

PORTSMOUTH TOWN COUNCIL MEETING
JANUARY 24, 2022
MINUTES

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

Time: 7:01 PM

MEMBERS PRESENT: Kevin M. Aguiar, Keith E. Hamilton and Andrew V. Kelly in Town Council Chambers

MEMBERS PRESENT BY ZOOM: Linda L. Ujifusa, J. Mark Ryan and Leonard B. Katzman

MEMBERS ABSENT: Daniela T. Abbott

EMERGENCY EVACUATION PLAN

PLEDGE OF ALLEGIANCE

SITTING AS THE PORTSMOUTH TOWN COUNCIL

1. Roll Call

PRESIDENT’S EXECUTIVE SUMMARY

NEW BUSINESS (Discussion/Action)

1. Joint Town Council/School Committee Legislative Priorities for 2022 – No votes taken. Senator Jim Seveney, Representative Susan Donovan, Representative Terri Cortvriend and Representative Michelle McGaw participated in the meeting.

Town Legislative Priorities

- 1) Expand the Open Meetings Act to permit in-person, virtual and hybrid meetings

The Omicron variant is extremely dangerous and we cannot limit public meetings to in-person events. See [letter](#) from American College of Emergency Physicians – RI Chapter and [op-ed](#) by Steven Brown, Executive Director, ACLU of Rhode Island, Linda Levin, President, ACCESS/RI, John Marion, Executive Director, Common Cause Rhode Island, Michael McDermott, Board Member, ACCESS/RI, John Pantalone, Associate Professor of Journalism, University of Rhode Island, Scott Pickering, Board Member, ACCESS/RI, Ethan Shorey, Co-President, R.I. Press Association, Justin Silverman, Executive Director, New England First Amendment Coalition.

We urge our legislators to push the Governor to reinstate his prior executive order or if he fails to act, immediately pass legislation permitting virtual and hybrid meetings.

- 2) Reverse past state tax cuts for the wealthiest Rhode Islanders

The RI League of Cities and Towns has noted, “Every state dollar to cities and towns and schools is effectively a dollar in property tax relief.” The 2006 state tax cut for the wealthiest Rhode Islanders effectively raised municipal property taxes. See <http://www.rifuture.org/ris-tax-cuts-for-the-rich-were-2nd-biggest-of-decade/> and <https://www.washingtonpost.com/business/2020/12/23/tax-cuts-rich-trickle-down/>.

The middle class now pays more in taxes than the wealthy. See <https://www.economicprogressri.org/index.php/2018/10/18/study-finds-the-wealthy-pay-a-lesser-share-of-their-income-in-taxes-in-r-i/> <https://upriseri.com/2018-10-17-who-pays/> and <https://itep.sfo2.digitaloceanspaces.com/whopays-ITEP-2018.pdf>.

We urge our state legislators to adopt the Revenue for Rhode Island proposal set forth at <https://revenueforri.org/> so that those making more than \$450,000 in annual income pay their fair share. Myths about “trickle down” and “millionaire flight” must be refuted. See <https://itep.org/no-need-f-or-the-mythbusters-the-millionaire-tax-flight-myth-is-busted-again/>.

3) Improve and protect internet service

The pandemic emphasized how essential the internet is to our daily lives (e.g., distance learning, telemedicine, public meetings, etc.). Although Portsmouth does not currently have the resources to create a municipal fiber network like [New Shoreham](#), we urge state legislators to support efforts to protect and improve our existing system. See [here](#).

4) Limit fossil fuel infrastructure construction

Old Mill Lane has shown that a private corporation like National Grid (NGrid) presses for “solutions” that prioritize its profits over environmental or consumer benefits. See Linda Ujifusa memo to Town Council, 3/16/21 [here](#) and <https://calpirg.org/feature/cap/end-fossil-fuel-subsidies>

Moreover, PPL Corporation’s proposed purchase of NGrid’s RI component (Narragansett Electric Company) threatens to exacerbate problems. Specifically, PPL has no experience working to meet emissions goals nor help municipalities with aggregation projects. See RI AG experts’ [objections here](#).

These “public utilities” should be required to redirect their profits to funding projects that actually help consumers and the Rhode Island economy. State legislators should impose more restrictions on fossil fuel infrastructure construction (e.g., limiting corporate profits, requiring clean-up of abandoned assets, etc.) and oppose the PPL purchase.

5) Remove private corporate middlemen who make universal healthcare unaffordable

Given the devastating effect that lack of health insurance has had before and during the COVID-19 pandemic and the enormous health insurance costs making up most Other Post-Employment Benefits (OPEB), state legislators should support [single payer legislation](#), including state legislation to remove private insurance company middlemen, especially Medicaid Managed Care Organizations ([MCOs](#)) and their contractor Pharmacy Benefit Managers ([PBM](#)s).

Every industrialized nation in the world, except the United States, offers guaranteed universal health insurance under a “single payer” type system and enjoys better health outcomes for about one-half the cost. See <https://pnhp.org> Even the most conservative analyses have found that Medicare for All would cost less than the current inefficient multi-payer health insurance system. See, e.g., <https://www.cbo.gov/publication/56811>

6) Recreational Marijuana

It is no secret that RI will be heading down the path of legalizing recreational marijuana to attempt to close budget holes. Portsmouth currently has 1 of the 3 medical marijuana facilities in RI and they are sure to change to full service once recreational is approved. Portsmouth and other host communities need help in anticipated expenses from policing activities related to legalization of recreational marijuana. Each hosting community should receive a tax associated from each sale to help offset future expenses. The Massachusetts Statute provides 3% payments to communities plus the ability to apply a local sales tax not to exceed 3%. The Portsmouth Town Council would like to request these fees be the minimum included into any bill. We would also like to limit the number of facilities by population and suggest that a maximum of 1 facility per 50,000 residents per host communities.

