

PORTSMOUTH TOWN COUNCIL MEETING
JULY 11, 2016

7:00 PM – TOWN COUNCIL CHAMBERS, TOWN HALL, 2200 EAST MAIN ROAD

MEMBERS PRESENT: Keith E. Hamilton, James A. Seveney, Kevin M. Aguiar,
David M. Gleason, Elizabeth A. Pedro and Joseph W. Robicheau

Members Absent: Michael A. Buddemeyer

PLEDGE OF ALLEGIANCE

A moment of silence for our men and women around the world in harm's way and a moment of silence in honor of the officers killed in Dallas.

SITTING AS THE PORTSMOUTH TOWN COUNCIL

CONSENT AGENDA

1. CRMC - PUBLIC NOTICE:

The Application of Russell Sousa, 355 Riverside Street, Portsmouth, RI for a State of Rhode Island Assent to Expand an Existing 1.37 Acre Cage Aquaculture Lease by an Additional 1.37 Acres while Continuing to Use Cages on Trawls. The Project is Located in The Cove of Island Park and Hummocks.

2. CRMC – PUBLIC NOTICE:

The Application of Chessawanock Island Oyster Co., c/o Kyle Hess, 400 Station Street, Cranston, RI for a State of Rhode Island Assent to Expand an Existing Three Acre Aquaculture Lease Site in Hog Island Cove by Two Acres. The Gear Proposed Included Floating Bags and Flip Bags.

A motion by Mr. Seveney, seconded by Ms. Pedro to receive and place on file.

Ms. Pedro addressed her concerns that having these items on the Consent Agenda doesn't permit time to discuss them at a later meeting.

Mr. Gleason suggested an agenda item where the Council requests the CRMC provide more lead time on notices.

Mr. Robicheau asked Mr. Gavin to ask the CRMC to delay the hearing.

Mr. Aguiar suggested the notices be funneled through the Town Planner.

All voted in favor of the motion.

PRESIDENT'S EXECUTIVE SUMMARY

President Hamilton announced that the Town's own Declaration of Independence was shown last week thanks to the Historical Society and the Town Clerk's Office for helping to facilitate this.

MINUTES

TCM 6/20/16

Mr. Gleason stated he would abstain due to his absence.

A motion by Mr. Robicheau, seconded by Mr. Seveney, to approve the minutes of TCM 6/20/16 as written. The motion carried 5-0 with Mr. Gleason abstained.

TCM 6/27/16

A motion by Mr. Gleason, seconded by Mr. Seveney, to approve the minutes of TCM 6/27/16 as written. All voted in favor of the motion.

BILLS

A motion by Mr. Seveney, seconded by Mr. Gleason, to pay all just and due bills in the amount of \$65,509.67. All voted in favor of the motion.

TOWN ADMINISTRATOR'S REPORT

1. Report on Lean Business Permitting – the group is working toward the Town having one application to cover all aspects of permitting and licensing.
2. Building Inspector Update – Garrett Eames of Warren will start in Portsmouth on August 8th. In the mean-time George Medeiros will fill in.
3. Comprehensive Community Plan Update – A workshop is scheduled each month to finalize the element that was discussed at the previous month's workshop and then begin review a new element.
4. A tri-state tour has been scheduled honoring Anne Hutchinson. The group will visit Portsmouth on July 22nd for a ceremony, tour and picnic at Founders Brook Park; an art exhibit and lecture at the Friends of Portsmouth Library; and a wine tasting at Greenvale Vineyards.

RESIGNATIONS AND APPOINTMENTS

1. Resignations:

- a. Dog Park Planning Committee – M. Minese

A motion by Mr. Seveney, seconded by Ms. Pedro, to accept with regret. All voted in favor of the motion.

2. Appointments:

- a. Economic Development Committee (4 Vacancies, 2 Applicants)

A motion by Mr. Seveney, seconded by Mr. Robicheau, to appoint Justin Perry and James Coll. All voted in favor of the motion.

OLD BUSINESS

OB 1 - Dog Park Update. / R. Rainer, B. Miller & J. Sweeney (10)

Mr. Rainer stated that he and the Finance Director met with the lowest qualified bidder to see if an adjustment could be made in the work and/or bid to meet the committee's funds. There is still \$3,900 more needed to start the project.

Ms. Miller and Ms. Sweeney proposed rules for the dog park and asked the rules be considered for an ordinance.

Mr. Seveney suggested taking \$3,900 from revenues of the Melville Campground.

