbane
Perth
Christchurch

Offices

Newcastle
Adelaide
Darwin
Auckland

E: EnviroSales@eurofins.com

W: <http://www.eurofins.com.au/environmental-testing>



CITY OF PORTSMOUTH

CM Info Item #1

Planning Department
1 Junkins Avenue
Portsmouth, New
Hampshire 03801
(603) 610-7216

November 23, 2021

To: Portsmouth City Council
Attn: Karen Conard, City Manager

RE: Recommendation to the City Council regarding the proposed acquisition of the Community Campus

Dear Mayor Becksted:

The Planning Board, at its regularly scheduled meeting of November 18, 2021, considered the proposed acquisition of the Community Campus property from the Foundation for Seacoast Health. Said property is shown on Assessor Map 266 Lot 4 and located within the Industrial District. The Planning Board found that this proposal was appropriate considering the context of the City's comprehensive planning and voted to recommend the acquisition of the Community Campus property to the City Council.

The minutes and audio recording of this meeting are available through the Planning Department.

Very truly yours,

Peter Britz, Acting Planning Director
for Dexter Legg, Chairman of the Planning Board

cc: Suzanne Woodland, Acting Deputy City Manager

I. PRESENTATIONS

B. Recommendation to the City Council regarding the proposed acquisition of the Community Campus

Introduction

The Planning Board is asked to determine whether the proposed acquisition of the Community Campus property from the Foundation for Seacoast Health is appropriate considered in the context of the City's comprehensive planning.

Should the Board find that this proposed acquisition is in line with the City's comprehensive planning the board must make this recommendation to the City Council. A vote for this recommendation is required.

City Ordinance

- Article VI Section 11. 601: INTENT
 - o *The intent of this Article is to ensure that proposed municipal actions relating to land acquisition, disposition or use, and to the laying out, construction or discontinuance of public streets, are considered in the context of the City's comprehensive planning.*
- Article VI Section 11.602: REFERRAL AND REPORT
 - A. *The following matters shall be referred to the Planning Board in writing at least thirty (30) days before final action is taken:*
 - (1) *Any acquisition or disposition of municipal real property, including fee transfers, easements and licenses;*
 - (2) *Any plan for the construction, alteration, relocation, acceptance or discontinuance of a public way.*
 - B. *No final action on a matter listed herein shall be taken until either the Planning Board has reported to the City Council thereon in writing or sixty (60) days have elapsed since the referral without such report.*
 - C. *The failure to refer a matter listed herein to the Planning Board shall not affect the legal validity or force of any action related thereto if the Planning Board waives such referral.*

Relevant References in the City of Portsmouth Master Plan

Goal 1.1 : "Support the continued vitality of the Urban Core through public investment and land use regulations."

- o Actions listed under this goal include:
 - Support reinvestment in under-utilized buildings and land.
 - Enhance the quality and connectivity of pedestrian facilities.

- Promote the creation of open spaces, seating areas and other outdoor amenities.

Goal 1.4: “Improve access to indoor and outdoor recreation facilities throughout the City.”

- Actions listed under this goal include:
 - Enhance neighborhood parks, recreation facilities and playgrounds, and add new ones where appropriate.
 - Create additional outdoor recreational fields where possible.
 - Develop a consolidated recreation facility for residents of all ages and income levels.
 - Create new public spaces that can be used for both recreation and floodplain storage.

Goal 5.2: “Manage public open spaces for passive recreation and environmental preservation.”

