

**MANAGER'S REPORT**  
Belfast City Council Meeting  
Tuesday, December 4, 2012  
**5:30 P.M.**

**TO: Mayor Walter Ash Jr. and Honorable Members of Belfast City Council**

**FROM: Joseph J. Slocum, City Manager**

**DATE: Friday, November 29, 2012**

**\*\*\*\*5:30 Start: Request to go into Executive Session to discuss an Economic Development matter pursuant to 1 M.R.S.A 405 6 (C.)\*\*\*\***

**Agenda Items:**

**10-B Consideration of a recommendation to appoint a new Belfast Poet Laureate.**

The Poet Laureate Committee has concluded their search and will present their recommendation to the Council at the meeting. Approval from the Council will be needed to confirm the one-year appointment. The appointment is both an honor and a delegation of responsibility. This is one of the few times a year where the entire City pauses to see and understand why we have a Poet Laureate and what their role is during their term. I encourage both the Committee and others to take a minute here to talk about this position and the benefits it brings to Belfast.

**10-C Consideration of a request from the City Assessor to name a private road on the athenahealth campus "athena way"**

A while ago we were contacted by representatives of athenahealth about the possibility of providing an official street name on a road within their campus. Under the postal rules, athenahealth might be able to secure their own zip code if such a designation exists. This would enable athenahealth to save significantly on postal fees and help them to be more cost competitive. City Assessor, Bob Whiteley has recommended this approval as he also serves as our official 911 address designator. We ask for your approval of this recommendation and we thank Bob for his assistance to one of our local businesses.

**10-D Discussion with City Tree Warden regarding adopting a long-term plan for the planting of new trees in the City.**

The City Tree Warden, Didier Bonner-Ganter, has attached in your packages a proposal as to how he would like to identify locations in the City where trees should be put, and to select the type of tree most appropriate for those locations and circumstances. If we can adopt a long-term program, then he can do proper planning going into the next several years

### **10-E Presentation by the Front Street Shipyard of an expansion proposal in Belfast.**

Recently the City has learned that the Front Street Shipyard is interested in pursuing a significant expansion of their existing facilities here in Belfast. This expansion involves the addition of a second boat travel lift with a 300 ton capacity which would be wider than their existing 165 ton travel lift in use. The new lift could lift boats in the 150-foot length range. They would use both of these lifts but the new one would be designed to work side by side at the waterfront but the new bigger lift would not fit into any of their existing buildings.

The second aspect of this proposal involves the construction of another large building on or near the site that would have about the same footprint as their largest building now but would likely be somewhere between 7 and 9 feet taller. These two pieces of this proposal could realize as many as 40 new full-time jobs at the waterfront.

With the proposed new building, the Shipyard either has to tear down one or more of their existing occupied buildings and try to build new on that location, or alternatively secure a lease or purchase of additional property owned by the City in the area that would accommodate this new travel lift and new building. The construction of the travel lift is impacted by Federal and State regulations as to when they can actually do piling work in the bay for the pier that will support the new travel lift. This must be done between January and April 15<sup>th</sup> of every year as not to interfere with any salmon migration

The shipyard has suggested another proposal which is not tied to the first two. This proposal involves the possibility of the Shipyard purchasing, leasing, or jointly using the City owned Thompson's Wharf facility. The Shipyard is noting that they will occupy space on both sides of the Thompson's Wharf with their recent acquisition of the Belfast Boatyard property and there is a better more efficient way to use these three locations to everyone's best interest.

At this point in time we want to bring this forward for public information, discussion, questions, answers and to start pursuing steps to gather whatever information that the Council will need in order to address these issues. We are not asking or expecting a determinative vote on any of these issues at this meeting.

### **10-F Update on the Downtown Waterfront Master Plan.**

The announcement of the proposed expansion plans for the Front Street Shipyard has an impact on the Downtown and Waterfront Master Plan. It may be important to the Council to prioritize work we are doing to conclude this Master Plan. There are several options you may wish to consider:

- Direct our consultant on this project to immediately prioritize their attention to the City owned property formerly leased to the Maskers to look at future creative options for the future development of that property
- Investigate potential parking expansion options in along the Front Street area.
- Look at road access to the site and to Thompson's Wharf
- Consider alternative layouts for Thompsons Wharf that may include Shipyard waterfront that the City has a legal interest in. etc.

The Shipyard proposal has triggered larger picture considerations for this whole area. We bring this forward to seek Council direction on these or any other matters relating to the Downtown and Waterfront Master Plan.

**10-G Consideration of a request by the Economic Development Director to update our Environmental Audit for the City Parking lot on Front Street and to do an Environmental Audit of the land and buildings formerly leased to the Maskers.**

The proposals being brought forth by the Shipyard also trigger the potential future redevelopment of City owned property on Front Street across from the Wastewater Plant. The “Brownfields” Program is a nationally funded program to help assess environmental issues that may hinder the redevelopment of the property- whether privately owned or publically owned. The first step is to do an environmental audit and a potential second step is to do some environmental remediation if it is warranted.

Because this is City owned land we could apply to the State to use some of the money that we were awarded for such purposes. Thomas Kittredge, Belfast Economic Development Director has a memo attached in your packet and will be at the meeting to discuss this possibility with you.

As a side note the City itself received a \$400,000 award to do this work for private property owners in Belfast. However, when it comes to our own property we must either pay for it ourselves or ask the State if we can use money under their award. The State has confirmed that such funds are currently available. Any Belfast private property owner who wants to secure funding assistance to pursue environmental clearance for their property’s redevelopment should contact Mr. Kittredge here at City Hall.

