

PORTSMOUTH TOWN COUNCIL MEETING
APRIL 9, 2018 MINUTES

7:00 PM – Town Council Chambers, Portsmouth Town Hall, 2200 East Main Road

MEMBERS PRESENT: Keith E. Hamilton, Kevin M. Aguiar, David M. Gleason, Paul F. Kesson, Elizabeth A. Pedro, Linda L. Ujifusa, J. Mark Ryan

Time: 7:00 PM

EMERGENCY EVACUATION PLAN

PLEDGE OF ALLEGIANCE – The Pledge of Allegiance was followed by a Moment of Silence for our men and women serving around the world in harm’s way.

SITTING AS THE PORTSMOUTH TOWN COUNCIL

PRESIDENT’S EXECUTIVE SUMMARY – On March 31, 2018 there was a four-hour Executive Session held for Mediation of the Portsmouth Police Department Union Contract. The contract was ratified by the Union and the Council voted 6-0 in favor. Ms. Pedro was absent.

CONSENT AGENDA

1. Bills – Motion to approve and place on file made by Mr. Aguiar, seconded by Dr. Ryan. Motion passed 6-0-1. Mr. Kesson recused himself.

SITTING AS THE BOARD OF LICENSE COMMISSIONERS

1. Victualler License – Specific Event with Fee Waiver Request:
Portsmouth Lions Club, PO Box 657, Portsmouth, RI for the Portsmouth Free Public Library Touch-A-Truck Fundraiser at Glen Park May 5, 2018 – Motion to approve with the Fee Waiver made by Mr. Kesson, seconded by Mr. Gleason. Motion passed 7-0.

2. Peddler License – Specific Event:
Rugby Imports, Ltd., 885 Warren Avenue, East Providence, RI for the Beast of the East Rugby Tournament, April 14-15, 2018 – Motion to approve made by Mr. Kesson, seconded by Dr. Ryan. Motion passed 7-0.

ADJOURN – Motion to adjourn as the Board of License Commissioners made by Mr. Kesson, seconded by Ms. Pedro. Motion passed 7-0.

MINUTES

TCM 3-12-18 & Exec. – Motion to approve made by Mr. Kesson, seconded by Dr. Ryan. Motion passed 7-0.

TCM 3-26-18 – Motion to approve made by Mr. Kesson, seconded by Dr. Ryan. Motion passed 7-0.

TCM 3-31-18 Exec. – Motion to approve made by Dr. Ryan, seconded by Mr. Kesson. Motion passed 6-0-1. Ms. Pedro was absent for the session.

TAX VOUCHERS

Request Approval for Tax Vouchers #20180409-01 to #20180409-05. – Motion to approve made by Mr. Kesson, seconded by Mr. Gleason. Motion passed 7-0.

TOWN ADMINISTRATOR’S REPORT

1. Status of Natural Hazard Mitigation Plan Update – The update to Portsmouth’s Natural Hazard Mitigation Plan has been ongoing since the Council approved VHB Engineering to assist in this project. As a reminder, we must have an updated FEMA-approved plan to qualify for post-disaster relief funds. Work so far has focused on: Identification of critical infrastructure, community assets, vulnerable populations; and creation of a list of actions needed to lessen the impact of a natural disaster. The third of 5 planned meetings with VHB will be held tomorrow (April 10th). We are still on track to provide the public an opportunity to review, and provide comments, on a draft hazard mitigation plan in June of this year.
2. Update on Finance Director search – Since my last report, we have conducted second interviews with three candidates. We will interview three more candidates this week.
3. Report on Senator Whitehouse press conference held in Portsmouth – Last Monday Senator Whitehouse conducted a press conference at Thrive Coffee House in Island Park to highlight the newly funded National Oceans and Coastal Security Fund. This fund was established to help coastal businesses address issues surrounding climate change. In the omnibus spending bill signed into law in late March, Congress approved \$30 million for the Security Fund, which will be awarded through a nationwide competitive grant process. Our Town Planner was present at the conference & spoke about the potential impact of changing climate conditions to Portsmouth.
4. Report out on Navy Community Leadership Meeting – • The latest Navy Community Leadership Meeting was held at the Naval Station on March 29th. At the meeting, it was discussed: When the fence goes back up along the south side of Tank Farm 4, it will be on the property line, not the 50-ft. setback, its current location; Gary provided the group an update with respect to Tank Farms 1 and 2; The Commanding Officer discussed his plan to repair winter damage to Burma Road and the need for further study on the condition of sewer and water infrastructure on the Defense Highway corridor. He also encouraged us to work with the Navy on developing what he referred to as “creative solutions” on future ownership of Stringham Rd; It was also reported that sampling for AFFF contamination at the Backyard property will begin this month; and, it was announced that the EPA will give a technical presentation on their Per - and Polyfluoroalkyl Preliminary Assessment for Tank Farms 1 & 2 and the “Backyard” at the next RAB meeting.