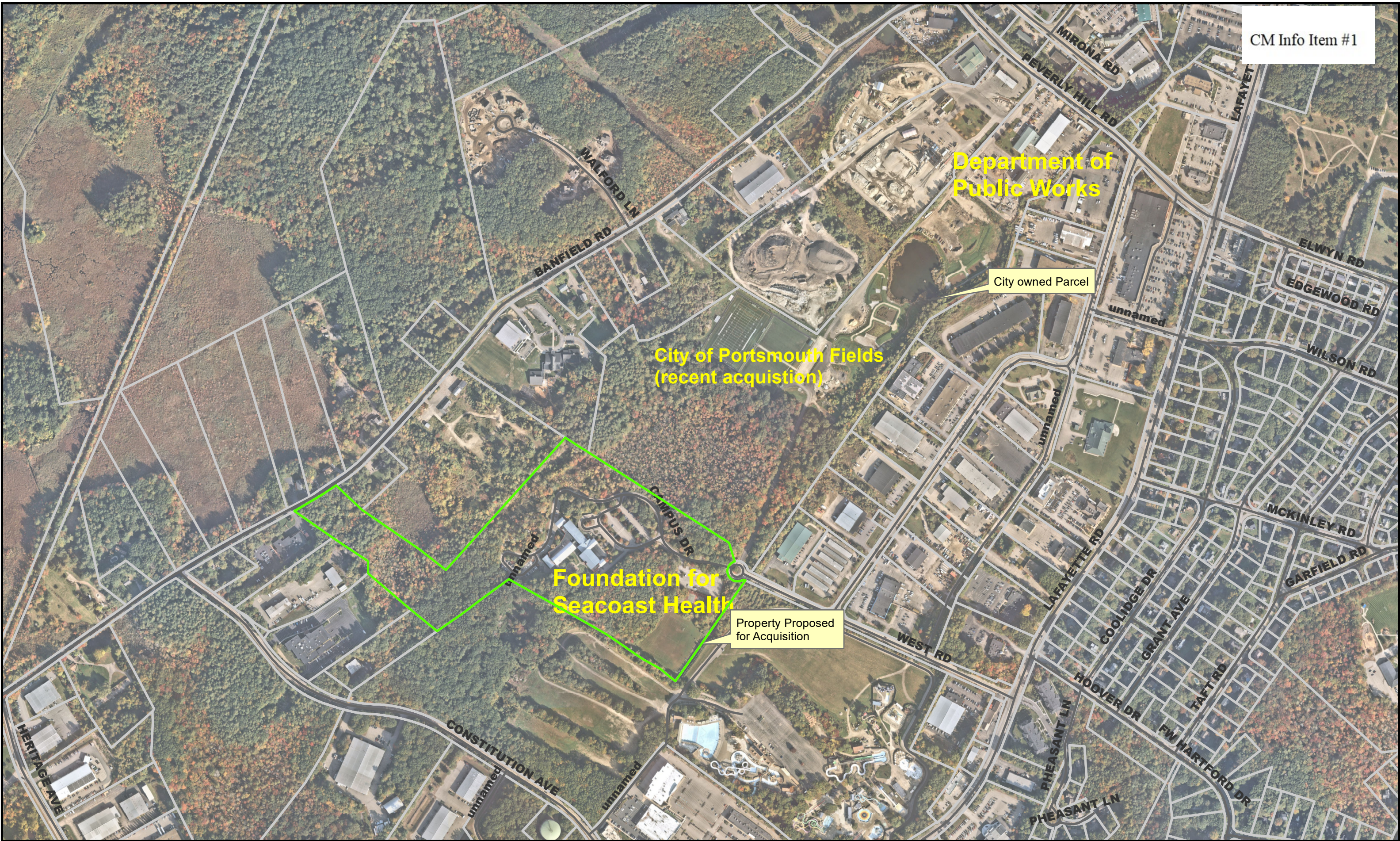
- Identify and prioritize undeveloped land for acquisition and preservation.
- Pursue open space acquisitions that create wildlife corridors and ecological connections.

Relevant information from the City of Portsmouth Open Space Plan

The Open Space Plan specifically identifies the Community Campus parcel as an open space opportunity area. This parcel contains wetlands as part of the Pickering Brook and is considered a Tier 3 (supporting) habitat.

Staff Recommendation:

Vote to recommend the acquisition of the Community Campus to the City Council.



0 250 500 1,000 1,500 Feet

CITY OF PORTSMOUTH**LEGAL DEPARTMENT****MEMORANDUM**

DATE: November 30, 2021

TO: KAREN S. CONARD, CITY MANAGER

FROM: ROBERT P. SULLIVAN, CITY ATTORNEY

RE: PARKING FOR PEOPLE WITH DISABILITIES

At the City Council meeting of November 15, 2021, City Councilor Esther Kennedy reported that one of her constituents had raised an issue concerning a recent change in parking enforcement protocols for people with disabilities. A report back was requested for the meeting of December 6, 2021. This is that report.

Councilor Kennedy's constituent is correct that there has been a recent change in the relevant parking protocols. Prior to the recent adoption of the amendment to the ordinance, there was an un-codified policy that permitted three (3) hour free parking limitation for the walking disabled. At its August 5, 2021 meeting, the Parking and Traffic Safety Committee voted a recommendation to the City Council to amend City ordinance Chapter 7, Article VII, Section 7.1200, to provide three (3) hours of free parking in parking metered zones for ADA credentialed vehicles. Prior to submitting this ordinance change to the Council, the Parking and Traffic Safety Committee instructed staff to confirm with the Governor's Commission on Disability that a three (3) hour limit for free parking was reasonable under the Stay and Pay system, which allows vehicles to remain in any parking space for up to 12 hours. Between the adoption of Stay and Pay and the amendment to the ordinance, there was no limit on free parking.

By ordinance, which passed third reading of the City Council on October 18, 2021, the ordinance recommended by the Parking and Traffic Safety Committee was adopted by the City Council. This ordinance is more detailed than the un-codified policy, which had been followed previously.

The newly adopted ordinance is now the law of the City. A copy of it is attached.