**10-H Consideration of a request from the City Manager to have appraisals done of the Front Street Parking lot area and the City owned land around the building formerly leased to the Maskers.**

If the City should ever be interested in leasing or selling any of this property, it will be important for us to have an idea what it’s actual value is, particularly in light of any environmental issues that may or may not be present. We would like the authority from the Council to go ahead and have some appraisals done on these properties so we have a sense of what the fair value is for future planning.

**10-I Update on the Downtown Revitalization Plan.**

We are taking steps to locate an administrative project manager for this project. We want Council support for a Manager’s recommendation that we now secure through the City’s own engineer a topographical analysis of this area before the snow flies so that we can have it for planning purposes throughout the winter. We may also have by meeting time a recommendation for hiring a consultant to act as Project Administrator for this project.

This is the project based upon the \$500,000 CDBG grant the City received that will build and enhance parking, pedestrian amenities, drainage and connectivity between Main Street and Belfast Common and involve Cross Street, Miller Street, Front Street, etc.

**10-J Consideration of entering into a Consent Agreement with two property owners on High Street.**

This matter was discussed at the November 7<sup>th</sup> Council meeting. Here is a summary of the historical developments. There were and continue to be two separate lots on outer High Street that were in common ownership several years ago. One lot had a house on it and the other one was vacant. The owners of the two

lots had them mortgaged to different financial institutions. They applied for a permit to put a two-family house on the back lot and that permit was approved upon the specific condition that the two lots be merged into a single lot because of set back and road access issues. The two-family house was in fact built in the back lot but the two lots were never merged into one lot as required by the building permit. The owners ran into financial problems, which ended up with two foreclosures to two different lending institutions who each ended up with one lot. Because the two lots did not merge into a single lot as required and because this left behind other code violations for setback and access issues- the two lots and their owners faced violation actions by the City. The matter was further complicate by the sale of one of them to a private buyer. Today one lot is owned by a bank and the second is owned by a private person who resides there. This private owner has the house up for sale and apparently a buyer who is ready to close as soon as the Code violation issues can be resolved

The City had then and still has today the authority to go in and direct that the rear lot two-family home be torn down and removed because it was built in violation of the permit. In the past, the City has considered the idea of entering into a consent agreement which allows forgiving the zoning violation upon the condition that other measures are taken so that the facts on the ground more closely align with our zoning requirements. The two property owners have been working for over 2 years with the City to adjust their property lines such that they are more compliant with zoning rules. The owners have also agreed between themselves to create of an entirely new driveway to be built by the rear lot over a piece of land owned by the front lot. This proposal became an issue for the neighbor who was worried about drainage issues and everyone fell back and drainage evaluations were revisited including a consultation with DEP and I am advised that everyone including the neighbor worried about drainage is now comfortable with a revised Consent agreement that is attached in your packet.

City Code Enforcement Officer Tod Rosenberg has attached a copy of the proposed agreement and will be at the meeting to explain it.

**10-K Request from City Code Enforcement Officer to authorize a cleanup of a property at 3 Harvey Lane in violation of the City's Zoning Ordinance.**

There are existing violations that the City has already gone to court on and we have previously secured a court order directing this property owner to clean up their property. They have failed to comply with the Court order. The City Code Enforcement Officer recommends we give them one more week to comply and if they do not that the City spends the money for the cleanup and places a lien upon the property. We will also pursue fines against the owner. There is a memo from the Code Enforcement Officer attached to your packet and he will be at the meeting to answer questions.

**Post Meeting Council Work Session Requested:** Staff would like to have a general discussion with the Council on the issue of Tax Increment Financing policy and other issues and options relating to economic incentives. We hope the meeting ends early enough to adjourn and to have this discussion around a conference table.

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That's about it for now. Please don't forget that tomorrow, Saturday Morning is Early Bird shopping specials Downtown and that tomorrow night the Christmas lighting ceremony will be at 6:00 p.m with caroling, cocoa, and Father Christmas.

Belfast is fortunate to have a diverse economy. This is a time of year that is crucial to many businesses as well as to many self-employed people in all trades and services. If you are thinking of buying a gift, locally grown food, value added products, a new floor, a table, a car, a heating stove, a piece of artwork, jewelry, clothes, games, a gift certificate, a home appliance, insulation, windows or even an ice cream cone then please please buy it here.

If we want year-round access to goods and services then we have to maintain year-round support for them. Finally, Belfast Holiday parties should all happen in Belfast and their supplies should all come from Belfast. Clerks, waitresses and shop assistants all have families, heating bills and holiday pressures too. Let's keep as many dollars in the neighborhood as we can. Have a safe, warm and fun weekend.

**Request to use Facilities  
Belonging to the Citizens of the City of Belfast**

It is the general policy of the City of Belfast that property belonging to the citizens of Belfast be available to the public. Unless specifically approved to the contrary, no public property will be set aside for the exclusive use of any individual or group and the general public will at all reasonable times have access to City property, including all streets, roads, easements and rights of way. This is a planning checklist for your benefit as well as the City's. If any aspect of the activity you wish to conduct is not specifically listed on this checklist then there will be no permission to conduct that activity. Approvals cannot be given to individuals or groups who are uncertain of their plans. Please attach maps, additional sheets, event outlines etc.- that help to explain your request. If any of the following questions do NOT apply to your event simple write N/A (not applicable) in the space provided. Thank you.