5. Report on MEDS POD April exercise – As required by the RI State Dept. of Health, we will conduct an exercise of our Town Medical Emergency Distribution System (MEDS) Point of Dispensing (POD) on Thursday, APRIL 19 at the Portsmouth High School. We will exercise the setup of the dispensing operation for a Town medical emergency from 9 AM to Noon. The Medical Emergency Distribution System (MEDS) can quickly establish a Point of Dispensing (POD) to distribute preventative medications to the entire affected population in the unlikely event of a medical pandemic or attack. The Town has special procedures and pre-positioned equipment for such an eventuality. The exercise will coincide with the school's Spring break so as not to disrupt the school classes. Citizens who are interested in observing the medical distribution set-up are invited to visit the High School from 11 AM to 12 Noon.

6. Reminder regarding residents meeting with Green Energy – Just a reminder, a meeting has been coordinated between Green Energy Development and residents who have expressed concern over the operation of the Wind Turbine. The meeting will be held here in the Council Chamber this upcoming Thursday, April 12th, at 6:00 PM.

7. Update on Police Station construction project – MILESTONES THIS PERIOD: Foundation walls are complete; Underground utilities within the building are complete; Slab at grade placement is finished; Erection of the steel structure began last week. Total construction billings to date are \$1,421,626 and the Town is withholding 5% retainage (\$71,081.30) per the contract documents. We have received Lien Waivers for payments made to date and Certified Payroll Affidavits are current. The Architect has issued two change orders to date totaling \$6,285.38. We are quantifying and preparing to issue additional change orders in April to address unsuitable soils and ledge encountered during the excavations as well as a zero-cost time extension due to winter weather and those unsuitable materials. The Critical Path Schedule update submitted to still confirms Substantial Completion of the new building in late October 2018 with demolition of the existing to follow. As noted, the Contractor has agreed to a zero-cost change order in acknowledgement of the time extension due to winter weather and unsuitable soil conditions. The project is approximately 15% complete.

8. Maguire Equipment will begin installation of the new compactor at the Transfer Station next Monday, April 16th. On that Monday, they will remove the old compactor and on Tues and Wed they will install the new unit. DPW is working closely with Maguire Equipment, our electrical contractor, and Vinagro, to ensure the operation proceeds as quickly and smoothly as possible.

9. Repairs to the Dog Park should be completed this week, providing the contractor can obtain stock material from his supplier (which he expects to be the case).

10. Remembering George Medeiros – Lastly, I sadly report the passing of a dedicated public servant and true friend to Portsmouth. Mr. George Medeiros, our previous Building Official who served in that capacity for over 30 years, passed away peacefully Saturday, March 31 after fighting a courageous battle with cancer. He was a friend and mentor to many and will be sorely missed by all who knew and worked with him.

RESIGNATIONS AND APPOINTMENTS

1. Resignation

a. Portsmouth Housing Authority – Motion to accept with regret made by Mr. Kesson, seconded by Mr. Gleason. Motion passed 7-0.

2. Appointments

a. Design Review Board – Motion to approve Mr. Abbott made by Mr. Kesson, seconded by Dr. Ryan. Motion passed 7-0.

b. Glen Manor House Authority (Re-Appt.) – Motion to re-appoint Ms. Divoll made by Mr. Kesson, seconded by Ms. Pedro. Motion passed 7-0.

OLD BUSINESS

1. Discussion/Action – Duncan Ingraham’s EDC Compliance. – Motion to accept removal with regrets made by Mr. Kesson, seconded by Mr. Gleason. Motion passed 7-0.

Motion made by Mr. Gleason to move NB1 ahead of OB2 because there may be people waiting for that to be heard, seconded by Ms. Pedro. Motion passed 7-0.

NB1. Request Donation for the 21st Annual Post Prom Party – Motion to give \$1000 from the Town Council’s Contingency fund to the Annual Post Prom Party made by Mr. Kesson, seconded by Ms. Ujifusa. Motion passed 7-0.

2. PUBLIC HEARING: Proposed Addition to the Portsmouth Town Code of Ordinances – Short-Term Rental of Residential Dwellings.

James Moore, 217 Indian Ave., on behalf of the working group offered an alternative to section 8A Occupancy Limits and Parking Requirements.