RPS/smr

Attachment

ORDINANCE

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 7, Article XII, Section 7.1200 – **PARKING FOR THE WALKING DISABLED** 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 XII: PARKING FOR THE WALKING DISABLED**Section 7.1200: PARKING FOR THE WALKING DISABLED**

- A. The City Council may designate portions of any street, alley, public way, public park, ~~or~~ municipal parking lot **or municipal parking facility** within the City of Portsmouth as reserved – for parking vehicles displaying special license plates, ~~deals~~ or **eards windshield placards** issued to persons with walking disabilities pursuant to state law (**“Authorized Vehicles”**);
- B. Such reserved parking **areas spaces (“Reserved Parking Spaces”)** shall be marked by the international accessibility symbol. **Parking spaces that are not marked by the international accessibility symbol are unreserved parking spaces (“Unreserved Parking Spaces”)**;
- C. ~~No vehicle shall be parked in areas designated as reserved parking for the walking disabled unless it displays the requisite license plate, deal or card.~~
Only Authorized Vehicles may park in Reserved Parking Spaces.
- D. It shall not be a defense to a complaint alleging failure to display the required **special** license plate, ~~deal~~ or **eard windshield placard** that the owner or operator neglected to display an otherwise valid **special license** plate, ~~deal~~ or **eard hanging windshield placard**.
- E. **Authorized Vehicles parked in Reserved Parking Spaces in parking meter zones are entitled to a three (3) hour free parking session during enforcement hours, 9:00 a.m. through 8:00 p.m. Monday through Saturday, and between 12:00 p.m. through 8:00 p.m. on Sundays. Authorized Vehicles that remain in the Reserved Parking Space after the three (3) hour free parking session has expired shall be considered unlawfully parked and subject to the penalties and enforcement provisions of this Chapter. If the Authorized Vehicle is moved to a different Reserved Parking Space or an Unreserved Parking Space during the hours of enforcement in the same day, it will not be entitled to an additional three (3) hour free parking session.**

- F. Authorized Vehicles parked in Unreserved Parking Spaces in parking meter zones are entitled to a three (3) hour free parking session during enforcement hours, 9:00 a.m. through 8:00 p.m. Monday through Saturday, and between 12:00 p.m. through 8:00 p.m. on Sundays. Authorized Vehicle may remain in the same Unreserved Parking Space after the three (3) hour free parking session has expired if the parking meter is paid for a parking session. Authorized Vehicles that fail to pay for a parking session after the three (3) hour free parking session has expired shall be considered unlawfully parking and subject to the penalties and enforcement provisions of this Chapter. If the Authorized Vehicle is moved to a Reserved Parking Space or a different Unreserved Parking Space during the hours of enforcement in the same day, it will not be entitled to an additional three (3) hour free parking session.**

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

FINANCE DEPARTMENT



MEMORANDUM

To: Karen Conard, City Manager
 From: Judie Belanger, Director of Finance and Administration
 Date: November 12, 2021
 Re: Unaudited FY21 Results

The following is in response to Councilor Huda’s inquiry of expenditure surpluses for the year ending June 30, 2021 by Municipal, Police, Fire and School.

It is important to understand the whole financial picture and not focus one aspect of the year-end balances. The following information has been presented to the City’s independent Auditors. The annual audit is still underway and the Finance Department is currently in the process of preparing the Annual Comprehensive Financial Report (ACFR) and the Popular Annual Financial Report (PAFR) which will be released in January 2022. These reports will include a Management’s Discussion and Analysis (MD&A) and important financial notes which provides additional information that is essential to fully understand the data provided in the financial statements.

The adopted Fiscal Year 2021 Budget for both the Operating and the Non-Operating Budget was \$119,115,338. The tax levy (the amount raised from property taxes) is the difference between the adopted annual budget and estimated revenues which includes any budgetary or supplemental use of Fund Balance. For FY21, \$2,200,000 was utilized from Fund Balance to reduce the amount of tax levy to be raised.

On a budgetary basis, the unaudited results for FY21 for both expenditures and revenues resulted in an overall surplus of \$4,164,900 as depicted below.

MUNICIPAL	\$869,573
POLICE	\$415,307
FIRE	\$123,427
SCHOOL	\$93,486
NON-OPERATING	\$92,288
COLLECTIVE BARGAINING	\$4,991
EXPENDITURE SURPLUS	\$1,599,072 or 1.3% of Total Budget
REVENUE SURPLUS	\$2,565,828 or 2% of Estimated Revenues
TOTAL NET SURPLUS	\$4,164,900

This table shows the comparison of the net revenue and expenditure surplus over the last four fiscal years.

FY 18	\$4,587,709
FY 19	\$5,159,103
FY 20	\$3,627,021
FY 21 Unaudited	\$4,164,900

The surpluses above are the result of the fiscal year's activity and are reported in the budget to actual statement in the ACFR. To understand what happens with a surplus at the end of the fiscal year, the understanding of the governmental fund balance sheet is essential. The General Fund balance sheet is prepared using current financial resources measurement focus and the modified accrual basis of accounting. In other words, with a few exceptions the governmental fund balance sheet reports cash and other financial resources (such as receivables) as assets and amounts owed that are expected to be paid off within a short period of times as liabilities. Meaning, no long-term assets or liabilities are reported on this balance sheet. The fund balance is essentially what is left over after the fund's current assets have been used to meet current liabilities.