1. State your name and whom you represent?

MARY P. H. MORTIMER  
NEW YEAR'S BY THE BAY 2013 (N4BB 2013)

2. What facilities would you like to use or what permissions are you seeking with respect to property owned by the Citizens of Belfast? Please be specific  
BOATHOUSE & LIBRARY - ABBOTT ROOM -  
USE BOTH AS PERFORMANCE VENUE, AT NO CHARGE.  
BUILD BONFIRE TO SOUTH SIDE OF HARBOR PIER/BREAKWATER ON SHORE.

3. What dates and times do you wish to have this event? DECEMBER 31, 2012  
16th. ANNUAL SETUP 12/31/12 AFTERNOON  
2 P.M - MIDNIGHT / BONFIRE BY THE BAY - LIGHT AT 12:00 MIDNIGHT - OUT BY 3 A.M.

4. Will you want to put up banners or signs? (If so where and the dates the signs will be put up and taken down)  
BANNERS AT RT 1/NORMANPORT AVE, RT 1 & 3 EAST OF BRIDGES,  
RT 3 - CURLING CLUB - 12/10/12 - 1/2/13

5. Are you asking to close off any City Streets? (Which ones, what dates, for how long a period of time each day?)  
MAIN STREET FROM TRAFFIC LIGHT AT MAIN & HIGH STREETS  
TO THE HARBOR, 12/31/12 FROM 11:45 P.M. TO MIDNIGHT FOR PUBLIC TO WALK TO THE  
BONFIRE BY THE BAY.

6. Please describe this event in detail. If there is a schedule then attach it and explain it here.  
DOWNTOWN BELFAST - NON-PROFIT  
CHEM-FREE, FAMILY ORIENTED, CULTURAL EVENT CELEBRATING THE  
16th. ANNIVERSARY ON 12/31/2012. BASICALLY SAME AS LAST YEAR,  
REF. PROGRAM/SCHEDULE FOR LAST YEAR ATTACHED, INCLUDES MAP.

City of Belfast - Facilities Request Form

7. How many people do you expect? 1,500 APPROX.

8. Will you be charging admission to this event? YES

9. Will you be selling things at this event? NYBB NO - PARTICIPATING CHURCHES - YES - Food

If so what? CHURCHES - DINNER - HOT & COLD FOOD, NON ALCOHOLIC DRINKS, SNACKS, BREAKFAST

10. Will any alcohol be served or consumed at this event? (If yes provide details) \_\_\_\_\_

NO - IT'S A CHEM-FREE EVENT

11. Does this event call for any type of open fire- including for cooking purposes? (If so describe what fire safety measures you plan on employing associated with this potential hazard?)

THERE IS THE 10th ANNUAL BONFIRE BY THE RAY ON THE BEACH/SIDE SOUTH OF BREAKWATER/PIER TO WELCOME TO THE NEW YEAR. - WHAT EVER THE FIRE CHIEF ADVISES.

12. Will you be renting spaces to vendors on City Property? NO

13. Describe what type of vendor and the charges you propose to assess against them.

N/A

14. Will you have insurance in the amount of \$1,000,000 that also names the Inhabitants of the City of Belfast as an "additional named insured party" to hold the City of Belfast harmless from any and all injuries that may occur as the result of any negligence on your part in conducting this event? YES

15. Who is your insurance agent that will provide proof of this coverage to the City?

PROVIDED UNDER THE UMBRELLA OF OUR TOWN BELFAST INSURANCE THE KYES AGENCY - PATRIOT MUTUAL INSURANCE CO. IF HORSE/WAGON & OR BOUNCE HOUSE - THEY PROVIDE OWN INSURANCE

16. Noise: What kind of noise do you expect to generate at this event and during which specific periods of time? ALL PERFORMANCES & DANCES ARE INDOOR & TAKE PLACE

BETWEEN 4 P.M. & 11:45 P.M.

17. How do you propose to handle garbage removal? INDIVIDUAL VENUES HANDLE THEIR OWN

GARBAGE. NYBB WILL HANDLE BOATHOUSE <sup>INSIDE</sup> GARBAGE. REQUEST CITY PUBLIC WORKS TO PLACE 5 STREET TRASH BARRELS & PICK UP & TAKE GARBAGE AT BOATHOUSE (OUTSIDE) LIBRARY (OUTSIDE), BAPTIST CHURCH (OUTSIDE) & FIRST CHURCH (2) (OUTSIDE)

City of Belfast - Facilities Request Form

18. How do you propose to handle parking? IN CURB LOTS, STREETS, PRIVATE LOTS

19. How do you propose to handle security? VENUE VOLUNTEERS & BELFAST POLICE IF EVER NEEDED.

20. How do you propose to handle the need for restrooms? AT EVENT VENUES (INDOORS)

21. What is your plan/need for electricity or water? AT EVENT VENUES (INDOORS)

22. Have you spoken to the neighbors in the area of this event and discussed, traffic, noise, parking etc with them?

THIS WILL BE THE 16th ANNIVERSARY OF THE EVENT.

I'M NOT AWARE OF ANY COMPLAINTS. WE HOPE THEY'LL BE ATTENDING EVENT.

23. Who will be in charge of the event and what are their home and cell phone numbers, email addresses- where they can be reached before and during this event?

MARY P. L. MORTIER - EXEC. DIR.