John McColloch, 355 Indian Ave., thanked the staff. He stated that the ordinance should be a balance of needs of the homeowners and the rental owners. He passed out the proposed revision made by the working group which states, ‘The maximum occupancy for the dwelling unit shall be two persons per bedroom. For establishing occupancy, a person is defined as an individual at least six years of age. Further, not more than two persons per bedroom may be present in any short-term rental between 10:00 p.m. and 7:00 a.m. The number of bedrooms shall not exceed the number of bedrooms supported by the design load of the property’s septic system (Onsite Wastewater Treatment System, or “OWTS”). The owner shall provide records and/or information that the Building Official or his/her designee deems reasonably sufficient to determine the number of bedrooms for which the OWTS is rated. The maximum occupancy may be further limited by the requirements of Division (B) below.’ He also stated that the two additional guests is not needed in the sentence in section 8A.

James Moore stated that he sees short-term rentals as a tremendous business and believes that the licensing fees should be \$100.00 per bedroom. He also stated that a host compliance website would help with tracking down people who are advertising on websites and social media and are advertising too many bedrooms for the rental and those who have not paid the licensing fees.

Bob Brooks, 140 Melee Ter., has a rental property in Island Park. He understands the need for registering rental properties but does not understand why nine-month rentals, especially those with college students, do not have to register. He says that his typical clients are in their 60's with adult children and grandchildren.

Larry Fitzmorris, 50 Kristen Ct., presented a letter from the Portsmouth Concerned Citizens to the Town Council with six proposed changes for the Council to consider:

1. Change the period of time for a Short-term rental from 31 days or less to 9 months or less.
2. Change the registration fee from \$100.00 per bedroom to \$100.00 per dwelling.
3. Modify paragraph 4B to provide for an owner scheduled inspection and limit the purpose of the inspection to determining the occupancy limit of the unit pursuant to section 8, compliance with the State Fire Code and determining the number of available off-street and on-street parking spaces. Also add the owner or his or her designated representative shall schedule the inspection with the Building Official or his/her designee and the Fire Marshall.
4. Eliminate the two-visitor addition to the two per bedroom limit to clarify the definition of maximum renters as two persons per bedroom.
5. & 6. Delete paragraph 11B and 11C.

Richard Pavao, 542 Walnut St., Fall River, a taxpaying rental property owner in Portsmouth for 12+ years. He owns two properties in town; one of which is at 322 Riverside St. He addressed comments made previously by Ms. Panaggio. He also stated that he has never been an absentee property manager.

Susan Panaggio, 324 Riverside St., believes a sense of community and culture is being lost in her neighborhood. She believes that short-term rentals and rentals to college students are part of the reason. She would like to see that there are registrations and that the renters are aware of the town ordinances that would apply to them.

Tom Kenney, 294 Indian Ave., states that 366 Indian Ave., has become a problem. He believes there are too many people staying in a 4-bedroom rental property. He feels that it is not a residence if it is being rented all the time. He was concerned with parking, noise, and safety.

Bob Marshall, Narragansett Ave., Prudence Island, said that short-term rentals are not new on Prudence Island, the difference is that it's the same people renting every year and it is only for a few weeks a year. Neighbors deal with any issue that come up, not that there are very many. He would like to see Prudence Island excluded from the ordinance.

Edward Allen, 26 Atlantic Ave., said that he never had a problem in 40 years, until 2 years ago when a neighbor put in a 4-bedroom septic in a 2-bedroom home and is now putting it on Airbnb, advertising it as a 4-bedroom, 12-person occupancy on a 40'x100' lot.

Jonathan Harris, 84 East Ter., has done summer rentals for the last 5 years. He believes the ordinance, as written, is an unconstitutional taking of property. He has a different type of renter in his neighborhood than Island Park. He thinks that most homeowners that do rentals are responsible. There should be other means to take care of the complaints that have brought about the ordinance to be written rather than implement a new ordinance. His rental agreement has most of rules that the ordinance describes.

John Hanks, 86 Therrien Rd, owns rental property next to his home. Rentals have been helpful with the upkeep and paying for the house. He has a well written lease and follows RIGL § 34-18 [Residential and Tenant Act]. He thinks a host compliance firm is great but believes the Town can do it better. Safety concerns with the signage out front. Wonders about the appeals process and questions the three strikes rule.

Andrew Muller, 180 Bayview Ave., has two rental properties and advertises on Airbnb. He likes Airbnb better because he has more control with them. What we need is more responsibility with the owners.

Joe Rideout, 63 Attleboro Ave., has been with Airbnb for four years. He rents out his own residence for 14 days a year without having to pay taxes, per state statute. He has a problem with the ordinance in having to put his name and phone number on a sign in his front yard.

Kate Donovan, 49 Fischer Cir., is a realtor and has concerns about the implications for future potential property owners looking for investment properties in Portsmouth.

Bob Power, 57 Water St., property is a Trust property. He lives in Newport and believes that the Town needs to get in front of the short-term rental situation before it gets worse. He has been through all of this in Newport already. It will be a constant battle and the Town will need to have some type of regulation.

Nancy Borden Weida, 206 Canonchet Dr., owns a family property and would like to do short-term rentals. She and her family have booked properties through VRBO and knows what it is like to deal with rentals.