Total Fund Balance is comprised of 4 sections:

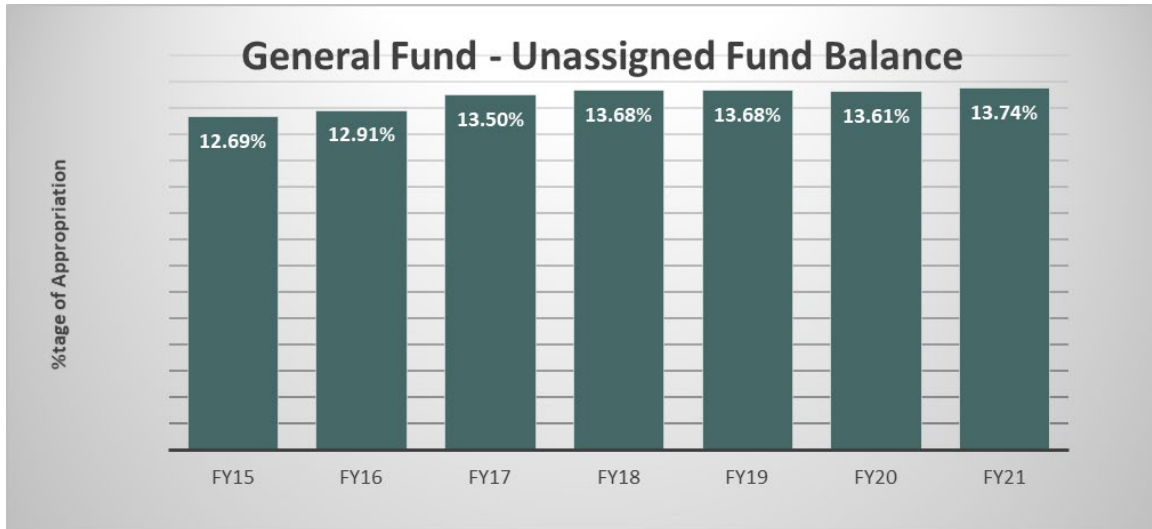
- 1) Nonspendable Fund Balance – Inherently nonspendable (long-term loans receivable)
- 2) Committed Fund Balance – Reserves and stabilizations reserves
- 3) Assigned Fund Balance – Constraint purposes (encumbrances)
- 4) Unassigned Fund Balance – Not intended for any purpose

The following table depicts the final results due to activity that occurred in fund balance during the fiscal years of 2018, 2019, 2020 & unaudited 2021. Although there were revenue and expenditure surpluses, there were also adjustments as a result of budgetary/supplemental appropriations, use of reserves to record abatement liabilities, and use of reserves in accordance with policies for long-term financial planning such as Leave at Termination and Health Insurance Stabilization funds.

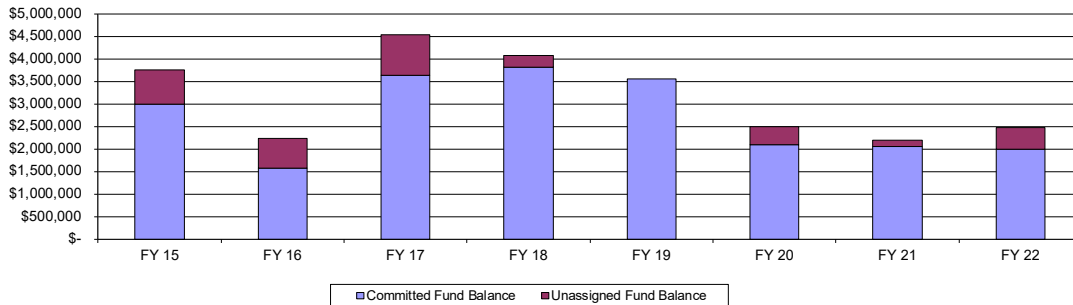
The activity for FY21 (unaudited) resulted in an overall increase in Fund Balance of \$819,457 after three years of reductions.