BEST WAY AT ALL TIMES = CELL # 323-1748

< mmortier@grtfrealestate.com >

What specific City services or assistance are you asking for? \_\_\_\_\_

**Department**

**Service Requested**

City Manager HOPE HE'LL BE AN EVENT VOLUNTEER AGAIN

Police AVAILABLE TO CALL IF THERE IS EVER AN EMERGENCY

Fire/Ambulance AVAILABLE TO CALL IF THERE IS EVER AN EMERGENCY

Parks NONE

Public Works - PLOW & SAND DOWNTOWN STREETS AS NEEDED 12/31/2012 AFTERNOON & EVENING  
- PLACE & PICK UP 5 TRASH BARRELS - PROVIDE WOOD BARRICADES FOR CURB CUT ST. HORSE/WAGON RIDE TO MAINTAIN CURBSIDE PARKING LOCATION.

Harbor NONE

Planning (Maps) NONE

Cable TV HOPING TO HAVE COUNT DOWN CLOCK AT MIDNIGHT AGAIN & ANY VIDEO PARTICIPANTS ALWAYS A PLUS.



**Please draw a diagram of the area your proposing to use and how it will be laid out**

SEE REFERENCE 12/31/2012 PROGRAM & MAP ATTACHED

DOWNTOWN: BOUNDARIES ARE -

- FRONT ST. FROM MAIN ST. TO COMMERCIAL ST.
- COMMERCIAL ST. FROM FRONT ST. TO HIGH ST.
- HIGH ST. FROM COMMERCIAL ST. TO MARKET ST.
- MILLER ST. FROM HIGH ST. TO COURT ST.
- COURT ST. FROM MILLER TO FRANKLIN ST.
- (- CHURCH ST. FROM MILLER TO MAIN ST.)
- MAIN ST. FROM POST OFFICE TO WATERFRONT
- WATERFRONT PIECE AREA BELOW FRONT ST.

\* THE HORSE & WAGON RIDE MAKES A LOOP FROM CHURCH A SPRING (W) TO PEARL ST. RIGHT ON PEARL ST. TO COURT ST. RIGHT ON COURT ST. TO SPRING ST. & RIGHT ON SPRING ST. TO CHURCH ST.

**MEMO**

TO: JENNIKA LUNDY, ADMINISTRATIVE ASSISTANT to the CITY MANAGER  
FROM: R.F. WHITELEY, E-911 ADDRESSING OFFICER  
SUBJ: REQUEST COUNCIL SANCTION OF A NEW PRIVATE ROAD  
DATE: 27 NOVEMBER, 2012

This request is presented to the Belfast City Council for official approval/sanction of the name of a portion of the road net serving the athenahealth facility (formerly a segment of the MBNA *Phase I* campus) as identified on the attachment to this communication. The name is to be, with the Council's approval, **Athena Way**.

It is located (see attached) on the southwesterly sideline of Hatley Road (so-called) extending approximately 273' southwesterly therefrom, and serves as sole access to the warehouse constructed by MBNA. Athenahealth desires to convert this structure to a modern, high-volume mail processing facility which, because of the use, may require an address of its own, part of which is the street name.

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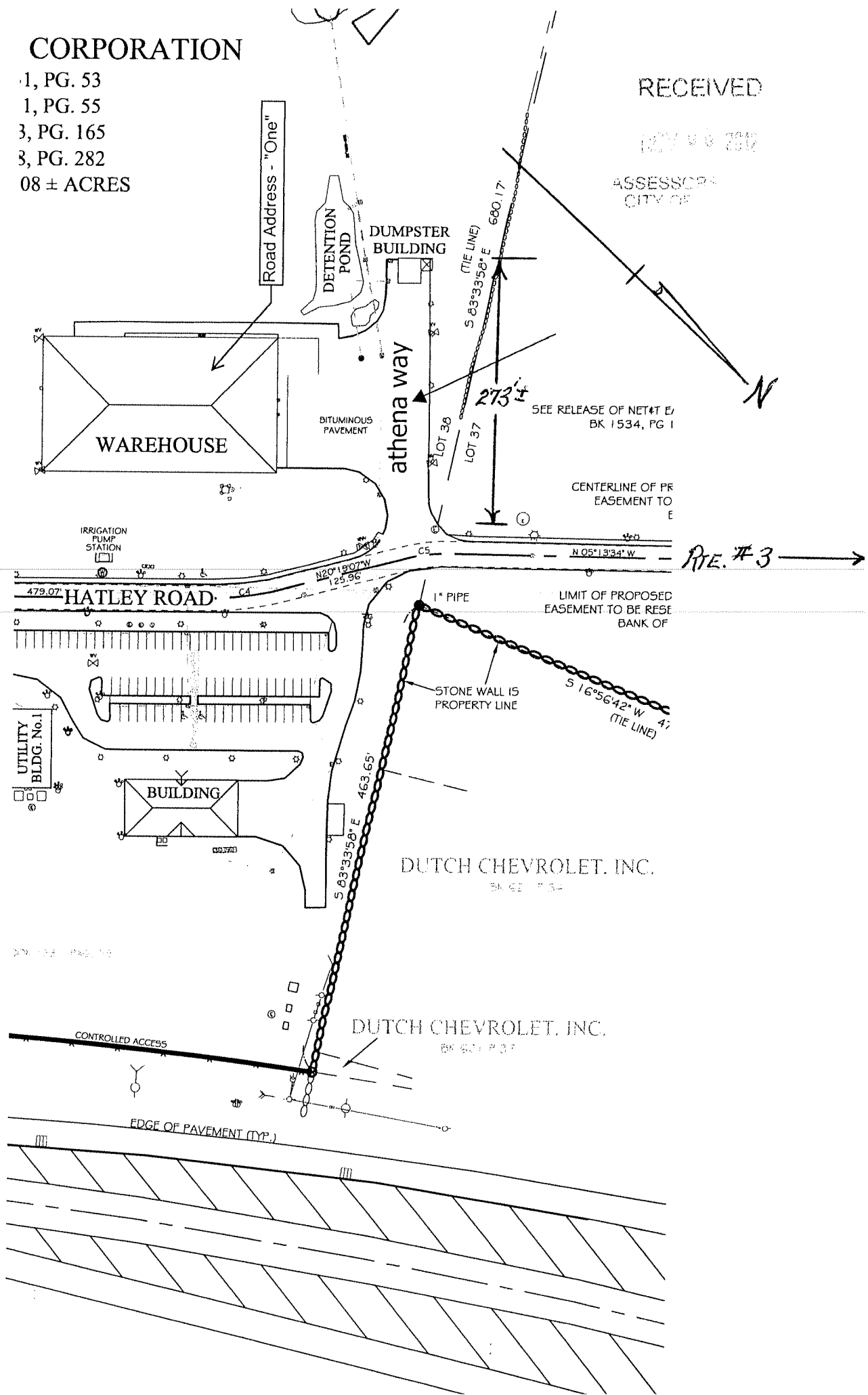
CORPORATION