Mr. Rainer and Mr. Lathrop will work to find where the \$3,900 can be found.

Solicitor Gavin will prepare a draft ordinance for the meeting of July 30th and a public hearing August 22nd.

OB 2 - PUBLIC HEARING: Proposed Amendment to Chapter 257 of the Portsmouth Town Code – Noise Ordinance §257-18 Sound Variances, Section C. / K. Gavin

- a. Objection to the Proposed Amendment to the Noise Ordinance. / Mr. & Mrs. Tarney Waring

In response to Mr. Seveney's question if doing this would make it consistent with how a variance works, Mr. Gavin stated that there is no fee for a Board of Review variance.

Adam Thayer, Esq., representing Bill's Sales, stated that the noise ordinance was developed because in the past the police were having an issue with the bars and restaurants in Island Park. The ordinance is identical to what was instituted in neighboring towns in that time period.

In response to Ms. Pedro asking why the wording has a \$50 per day fee, Mr. Gavin stated that was just how it was written.

Mr. Gavin stated that in zoning variance requests, the application fee is to cover the cost of staff time to prepare the variance.

Mr. Aguiar stated that the Council will still have control over noise variances.

President Hamilton stated he feels the fee should cover the administrative costs.

Tarney Waring, Crossing Court stated that you don't renew zoning variances because it is a permanent change. He said that the fees for variances would go to help fund additional police officers to assist in protecting the public from noise disturbances.

Mr. Gavin stated that the Town Planner had recommended some time back that the fee be removed from the ordinance.

Mr. Waring stated that there should be a fee.

Mr. Seveney stated that this is a fine and a fine should be adjudicated in Municipal Court.

President Hamilton stated it should be subject to a \$100 application fee and an amount to cover the time of the Clerk's office to prepare the paperwork and advertising.

Mr. Hamilton responded yes to Nancy Howard asking if there is a fine for a noise violation.

Solicitor Gavin answered the Town Clerk's question that a noise variance does not need to be recorded in Land Evidence, it should follow the business not the land.

A motion by Ms. Pedro, seconded by Mr. Seveney, to close the public hearing. All voted in favor of the motion.

A motion by Mr. Robicheau, seconded by Mr. Seveney, to change the language to read: "... subject to an application fee of \$100 and an amount sufficient to cover the cost of advertising ...". All voted in favor of the motion.

OB 3 - Request Approval of a Resolution Authorizing the Wording of Two Questions to Appear on the Ballot for the November 2016 General Election. / K. Gavin (5)

- a. New Police Station Bonds and/or Notes Not to Exceed \$10,000,000.
- b. Amendment to the Portsmouth Home Rule Charter Town Clerk. "Shall the Town Clerk be an Appointed Position?" (Amends Art. V, Sec. 501)

A motion by Mr. Seveney, seconded by Mr. Gleason, to approve the resolution as written. All voted in favor of the motion.

**TOWN OF PORTSMOUTH, RI
RESOLUTION # 2016-07-11**

BE IT RESOLVED by the Town Council of the Town of Portsmouth that the following two (2) questions shall appear on the ballot for the November 8, 2016 General Election:

**NEW POLICE STATION
BONDS AND/OR NOTES NOT TO EXCEED \$10,000,000
(Chapters 223 and 262 – Public Laws 2016)**

“Shall an act, passed at the 2016 session of the general assembly, entitled ‘AN ACT AUTHORIZING THE TOWN OF PORTSMOUTH TO ISSUE GENERAL OBLIGATION BONDS AND/OR NOTES IN AN AMOUNT NOT TO EXCEED \$10,000,000 FOR THE DESIGN, CONSTRUCTION, EQUIPPING AND FURNISHING OF A NEW POLICE STATION IN THE TOWN’ be approved?

AMENDMENT TO THE PORTSMOUTH HOME RULE CHARTER

TOWN CLERK

(Resolution of the Town Council adopted July 11, 2016)

**“Shall the Town Clerk be an appointed position?” (Amends Art. V, Sec. 501)
IF APPROVED THIS AMENDMENT WILL TAKE EFFECT ON NOVEMBER 6, 2018.**

CURRENT CHARTER WORDING:

501. Town Clerk. There shall be a Town Clerk who shall be a qualified elector. He/She shall be elected at the biennial election pursuant to provisions of state law. His/Her duties and prerogatives shall be those defined by statute. (Adopted November 7, 1972; eff. Date July 1, 1975.)