Fund Balance	FY 18	FY 19	FY 20	UNAUDITED FY 21	TOTAL FY18-FY21
Fiscal Year Surpluses	4,587,709	5,159,103	3,627,021	4,164,900	17,538,734
Adjustments to Fund Balance					
Change to Encumbrances	285,312	1,213,781	(811,363)	897,342	1,585,074
Abatement Liabilities	(747,051)	(2,267,562)	(1,268,939)	(1,891,837)	(6,175,389)
Health Stabilization	(548,897)	(860,512)	97,828	779,285	(532,296)
Leave at Termination	28,959	(289,547)	(477,345)	(930,232)	(1,668,166)
					0
Budgetary Use-Reserve Tax Appraisal	(150,000)	(150,000)	(150,000)	(150,000)	(600,000)
Budgetary Use-Debt Service Reserve	(2,400,000)	(2,123,000)	(1,950,000)	(1,900,000)	(8,373,000)
Budgetary Use-Reserve for Bond Premium	(1,269,148)	(1,286,114)	0	0	(2,555,263)
Budgetary Use of Committed Fund Balance	(231,000)	0	(400,000)	0	(631,000)
Statewide Property Tax	(50,000)	0	0	0	(50,000)
Coakley Monitoring	(239,818)	(367,850)	(161,583)	0	(769,251)
Supplemental Appropriations	(27,167)	0	0	(150,000)	(177,167)
Total Net Adjustment	(5,348,810)	(6,130,804)	(5,121,401)	(3,345,443)	(19,946,458)
Total Change in Fund Balance	(761,101)	(971,701)	(1,494,379)	819,457	(2,407,724)

The City’s Unassigned Fund Balance at the end of FY21 is anticipated to remain stable at 13.74%. This is in the range established by the Unassigned Fund Balance Ordinance of 10%-17%.



The chart below shows the budgetary use of fund balance through the budget process and supplemental appropriations adopted by the City Council. This is a clear demonstration that surpluses in any fiscal year is used to offset taxes and maintain fiscal stability.



Use of:	FY 15	FY 16	FY 17	FY 18	FY 19	FY 20	FY 21	FY 22	Total FY15-FY22
Committed Fund Balance	2,991,397	1,573,500	3,623,500	3,819,149	3,559,114	2,100,000	2,050,000	2,000,000	21,716,660
Unassigned Fund Balance	755,500	650,000	915,800	258,167	-	400,000	150,000	480,000	3,609,467
Total Use of Fund Balance	3,746,897	2,223,500	4,539,300	4,077,316	3,559,114	2,500,000	2,200,000	2,480,000	25,326,127
Average Use Per Year									3,165,766

Keep in mind that the final adopted budget for FY22 includes the use of Fund Balance of \$2,480,000. Any surplus, if presented at the end of FY22, would be used to replenish fund balance for future budgets. As the above table demonstrates, the City has utilized \$25,326,127 from fund balance over the last eight years (FY15 to FY22) to offset the tax rate.

City of Portsmouth

Department of Public Works



MEMORANDUM

TO: Suzanne Woodland, Acting Deputy City Manager

FROM: Peter Rice, Director of Public Works

DATE: 12/1/21

SUBJECT: Proposed PFAS Sampling of New Athletic Field

In response to a request by Non-Toxic Portsmouth that the City test its new athletic field for PFAS using a number of analytical methods, City Staff and their field design consulting team have attempted to put together a matrix summary of the various tests and their accepted uses. Attached please find a copy of this matrix which was circulated to Non-Toxic Portsmouth and others prior to the Thanksgiving holiday to help lay a foundation for discussion. Also attached is a memorandum from Weston & Sampson explaining why the City was seeking clarification.

Assistant Mayor Splaine has proposed a motion for City Council consideration at the December 6th Council meeting as follows;

“Move that the City Council require the City Manager to commission independent third party testing for PFAS of the new artificial turf playing field. As recommended by “independent experts”, the testing shall use the targeted analysis for 75 PFAS, non-targeted PFAS analysis and total oxidizable precursor (TOP) assay methods to look for the presence of PFAS in the synthetic turf, shock pad, and infill material. The results will be provided to the City Council.”

The following table is a summary of the specific tests that would be necessary to fulfill this resolution as well as the sampling and analysis costs.

The total estimated cost for sampling is \$22,250.00 as we understand the request. The base cost to collect the samples is approximately \$2,000. The sampling for all elements requested is \$3,375 per sample (see chart below). Testing methods require five (5) samples plus a sample blank (6 x \$3,3375 = 20,250). Thus the total with the handling costs is approximately \$22,250. This cost is for analysis only, no review of data quality and validity or scientific interpretation of results or risk assessment is included.

Motion Requested Analysis or turf, shock-pad, and infill		Cost per Sample
Total Oxidizable Precursors (TOP)		\$600
Eurofins Targeted Analysis 75 compounds	Eurofin shows a 70 compound test not 75	\$1,100
Non-Targeted PFAS Analysis	Eurofins (HRMS)(Quadrapole MS) Fluoride Total Fluorine (TF) Total Organic Fluorine (TOF)	\$1,200 \$50 \$100 \$325
Total Cost per Sample		\$3,375

Since the field as installed met the project specifications, the cost of this sampling effort would be borne by the City.

As a final note, the turf manufacturer has indicated it is working on a response to the City Staff's inquires following the November 17th City Council work session for more detailed information concerning the manufacturing process and chemicals used.