1, PG. 53  
1, PG. 55  
3, PG. 165  
3, PG. 282  
08 ± ACRES

RECEIVED

12/17/80

ASSESSOR'S  
CITY OF



SEE RELEASE OF NET#T E/  
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LIMIT OF PROPOSED  
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BANK OF

DUTCH CHEVROLET, INC.  
BK 621737

DUTCH CHEVROLET, INC.  
BK 621737

DIV. 123 PAGE 100

EDGE OF PAVEMENT (TYP.)

## Memo

To: City Council, City of Belfast

Fr: Didier Bonner-Ganter, dba Woodland Management, Tree Care Specialist

Date: 25 November 2012

Re: Proposal to Manage the Belfast Urban Forest.

Dear members of the Belfast City Council,

I would like to address the current process of tree management in the City of Belfast and make some recommendations to improve upon it. Some of these recommendations have already been outlined in a former street tree inventory, which should be revisited, updated, and used as a guide to proceed into the future.

What I hope to accomplish at the city council meeting on the 4 December 2012 is to present a realistic and reasonable path forward to follow, in order to manage the urban forest asset which abounds on many streets, parks, and greenways in Belfast. Until currently, it seems as though the approach has been more short cited and responsive versus thoughtful, researched, discussed and planned with a long term scope. I think the latter would benefit the city better in the long run. There have been new positive changes developing in Belfast over the past few years, exemplifying a rebounding local economy. Developing a strong, collaborative, organized, and knowledgeable approach toward managing our urban trees and greenspaces would further this movement and continue to enhance our quality of life here in Belfast.

The following list of items will be presented and discussed in more detail:

- 1) Tree Warden position – develop job criteria and qualifications for future persons holding position; possible stipend or salary if job responsibilities warrant or merge with another appropriate paid position in city such as head of Parks and Rec!?
- 2) Street Tree Inventory, Assessment & Recommendations performed by Johnsons Arboriculture in 2002,...among several items listed, short term and long term recommendations are provided. This should be updated and used as a guiding tool for the tree warden or whoever should be responsible for managing the urban forest in the city.
- 3) Examples of other smaller cities with forward thinking and vested urban forestry programs and healthy economies.
- 4) Summary of approach for Belfast for city council to consider.



**City of  
Belfast**

10-6

Jennika Lundy <managersupport@cityofbelfast.org>

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## agenda item for 12/3 Council meeting

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Thomas Kittredge <economicdevelopment@cityofbelfast.org>

Wed, Nov 28, 2012 at 4:15  
PM


To: Joseph Slocum <jslocum@cityofbelfast.org>

Cc: "Lundy, Jennika" <jlundy@cityofbelfast.org>

Request by the Economic Development Director to apply to the Maine Department of Environmental Protection's Brownfields Program, to fund further environmental assessment work for City-owned property located at 45 Front Street (Map 11, Lot 136; public parking lot, Belfast Maskers property, and Thompson's Wharf).

The City of Belfast wishes to determine the extent of contamination that may exist at City-owned property adjacent to Front Street Shipyard, and to develop cost estimates for remediation of the property, depending on the reuse of it. Previously, a Phase I environmental site assessment, a limited Phase II environmental site assessment, and a limited subsurface investigation have been conducted. The City would most likely ask the Maine Department of Environmental Protection (MEDEP) to fund a full Phase II environmental site assessment for the entire property, a Hazardous Materials Inventory for the Belfast Maskers building, an Analysis of Brownfields Cleanup Alternatives, and develop a Remedial Action Plan. Even though the City does have its own Brownfields Assessment Program, this property cannot be assessed under it because of the date the City acquired the property, the fact that the City purchased this parcel (as opposed to acquiring it via involuntary means, such as delinquent taxes/foreclosure), and because a Phase I environmental site assessment was not completed prior to property transfer. If the City doesn't wish to pay for these environmental assessments out of local funds, MEDEP's program is the only available option. A recent conversation with the head of the MEDEP Brownfields Program confirmed that funds are currently available under this program.