PROPOSED AMENDED CHARTER WORDING:

501. Town Clerk. There shall be a Town Clerk who shall be appointed by the Town Administrator with approval by the Town Council. The Town Clerk shall serve as department head for the office of the Town Clerk. The duties and prerogatives of the Town Clerk shall be those defined by statute, together with such additional duties as may be assigned by the Town Administrator.

BE IT FURTHER RESOLVED that the Registrar of Voters and the Board of Canvassers be and are hereby instructed to forward a true copy of said ballot questions to the Secretary of State in accordance with State law.

Adopted: July 11, 2016

Keith E. Hamilton, President,
Portsmouth Town Council

ATTEST: _____
Joanne Mower, Town Clerk

OB 4 - Review of Draft Advisory Opinion from the Town Council to the Energy Facility Siting Board Concerning the Aquidneck Island Reliability Project. / K. Gavin (5)

Mr. Gleason recused himself due to a possible conflict of interest.

Mr. Aguiar asked that should National Grid's designs or plans change, we have some condition to have another crack at it.

Mr. Gavin stated that this opinion is based upon the information given at that meeting and they should come back to us if there are significant changes.

A motion by Mr. Seveney, seconded by Mr. Robicheau, to approve. The motion carried 5-0 with Mr. Gleason recused.

**In re: The Narragansett Electric Company
d/b/a National Grid
(Aquidneck Island Reliability Project)**

ADVISORY OPINION
ON APPLICATION FOR SOUND VARIANCE

This matter was heard before the Portsmouth Town Council on June 20, 2016, on the application of The Narragansett Electric Company d/b/a National Grid ("National Grid" or the "Applicant") for a sound variance pursuant to § 257-18 of the Portsmouth Noise Abatement Ordinance, Chapter 257 of the Town of Portsmouth Code of Ordinances ("Noise Ordinance").

Applicant was represented by George W. Watson, III, Esquire of the firm Robinson & Cole LLP. Council members participating in the hearing were President Keith E. Hamilton, Vice President James A. Seveney, Kevin M. Aguiar, Elizabeth A. Pedro and Joseph W. Robicheau.

It was noted that the Rhode Island Energy Facility Siting Board (“EFSB”), pursuant to R.I. Gen. Laws § 42-9-8 of the Energy Facility Siting Act (R.I. Gen. Laws Chapter 42-98), has designated the Portsmouth Town Council as a local agency to render an advisory opinion as to whether National Grid should be granted a sound variance for construction-related noise that may be generated in connection with Narragansett’s application to the EFSB to construct the Aquidneck Island Reliability Project (“AIRP” or the “project”), EFSB Docket No. SB-2016-01. The project is considered a major energy facility and, therefore, it is subject to the jurisdiction and authority of the EFSB.

The Council heard the presentation of Mr. Watson and testimony of Endrit Fiku, National Grid’s lead Project Manager, and Daniel McIntyre, P.E., Civil/Structural Engineering for National Grid.

Mr. Fiku explained that the AIRP is a set of projects aimed at improving the reliability of the electrical system on Aquidneck Island. The current infrastructure is 50-60 years old and obsolete. The project will include the rebuild and upgrade of the existing 61 and 62 transmission lines (the “61 and 62 Lines”) from 69 kV to 115 kV, the construction of a new Jepson Substation to be located on the west side of Jepson Lane in Middletown, and the retirement and removal of the existing Jepson Substation located at 500 Jepson Lane, on the east side of Jepson Lane in Portsmouth. The 61 and 62 Lines will be rebuilt and upgraded along the existing right-of-way (“ROW”) beginning at the Dexter Substation located off Freeborn Street in Portsmouth and ending at the new Jepson Substation, a distance of approximately 4.5 miles. The Dexter Substation will be modified to accommodate the upgraded lines and there will be temporary line relocations along the project during construction. There are 69 existing wood structures (44 2-pole structures and 25 3-pole structures), which will be replaced by 92 new steel single structures and 1 new double circuit single pole steel structure at the existing Jepson Substation. The existing wood structures are 45 to 65 feet tall. The new steel structures will be 86 to 96 feet tall. The project will improve the reliability of the transmission system on Aquidneck Island by increasing the loading capacity of the system, and allow National Grid to meet increase and growing demand for service. The project is expected to generate additional aggregate tax revenue of \$532,000 to the Town of Portsmouth between 2017 and 2022.