December 2, 2021

55 Walkers Brook Drive, Reading, MA 01867 (HQ)
Tel: 978.532.1900

Suzanne M. Woodland
Acting Deputy City Manager/Deputy City Attorney
Portsmouth, New Hampshire 03801

Cc: Mr. Peter Rice
Director of Public Works
680 Peverly Hill Road
Portsmouth, New Hampshire 03801

Re: Community Fields Synthetic Turf PFAS Sampling Motion – Analyses Types and Costs

Dear Ms. Woodland:

Weston & Sampson Engineers, Inc. (Weston & Sampson) has prepared this response to address a motion currently posed to the Portsmouth City Council requesting:

“Move that the City Council requires the City Manager to commission independent third party testing for PFAS of the new artificial turf playing field. As recommended by independent experts, the testing shall use the targeted analysis for 75 PFAS, non-targeted PFAS analysis and total oxidizable precursor (TOP) assay methods to look for the presence of PFAS in the synthetic turf, shock pad, and infill material. The results will be provided to the City Council”

The following briefly comments regarding the requested analyses and potential costs are provided for your information based upon our experience with PFAS related uses and testing.

Targeted analysis for 75 PFAS: This method does not exist. We requested clarification from Non-Toxic Portsmouth (NTP) who indicated that they intended use of the Eurofins method which quantifies 70 individual PFAS. This method is based upon the same isotope dilution method (EPA 537 Modified) utilized during the preliminary testing of the actual materials placed at the Community Fields, but reports additional individual PFAS. None of these additional PFAS are listed in NH regulations.

Non-Targeted PFAS Analysis: This is not a standardized method (EPA or NHDES) which varies from laboratory to laboratory. Few commercial laboratories offer this service. Additionally, the actual analysis and reporting varies within each lab based on the proposed use of the data. We requested clarification from Non-Toxic Portsmouth (NTP) as to which laboratory they envisioned performing the analysis. NTP referred us to Eurofins. Preliminary discussions with Eurofins indicates that they have multiple questions regarding materials preparation, analysis method and data evaluation intended for the results. This analytical method does not quantify the concentrations of individual PFAS detected and only tentatively identifies many of the PFAS observed.

Total Oxidizable Precursor (TOP) PFAS Analysis:

This analysis exposes the materials being tested to a caustic (think something like Draino) and high heat (185 F) to breakdown “precursor” PFAS into PFAS that are measurable by isotope dilution methods. Please note the preparation of the sample does not represent natural conditions. The results of the analysis will not identify what “precursor” PFAS were oxidized, therefore failing to provide substantive insight regarding potential risk.

Materials to be Tested: NTP has requested that the turf, in-fill and shock pad be tested by the methods above.

The in-fill materials are comprised of allergen-free walnut shells. As such, no testing for PFAS was required as part of the contract specifications. Analyses of these materials is expected to reveal "background" concentrations of PFAS related to the ubiquitous presence of PFAS in the atmosphere during growth. None of the testing proposed can discern between "background" or "added" PFAS.

In addition to the testing requested in the Motion above, Westfield Residents Advocating For Themselves (WRAFT), an organization referenced by one of NTP's work session participants, have requested performance of the Eurofins non-target and TOP assay analyses. In addition WRAFT has requested "UV Oxidation", Synthetic Precipitation Leaching Procedure Extraction (SPLP) Extraction. We provide the following comments regarding these additional analyses methods:

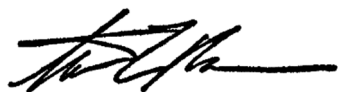
"UV Oxidation": We do not know of a method for performing such a test.

Synthetic Precipitation Leaching Procedure (SPLP) PFAS Analysis: An SPLP extraction simulates rainwater percolation through the material. The test material is submerged and agitated for many hours. The SPLP liquid is then analyzed by the same with isotope dilution method required by the project specifications.

SPLP analyses were not required for the Portsmouth materials. However, results for FieldTurf products are available from Teter Consulting and were provided to the Portsmouth project team. These tests were not performed on the Portsmouth batch materials, but are considered representative of the manufacturing process used. No PFAS were detected above the method detection limits. Further testing utilizing this method would be duplicative.

If you have any questions or comments regarding this letter or need any additional information, please do not hesitate to contact our office at 802-882-7028.

Sincerely,
WESTON & SAMPSON ENGINEERS, INC.