# Memo

**To:** City Council  
**From:** Tod Rosenberg, CEO   
**CC:** Joe Slocum, Manager  
**Date:** 11/30/2012  
**Re:** Consent Agreement with Nationstar (358 High Street)

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## REQUEST FOR COUNCIL ACTION

Staff requests that the Council approve the attached Consent Agreement between Nationstar Bank, Michelle Morrow (abutter) and the City of Belfast. The Consent Agreement is recommended as a means to address and cure certain zoning violations and land ownership issues associated with this property and the abutters concern with the proposed driveway and how it relates to storm water. Staff has received verbal agreement from attorneys representing land owners Nationstar, Kennedy and Morrow that the Consent Agreement attached is acceptable. City Attorney has also reviewed the agreement and supports the language therein.

A specific issue associated with implementing this consent agreement is obtaining Council approval to allow the removal of an existing street tree to enable construction of a new driveway to the duplex. The tree warden has inspected the tree and feels that it could be removed. Neither the tree warden nor the department is recommending that the applicant must replace the tree that is removed. The tree proposed to be removed as well as the proposed driveway location is flagged on the site.

## BACKGROUND

Sean and Jennifer Weed, in 2003, purchased two adjacent properties, Map 14, Lot 32, located at 360 High Street, and Map 14, Lot 32A, located at 358 High Street. Lot 32 had road frontage on High Street, and Lot 32A was located to the rear of Lot 32 and had no frontage on High Street. When the Weeds purchased the property there was an existing house on Lot 32, but Lot 32A was vacant.

In 2003, David Studer, Code Enforcement Officer, issued a building permit to the Weeds to allow the construction of a new duplex on Lot 32A. However, because of site characteristics (wet soils, cost of utility extensions and such) the Weeds proposed to merge the two lots into one lot to facilitate construction of the duplex. In short, there was to be no common lot line that divided the

lots. The permit issued identified a common driveway and a common parking area would be used to serve the existing house and new duplex. The building permit plan approved by the CEO is attached and identifies the approved layout of the buildings on a single common lot.

In 2006 the properties owned by the Weeds was foreclosed upon. Although the building permit issued to the Weeds was based on the merger of the two lots, the Weeds never officially merged the lots. Further, they had two separate mortgages on the two properties. Thus, two separate mortgage companies foreclosed upon the respective properties.

Judith Kennedy, in 2007, purchased Lot 32 (360 High Street). The lot on which the duplex is located, however, has remained in foreclosure and is owned by Nationstar Bank.

Unfortunately, the Weeds' failure to comply with building permit requirements and to establish a single lot has resulted in a series of problems, including but not necessarily limited to:

- The duplex as located on its own lot does not satisfy the front setback requirement for R-II zoning district; a zoning violation.
- The duplex does not have the required amount of on-site parking; a zoning violation.
- The identified parking area for the duplex is located on land which the duplex does not own, and it is located in the front yard; a property ownership issue and a zoning violation for the Residential – II zoning district.
- A boundary survey prepared by Ms. Kennedy indicates that the duplex may partly be located on land that she owns; a property ownership issue.
- At present, there is no dedicated driveway access to the duplex lot; a zoning issue and a property ownership issue.
- At present, there are no dedicated easements for utilities that serve the duplex lot; a land ownership issue.

In June of 2011 City staff brought forward a draft consent agreement for the Council's consideration and direction. The Council requested that staff work out the details of the zoning violations with the parties involved and come back with an updated consent agreement that detailed the violations and proposed how they were to be resolved

On November 7, 2012 City Staff brought forward a revised agreement with a plot plan detailing how the land owners had come to agreement. An abutter, Michelle Morrow, came forward to express her concerns with the proposed plan. The Council requested that Staff and the property owners work out the details to address Morrow's concerns.

The Staff requested that DEP conduct a field determination of the drainage ditch affecting all three properties. DEP determined that the ditch was not a stream; however, it did have associated wetlands in the area being proposed for the driveway and parking area. The involved parties agreed to have City Engineer design the driveway and parking lot with review by Morrow's engineer. City Engineer has started the surveying and design of the driveway and parking lot.

The Code and Planning Department is recommending that the Council approve a consent agreement to resolve the zoning violations identified by the Department. The consent agreement would result in providing Nationstar Bank assurances that if they successfully address the property encroachment and access issues between Nationstar Bank and Kennedy, that the City will not prosecute the zoning violations. As well as address Morrow's concerns concerning drainage. In short, this approach would result in both the Kennedy and Nationstar Bank properties being considered lots of record, and would enable both to be sold and occupied and Morrow the confidence that her property would not be flodded.

The consent agreement is attached for your review and approval. This process has involved considerable staff time and extensive work by representatives for Nationstar Bank, Judith Kennedy and Michelle Morrow to reach this point of the negotiation. The agreement has been reviewed by City Attorney, and the attorneys representing Morrow, Kennedy and Nationstar and they are comfortable with said terms.



**CONSENT AGREEMENT**  
**Nationstar Mortgage, LLC and City of Belfast.**

**WHEREAS**, the Code and Planning Department of the City of Belfast, Maine (the "City") has alleged that the property owned by Nationstar Mortgage, LLC by deed recorded at Book 3587, Page 129 & 317, which the City identifies as Map 14, Lot 32A and which is located at 358 High Street in the City of Belfast (the "Property"), is in violation of certain provisions of the City Code of Ordinances, including:

1. Lack of legal access to the Property from the public way (High Street);
2. Failure of the building located on the Property to meet the minimum front structure setback requirements in accordance with Section 102-424;
3. Lack of sufficient on-site parking (4 identified parking spaces) for a two-family dwelling structure in violation of Section 98-242(a) and (b), reference Schedule of Required Off-Site Parking Spaces, and location of a parking lot serving the Property in the front yard, in violation of Section 98-247; and
4. Failure to comply with provisions of a building permit # 197-2003 issued by the City of Belfast to allow construction of a two-family dwelling structure.