Chris Sousa, 708 Mitchell's Ln, Middletown, has had 3 Airbnb rentals advertised over the last 5 years. There is a responsible way to do short-term rentals. As an owner you need to know who you're renting to, make potential renters aware of fines, the Town should be involved, tax it, make people accountable for their homes, and accountable to their neighbors.

Nancy Sullivan, 40 Atlantic Ave., has concerns that Roger Williams students are not positive renters, she questions the age of renters drinking on her street, would like the speed limit of 15 mph on Atlantic Ave. enforced, no parking signs on one side of the street, and to have the trees trimmed so that the speed limit sign is visible.

Edward Allen asked if the Council is considering a minimum number of days per rental. He would like 3 days be considered as opposed to 1 night.

Fred Stevenson, 23 Baldwin Rd and 542 Narragansett Ave., Prudence Island manages 15 short-term rentals in the summer to defray costs. He would like to see Prudence Island and Hog Island excluded from the ordinance and, if needed, could be added in the future.

Fred Faerber, 271 Sprague St., the need for the ordinance is now and he is in support of this. He believes it is a good law to have on the books.

Jane Hanks, 86 Therrien Rd., is the mother of John Hanks who spoke earlier. She understands that there are a handful of issues. She had booked a Home Away weekend to learn about rentals in 2016. She said that booking multiple nights is the key to success; a 1-night booking tends to be for a party. A 9-month ordinance is good idea too, as it would address the party places/college kids. She thinks that the Council needs to go back and tweak the ordinance before finalizing it.

Donna Greer, 18 Atlantic Ave., thinks that out of town property owners are the problem, as well as the 1-night rentals. She's in support of the ordinance.

– After Mr. Hamilton asked three times if there were any other questions/comments and hearing none, a motion to close the Public Hearing was made by Mr. Kesson, seconded by Dr. Ryan. Motion passed 7-0.

Motion to strike highlighted sentence in Section 8A 'Not more than two persons per bedroom plus two additional persons may be present in any short-term rental between 10:00 p.m. and 7:00 a.m.' made by Ms. Ujifusa, seconded by Dr. Ryan. Motion passed 7-0.

Motion to change '6 years of age' to 12 years of age in Section 8 A made by Ms. Pedro, seconded by Mr. Kesson. Motion passed 6-1. Ms. Ujifusa in dissent.

Motion to change Section 7 'registration fee of one hundred dollars (\$100.00) for each bedroom within a dwelling unit covered under the provision of this ordinance' to registration fee of one hundred dollars (\$100.00) per rental unit made by Mr. Gleason, seconded by Ms. Pedro. Motion passed 5-2. Ms. Ujifusa and Dr. Ryan in dissent.

Motion to remove Section 11 B and C in its entirety and change Section 11 D to 11 B, made by Mr. Aguiar, seconded by Ms. Pedro. Motion passed 7-0.

Motion to delete 'plus one (1) additional parking space' from Section 8 B made by Mr. Aguiar, seconded by Mr. Kesson. Motion passed 5-2. Ms. Ujifusa and Dr. Ryan in dissent.

Motion to approve ordinance as presented and amended made by Mr. Gleason, seconded by Mr. Aguiar. Motion passed 7-0.

NEW BUSINESS

NB1 heard prior to OB2

CORRESPONDENCE

1. Invitation to Participate in the 34th Annual Aquidneck Island National Police Parade, Sunday May 6, 2018. / G. George & F. Rosa, City of Newport
2. Letter Asking the Status of, and the Expected Roles and Responsibilities for, the Prudence Island Public Safety Officer. / E. Aldrich, Chair, Prudence Island Planning Commission
3. Resolution Supporting School Construction General Obligation Referendum. / Exeter-West Greenwich Regional School District
4. Letter Asking the Town Council to Request a Feasibility Study from the Portsmouth Water and Fire District for the Installation of an Outdoor Water Faucet/Hose Bibb at Legion Park.

Motion to receive and place all correspondence on file made by Mr. Gleason, seconded by Mr. Kesson. Motion passed 7-0.

FUTURE MEETINGS

- Apr 23 7:00 PM – Town Council Meeting: Budget – Overview and Discussion on Revenue
- Apr 24 7:00 PM – Town Council Meeting: Budget – Discussion of Town and School Expenditures
- Apr 25 7:00 PM – Town Council Meeting: Budget – Continuation of Budget Discussion as needed
- Apr 26 7:00 PM – Town Council Meeting: Budget – Continuation of Budget Discussion as needed

ADJOURN – Motion to adjourn made by Dr. Ryan, seconded by Mr. Gleason. Motion passed 7-0.

Time: 10:18 PM

Jennifer M. West, Town Clerk