Steven LaRosa
Team Leader

WORKING DRAFT OF SYNTHETIC TURF SAMPLING PLAN

Materials	Test Method	Performed Previously at Portsmouth?	Portsmouth Result (present, absent)	Method Acceptance for PFAS (regulatory/risk assessment/experimental) (see below)	Specific for PFAS or Non-Specific	Qualitative or Quantitative	Performed at Marthas Vineyard (different material manuf.)	Result at Marthas Vineyard	Cost per Sample	Comments
Grass										
Vertex	Methanol Extraction; 537Mod (isotope dilution)	Yes	absent	regulatory	Specific	Quantitative	Yes	Estimated <Reporting Limit	\$300-\$350	Industry and regulatory accepted
	Synthetic Precipitation Leaching Procedure (SPLP) Extraction; 537Mod (isotope dilution)	Yes (not same lot)	absent	regulatory	Specific	Quantitative	Yes	Present	\$400-\$500	Industry and regulatory accepted, "natural" conditions extraction
	Total Oxidizable Precursors (TOP) Assay (isotope dilution)	No	--	risk assessment	Specific and Non-Specific	Quantitative and Qualitative	Yes	estimated PFBA	\$500-\$600	Industry and regulatory accepted, "drastic" conditions extraction
	Eurofins 70 specific PFAS (isotope dilution)	No	--	risk assessment	Specific	Quantitative	No	--	\$700-\$1,100	New, based on existing 537 M isotope dilution, Eurofins only
	Eurofins Non-Specific PFAS (HRMS) (Quadrapole MS)	No	--	experimental	Specific and Non-Specific	Qualitative	No	--	\$1,200-\$1,500	Semi Quantitative, Experimental and must be project specific
	Fluoride	No	--	regulatory - experimental for PFAS	Non-Specific	Qualitative	Yes	None Detected (ND)/<10	\$50	No way to correlate to PFAS
	Total Fluorine (TF)	Yes	present	regulatory - experimental for PFAS	Non-Specific	Qualitative	Yes	Present/70	\$100	No way to correlate to PFAS
	Total Ogranic Fluorine (TOF)	No	--	regulatory - experimental for PFAS	Non-Specific	Qualitative	Yes	Present/70	\$275-\$325	No way to correlate to PFAS
Fill Material										
Safeshell	Methanol Extraction; 537Mod (isotope dilution)	No	--	regulatory	Specific	Quantitative	Yes	Estimated <Reporting Limit	\$300-\$350	Industry and regulatory accepted
	Synthetic Precipitation Leaching Procedure (SPLP) Extraction; 537Mod (isotope dilution)	No	--	regulatory	Specific	Quantitative	Yes	Present	\$400-\$500	Industry and regulatory accepted, "natural" conditions extraction
	Total Oxidizable Precursors (TOP) Assay (isotope dilution)	No	--	risk assessment	Specific and Non-Specific	Quantitative and Qualitative	Yes	PFHpA present, estimated PFBA	\$500-\$600	Industry and regulatory accepted, "drastic" conditions extraction
	Eurofins 70 specific PFAS (isotope dilution)	No	--	risk assessment	Specific	Quantitative	No	--	\$700-\$1,100	New, based on existing 537 M isotope dilution, Eurofins only
	Eurofins Non-Specific PFAS (HRMS) (Quadrapole MS)	No	--	experimental	Specific and Non-Specific	Qualitative	No	--	\$1,200-\$1,500	Semi Quantitative, Experimental and must be project specific
	Fluoride	No	--	regulatory - experimental for PFAS	Non-Specific	Qualitative	Yes	ND/<10	\$50	No way to correlate to PFAS
	Total Fluorine (TF)	No	--	regulatory - experimental for PFAS	Non-Specific	Qualitative	Yes	ND	\$100	No way to correlate to PFAS
	Total Ogranic Fluorine (TOF)	No	--	regulatory - experimental for PFAS	Non-Specific	Qualitative	Yes	ND	\$275-\$325	No way to correlate to PFAS
Shockpad										
Schmitz Pro-Play-Sport20	Methanol Extraction; 537Mod (isotope dilution)	Yes	absent	regulatory	Specific	Quantitative	Yes	Estimated <Reporting Limit	\$300-\$350	Industry and regulatory accepted
	Synthetic Precipitation Leaching Procedure (SPLP) Extraction; 537Mod (isotope dilution)	No	--	regulatory	Specific	Quantitative	Yes	Present	\$400-\$500	Industry and regulatory accepted, "natural" conditions extraction
	Total Oxidizable Precursors (TOP) Assay (isotope dilution)	No	--	risk assessment	Specific and Non-Specific	Quantitative and Qualitative	Yes	estimated PFBA	\$500-\$600	Industry and regulatory accepted, "drastic" conditions extraction
	Eurofins 70 specific PFAS (isotope dilution)	No	--	risk assessment	Specific	Quantitative	No	--	\$700-\$1,100	New, based on existing 537 M isotope dilution, Eurofins only
	Eurofins Non-Specific PFAS (HRMS) (Quadrapole MS)	No	--	experimental	Specific and Non-Specific	Qualitative	No	--	\$1,200-\$1,500	Semi Quantitative, Experimental and must be project specific
	Fluoride	No	--	regulatory - experimental for PFAS	Non-Specific	Qualitative	Yes	ND/<10	\$50	No way to correlate to PFAS
	Total Fluorine (TF)	No	--	regulatory - experimental for PFAS	Non-Specific	Qualitative	Yes	Present/26	\$100	No way to correlate to PFAS
	Total Ogranic Fluorine (TOF)	No	--	regulatory - experimental for PFAS	Non-Specific	Qualitative	Yes	Present/26	\$275-\$325	No way to correlate to PFAS
Glue #1										
Ultrabond (Marthas Vineyard)	Methanol Extraction; 537Mod (isotope dilution)	No	--	regulatory	Specific	Quantitative	Yes	Estimated <Reporting Limit	\$300-\$350	Industry and regulatory accepted
	Synthetic Precipitation Leaching Procedure (SPLP) Extraction; 537Mod (isotope dilution)	No	--	regulatory	Specific	Quantitative	Yes	Present	\$400-\$500	Industry and regulatory accepted, "natural" conditions extraction
	Total Oxidizable Precursors (TOP) Assay (isotope dilution)	No	--	risk assessment	Specific and Non-Specific	Quantitative and Qualitative	Yes	estimated PFBA, PFPeA	\$500-\$600	Industry and regulatory accepted, "drastic" conditions extraction
	Eurofins 70 specific PFAS (isotope dilution)	No	--	risk assessment	Specific	Quantitative	No	--	\$700-\$1,100	New, based on existing 537 M isotope dilution, Eurofins only
	Eurofins Non-Specific PFAS (HRMS) (Quadrapole MS)	No	--	experimental	Specific and Non-Specific	Qualitative	No	--	\$1,200-\$1,500	Semi Quantitative, Experimental and must be project specific
	Fluoride	No	--	regulatory - experimental for PFAS	Non-Specific	Qualitative	Yes	ND/<10	\$50	No way to correlate to PFAS
	Total Fluorine (TF)	No	--	regulatory - experimental for PFAS	Non-Specific	Qualitative	Yes	Present/11	\$100	No way to correlate to PFAS
	Total Ogranic Fluorine (TOF)	No	--	regulatory - experimental for PFAS	Non-Specific	Qualitative	Yes	Present/11	\$275-\$325	No way to correlate to PFAS
Glue #2										
Reynolds 775 (Marthas Vineyard)	Methanol Extraction; 537Mod (isotope dilution)	No	--	regulatory	Specific	Quantitative	Yes	Estimated <Reporting Limit	\$300-\$350	Industry and regulatory accepted
	Synthetic Precipitation Leaching Procedure (SPLP) Extraction; 537Mod (isotope dilution)	No	--	regulatory	Specific	Quantitative	Yes	Present	\$400-\$500	Industry and regulatory accepted, "natural" conditions extraction
	Total Oxidizable Precursors (TOP) Assay (isotope dilution)	No	--	risk assessment	Specific and Non-Specific	Quantitative and Qualitative	Yes	estimated PFBA, PFPeA	\$500-\$600	Industry and regulatory accepted, "drastic" conditions extraction
	Eurofins 70 specific PFAS (isotope dilution)	No	--	risk assessment	Specific	Quantitative	No	--	\$700-\$1,100	New, based on existing 537 M isotope dilution, Eurofins only
	Eurofins Non-Specific PFAS (HRMS) (Quadrapole MS)	No	--	experimental	Specific and Non-Specific	Qualitative	No	--	\$1,200-\$1,500	Semi Quantitative, Experimental and must be project specific
	Fluoride	No	--	regulatory - experimental for PFAS	Non-Specific	Qualitative	Yes	ND/<10	50	No way to correlate to PFAS
	Total Fluorine (TF)	No	--	regulatory - experimental for PFAS	Non-Specific	Qualitative	Yes	Present/11	100	No way to correlate to PFAS
	Total Ogranic Fluorine (TOF)	No	--	regulatory - experimental for PFAS	Non-Specific	Qualitative	Yes	Present/11	\$275-\$325	No way to correlate to PFAS