**WHEREAS**, the City Planner and Code Enforcement Officer have notified Nationstar Mortgage, LLC of the alleged violations;

**WHEREAS**, the City and Nationstar Mortgage, LLC desire to resolve the alleged violations of the Zoning Ordinance without litigation; and

**WHEREAS**, Nationstar Mortgage, LLC has paid the City the sum of \$3,000 in consideration of the City's willingness to accept this Agreement in lieu of prosecution;

**NOW THEREFORE**, Nationstar Mortgage, LLC and the City enter into the following Consent Agreement (the "Agreement").

**Terms and Conditions of Consent Agreement for Non-Prosecution**

The terms of this Agreement shall apply to the Property, and shall be binding upon Nationstar Mortgage, LLC, its successors and assigns (collectively referred to herein as the "Owner").

1. The Owner shall, within 90 days of Council approval of this Agreement, establish permanent monumentation for the newly established eastern corners of the Property as shown on the plot plan prepared by Good Deeds, Inc., dated November 4, 2011, as revised March 7, 2012 and July 2, 2012, hereinafter referred to as the 'Plan', a copy of which is attached hereto. The Owner shall obtain a deed for the Property that accurately depicts the dimensions of the Property as shown on the Plan. The Owner shall record this deed in the Waldo County Registry of Deeds (the "Registry") and provide a copy of the deed to the City within 90 days of Council approval of this Agreement.
2. The Owner shall work with the owner of Map 14, Lot 32 (the "Abutter"), to record an amended deed for Abutter's property, which identifies the new dimensions of Abutter's property as shown

on the Plan and includes reference to all easements on the Abutter's property that benefit the Property. The Owner shall provide the City a copy of the amended deed for the Abutter's property after it has been recorded in the Registry.

3. The duplex shown on the Plan (the "Duplex") may remain on the Property in the location shown on the Plan.
4. The Owner shall not enlarge any portion of the Duplex that does not conform to the minimum structure setback requirements for the applicable zoning district. An enlargement means an increase in the footprint of the structure (square feet) or the height of the structure beyond the dimensions existing as shown on the Plan.
5. The Owner may seek a building permit to enlarge or alter any portion of the Duplex that conforms to the minimum structure setback requirements for the applicable zoning district. Any failure of the Owner to comply with any laws or ordinances applicable to the enlargement or alteration of the Duplex shall not be considered a violation of this Agreement but shall subject the Owner to prosecution at the City's discretion.
6. The Owner shall, within 90 days of Council approval of this Agreement, provide the City evidence that it has obtained and recorded an easement to allow access from High Street to the Property. The dimensions and location of this easement shall comply with those identified on the Plan.
7. The Owner shall construct a driveway from High Street to the Property in the location identified on the Plan. The City's engineer shall create detail design drawings for this proposed driveway with exact specifications based upon 50-year flood data so that the driveway will not impede, diverge, dam or deleteriously reduce the conveyance capacity of the existing drainage courses or otherwise flood the property of abutter Michelle Morrow, Book 1227, Lot 338. Said design shall be made in recognition of the fact that surface water from an undeveloped swath of land behind the properties of Morrow and the Owner collects through two natural drainage courses which converge on land of Kennedy, and that the driveway might impede the flow of this surface water if adequate design provisions are not made.

The City shall bear 1/3 of the cost associated with the design of said driveway across 360 High Street. The remaining 2/3 of the cost shall be borne by NationStar and Kennedy with individual contributions to be determined according to their own agreement. The City shall deliver a copy of this design to abutter Michelle Morrow or her successor, who shall have ten days to review the plan with an engineer of her choosing, and to suggest changes to the City Engineer. The City Engineer shall incorporate the proposed changes into the driveway design as long as the City's Engineer considers the proposed change to be of some benefit and capable of being constructed without unreasonable expense to the owner.

After a final design has been produced, the Owner shall construct the driveway and drainage system in accordance with the approved design and the City shall inspect the driveway during construction and upon completion of construction to insure that the driveway is constructed as designed. Erosion control measures meeting the State Best Management Practices shall be employed in all construction work and no construction shall take place outside of the easement area as shown on the Plan. The Owner shall be responsible for maintaining the driveway and culverts in good working condition. Further, the Owner shall obtain the required road opening permit from the City Public Works Department and shall pay all fees associated with said permit.

The Owner must commence construction of the driveway within 180 days of Council approval of this Agreement for terms of the Agreement to remain in effect and shall complete construction within 240 days. The Owner shall hold harmless and indemnify the City of Belfast against liability for any damages occasioned by the engineering or construction of the driveway.