It was noted that § 257-13 of the Noise Ordinance limits construction and demolition activities to between the hours of 7:00 a.m. and 9:00 p.m. each day. Mr. Fiku and Mr. McIntyre explained that National Grid anticipates the normal project work hours will be 40 hours per week, with either four 10-hour days or five 8-hour days. The normal work day will begin at 7:00 a.m. and end at either 3:00 or 5:00 p.m., depending on the contractor’s preference. The entire project is expected to be completed with 30 months after construction begins. The work will be done in phases. Mr. Fiku and Mr. McIntyre explained that certain work tasks, such as pouring

concrete, installing transformers, and stringing wire (and related activities) must be completed once started and will require extended work hours. The types of work, required equipment and materials, typical sound levels, and estimated durations of the work activities were outlined in the document entitled “Construction Practices and Equipment” for the project, which was submitted as part of the National Grid’s application.

Mr. Fiku and Mr. McIntyre stated that the project will exceed the construction hour limitation only when necessary to complete discrete construction activities and not on a continuous basis. They answered several questions from the Council and from members of the public concerning the project and specific types of construction activities and the sequences, durations and sound levels generated from such work. Mr. McIntyre stated that the loudest construction activities during the project would be caisson drilling and vegetation management. Council members expressed concern over the vagueness of the request for extended work hours and the lack of specific details. Mr. Fiku and Mr. McIntyre explained that it is impossible to be more specific at this time, and it is not feasible to seek variances during the project while construction activities are in progress and ongoing. They explained the various community outreach efforts that National Grid has been engaged in, and how it will endeavor to inform and communicate with the public and abutting residents during the course of the project. Mr. Fiku stated that National Grid planned to work closely with abutters to provide advance notice of upcoming construction activities to be performed near their homes.

Upon closing the hearing, the Council then considered National Grid’s application for a sound variance. The Council balanced the hardship to the Applicant and the community if the sound variance were to be denied for the project, against the potential adverse impact on the health, safety and welfare of the affected abutters and properties if the variance were to be granted.

The Council voted unanimously to approve National Grid’s application for a sound variance, subject to the following conditions:

1. All construction activity shall generally be performed between the hours of 7:00 a.m. and 9:00 p.m. in accordance with § 257-13 of the Noise Ordinance;
2. In the event that any construction activity needs to be extended to take place after 9:00 p.m. on any given day, National Grid shall give the Town Administrator, the Police Chief, the Fire Chief, and any affected abutters advance notice of at least 72 hours, if practicable;
3. There shall be no drilling of rock after 9:00 p.m.; and

4. There shall be no cutting of vegetation after 5:00 p.m.

Accordingly, the Council hereby renders its advisory opinion, that National Grid's application for a sound variance be granted, subject to the conditions stated herein.

Portsmouth Town Council

By:

Dated: July 11, 2016

Keith E. Hamilton, President

NEW BUSINESS

NB 1 - Request Authorization to Pay Bills in Accordance with the Regular Agenda Deadline. / J. Lathrop (5)

A motion by Mr. Seveney, seconded by Mr. Robicheau, to approve. All voted in favor of the motion.

CORRESPONDENCE

1. Thank You Card for Being Recognized as 2016 Portsmouth Business of the Year. / Linda and Bill Bohmbach, Home Healthsmith

2. Thank You Card for Flowers. / Lee Ann Ferreira

A motion by Ms. Pedro, seconded by Mr. Robicheau, to receive and place on file. All voted in favor of the motion.

FUTURE MEETINGS

July 30 11:00 AM – Town Council Meeting - Prudence Island (Saturday)

August 8 - No Council Meeting

August 22 7:00 PM – Town Council Meeting

EXECUTIVE SESSION

1. RIGL 42-46-5(a)(5) – Any discussions or considerations related to the acquisition or lease of real property for public purposes, or of the disposition of publicly held property wherein advanced public information would be detrimental to the interest of the public.

A motion by Mr. Seveney, seconded by Mr. Robicheau, to go into Executive Session under RIGL 42-46-5(a)(5) –All voted in favor of the motion.

TIME: 8:38 PM – Break

TIME: 8:50 PM - Return

RETURN TO OPEN SESSION

OPEN SESSION

President Hamilton announced that we met in Executive Session under lease and disposition of public property. We heard that we are preparing an RFP for a specific property. We do not have the RFP yet, so we will be taking this back up when we have the RFP.

A motion by Mr. Seveney, seconded by Mr. Robicheau, to adjourn. All voted in favor of the motion.

ADJOURN

Time: 8:52 PM

Joanne M. Mower, Town Clerk