ND = None Detected at indicated reporting limit

Regulatory	Method is accepted by at least some states for PFAS quantification of regulatory conditions (i.e. groundwater and/or soil concentrations)		
Risk Assessment	Method is utilized by scientists and/or regulators as an indicator of potential PFAS presence. PFAS 70 method is currently going through certification process for solids and only available from Eurofins.	\$3,525-\$4,525	Cost for Each Material Tested
Experimental	These methods are non-specific related to both concentrations and individual PFAS compound identification. Their effectiveness in assessing PFAS presence is still being evaluated by the scientific community.	\$21,150 - \$27,150	Total for 6 samples (5 samples and 1 duplicate)
		\$1,000 - \$2,000	Coordination of materials collection and delivery
Outstanding Questions Regarding Analyses		\$22,150 - \$29,150	Total for Analyses ONLY, No review of data quality and validity, or scientific interpretation of results or risk assessment is included

- What size sample (1 in x 1 in; 1ft x 1ft)? composited from several?
- In Fill is natural material that could have been impacted during its growth, is sampling appropriate?
- What will be the acceptable reporting limits for each analysis?
- What preparation and extraction methods should be used? (cryopulverization?, 1 gram of "whole" sample manually crushed, methanol?)
- How do we compare TOP assay results to actual PFAS mass?