8. The Owner shall construct a parking area on the Property in the location identified on the Plan. The parking area shall be adequate to support a minimum of four vehicles and it shall be constructed to dimensions shown on the 'Plan' with a minimum of a 24 inch gravel base. The Owner shall be responsible for maintaining the parking area in good working condition. Further, the Owner must commence construction of the parking area within 180 days of Council approval of this Agreement for terms of the Agreement to remain in effect and shall complete construction within 240 days. The City, in requiring the construction of the parking area, grants the City Code Enforcement Officer the authority to work with the Owner to make changes in the final lay-out of the parking area shown on the Plan to accommodate site characteristics, provided the lay-out of the parking area is generally consistent with the lay-out shown on Plan and the lay-out conforms with all City Code of Ordinance requirements.
9. The Owner shall ensure that the Duplex is served by public water, public sewer and electricity. The Owner shall provide the City evidence that the Duplex is served by said utilities and that the owner has secured any easements required to allow the provision of such utility services to the Duplex. The Owner must connect the Duplex to said utility services within 90 days of Council approval of this Agreement for terms of the Agreement to remain in effect unless additional time is reasonably required to complete construction or installation of any infrastructure required for the provision of such services.
10. The existing duplex can remain as a two-family dwelling (residence) or it can be converted to a single family dwelling. The existing duplex shall not be used as a structure that includes more than 2 dwelling units, and shall not be used for any type of nonresidential use. This condition, however, shall not preclude the owner from requesting and obtaining a use permit from the Belfast Planning Board to allow use of the property (one or both units) as a home occupation or commercial use that is permitted by the City Code of Ordinances, provided said home occupation does not result in any significant increase in traffic or in the amount of on-site or off-site parking.
11. No terms of this Agreement shall be construed to preclude the Owner from obtaining a building permit to construct an allowed accessory structure or structures on the Property. Any failure of the Owner to comply with any laws or ordinances applicable to the construction or placement of accessory structure(s) shall not be considered a violation of this Agreement but shall subject the Owner to prosecution at the City's discretion.
12. The Owner shall cause this Agreement and all future amendments hereto to be recorded in the Waldo County Registry of Deeds. Upon performing the work described in Sections 1, 2, 6, 7, 8 and 9 to the satisfaction of the City, Owner may request and the City shall provide confirmation of compliance, which Owner may record in the Waldo County Registry of Deeds.
13. The City shall not issue a certificate of occupancy for either or both units in the duplex until all requirements of this agreement are satisfied to the satisfaction of the Code Enforcement Officer and stipulation of all applicable City Code of Ordinances.
14. In consideration of Owner agreeing to perform the work described in Sections 1, 2, 6, 7, 8, and 9, City agrees to take no further action to prosecute the alleged violations identified on the first page

of this Agreement. In the event that the Owner fails to perform the work set forth in Sections 1, 2, 6, 7, 8 and 9 by the deadlines provided, Owner shall be deemed in violation of this Agreement and the City shall be entitled to issue a notice of violation for and prosecute any and all violations then existing on the Property, and to seek specific performance of the terms of this Agreement. The date of this Agreement shall be considered the beginning date of any violation that may be punishable by a fine in accordance with 30-A M.R.S.A. § 4452.

15. This Agreement may only be amended by written agreement of the Owner and the Belfast City Council. Any change in the location of the driveway or the design of the driveway and drainage system would require approval of the City's engineer. Any proposed change to the location of the driveway, or the driveway drainage system would require prior written notice, at least 10 business days before the City Council meeting, to the Abutter Morrow or her successor in interest. The notice must described the proposed modification and contain the City's engineer's recommendations. With the exception of the requirement to construct the driveway and drainage system in accordance with the City Engineer's designs and specifications and all consequences resulting from such non-compliance, the terms of this Agreement, including any recitation of facts regarding any natural or artificial conditions existing on any of the referenced properties, are for the purposes of implementing and interpreting this Agreement only. They shall have no evidential weight or effect in any other proceeding or litigation and shall not constitute an admission or acceptance by any party of the statements herein.

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This Consent Agreement was adopted by the City Council at its meeting of \_\_\_\_\_  
2012. The Council authorizes the City Manager to sign the Agreement on its behalf.

On Behalf of Nationstar Mortgage, LLC

\_\_\_\_\_  
Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Notary

\_\_\_\_\_  
(Print Name)

On Behalf of the City of Belfast


\_\_\_\_\_  
Joseph Slocum, City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Michelle Morrow

\_\_\_\_\_  
Date

# Memo

**To:** City Council  
**From:** Tod Rosenberg, CEO   
**CC:** Joe Slocum, Manager  
**Date:** 11/30/2012  
**Re:** 3 Harvey Lane Judgment

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- CEO is seeking guidance from the Council on how to proceed. CEO recommends sending Notice to defendant that the City intends to hire a third party to finish the requirement of the judgment if the work is not complete on date certain. Recommend deadline of one week for defendant to finish work; if not in compliance the City will engage the contractor to do the work. If the defendant cannot pay the cost of work the City would lien the property. Work needs to be done before the snow flies or we will be forced to wait till Spring
- May 1, 2012 Council authorized legal action against Bernice Knox, owner of 3 Harvey Lane
- City Attorney filed complaint in District Court on June 18, 2012
  - City Attorney drafted a Stipulated Judgment that Defendants and the District Court Judge signed on September 9, 2012 Judgment stipulated Defendants pay a sum of \$1,300 to pay for City's legal fees payable by monthly deposits
  - Defendants shall collect and dispose of the garbage from the property within 30 days of the judgment
  - Defendants shall remove and dispose of the free standing deck or bring it up to code within 30 days of the judgment
  - CEO inspected property on October 12, 2012 and found the property to be in the same condition as it was pre Judgment
  - CEO has extended the time for clean-up an additional two weeks (October 26, 2012) and conducted another inspection on October 30, 2012. The property was still in violation of the judgment; however, there had been some progress towards compliance. Informed Defendants that there would be another inspection on November 8, 2012
  - The November 8, 2012 inspection again showed slow progress but did not comply with the judgment.