Staff Legislative Priorities list:

- 1) Promote State takeover and maintenance of Defense Highway / Stringham Road from the Navy. Working with Cornelia.
- 2) Provide funding for Stone Bridge improvements.

- 3) Ask again for our legislators to introduce the bill to amend the RI Zoning Enabling Act to state that municipalities may have provisions in their zoning ordinances to consider proposed land uses that are not specifically listed in the table of uses (which passed the Senate in the 2021 session (2021 S 0116) but was not acted upon by the House).
- 4) Request our legislative delegation to introduce bills, in next year's session, to amend our municipal court enabling statute in a similar fashion, so we could prosecute building code violations in a local municipal housing court (which would for all intents and purposes be the same court with the same judge, same clerk, etc.). If the legislature is giving such authority to other municipalities, I see no reason why it would not do the same for Portsmouth.
 - a. In 2017, the General Assembly amended Warren's municipal court enabling statute, and in 2018, the General Assembly repealed and replaced Lincoln's municipal court enabling statute, to also establish a municipal housing court which would have jurisdiction over violations of the state building code. Here are links to the bills showing how those statutes were amended.
 - i. <http://webservice.rilin.state.ri.us/PublicLaws/law17/law17360.htm>
 - ii. <http://webservice.rilin.state.ri.us/PublicLaws/law18/law18324.htm>
 - b. In 2020, the General Assembly passed a new enabling statute for South Kingstown to have a municipal court, and a municipal housing court which would have jurisdiction over violations of the state building code. Here is a link to that statute.
 - i. <http://webservice.rilegislature.gov/Statutes/TITLE45/45-2/45-2-67.HTM>
- 5) Create a centralized business database to effectively communicate with our businesses.
 - a. RIGL 6-1 requires a sworn paper form for municipality business registration. In the past five years, many unsuccessful attempts have been made by the legislators and State officials to improve the business registration process. The process needs to:
 - b. Provide for a uniform, electronic business registration system that provide an accurate and up-to-date data base of business information.
 - c. Enable town business development managers the ability to easily interact with businesses to assess their needs and quantify their effect on the economy.
- 6) Create a cabinet-level position tasked to improve the coordination of electronic connectivity and commerce.
 - a. This will enable us to develop a "Smart-Town" strategy, supported by a comprehensive, actionable framework that coordinates and synergizes both existing and future technologies so that government can effectively communicate and interact with its citizens to:
 - i. Make the lives of the people who live, work and visit our town better through smart Information and Communications Technology.
 - ii. Enable bold action to transform the town to benefit our people through technology
 - iii. Make the Town "Smart and Connected" through
 1. Reliable High Speed Internet Connectivity,
 2. "Smart" Intra-activity and Collaboration
 3. "Smart" Citizen Engagement
 4. "Smart" Safety
 5. "Smart" Government Transparency

School Committee Legislative Priorities

- 1) Expand the Open Meetings Act to permit in-person, virtual, and hybrid meeting options for the public
- 2) We urge our legislators to pass legislation permitting in-person, virtual, and hybrid meeting options for the public.

- 3) State Aid Funding Formula: COVID-19 Distorting State Aid due to Under Reported Number of Free and Reduced Lunch Students
- 4) The number of students who qualify for free or reduced price lunch under the National School Lunch Program is a significant factor in the calculation of State Aid under the State Aid Funding Formula. Due to the impacts from COVID-19, districts did not participate in the National School Lunch Program in fiscal 2021 or fiscal 2022. Districts provided food service to students under the Summer Food Service Program (SFSP) or Seamless Summer Option (SSO). Under both of these programs, breakfast and lunch was free to all students and Free/Reduced Price Lunch applications were not required or collected. In fact, RIDE advised districts that they were not allowed to collect Free/Reduced Price Lunch applications during this time period since they were not operating food service programs under the National School Lunch Program. Therefore, the students identified as Free/Reduced Lunch by districts are primarily students identified in the Electronic Direct Certification (eDC) files provided by DHS/RIDE on a periodic basis. This underrepresents the true number of students that would normally qualify for Free/Reduced Lunch by excluding any students that would normally qualify through the regular application process.
The significantly understated number of students who would normally qualify for Free/Reduced Lunch, but who are not being counted due to the absence of applications, is having a highly negative impact on the calculation of State Aid when determining the State Share Ratio and Student Success Factor. We request that the State address this issue by either holding districts harmless from this impact. Failure to address this issue would result in significant financial harm to school districts and result in substantial reductions to educational programs for students.
Additionally, as the cost of educating students with disabilities continues to increase even for the most well managed school budget, we encourage you to support an increase in the high-cost special education categorical fund included in the funding formula aid.
- 5) Unfunded Mandates
- 6) The General Assembly should ensure that districts are equipped with the money and resources to support educational initiatives that result from legislation related to PK-12 schools. A recent example from the last legislative session would be Senate Bill 86-A/House Bill 5083-A requiring that feminine hygiene products be provided in all public schools. While this is a worthy initiative it will cost the Portsmouth School District approximately \$7,800 to implement this in our schools at a time when we are getting ready to completely renovate student bathrooms over the next few years.
- 7) Special Education
- 8) Examine and change the statutory requirements for LEAs to contribute special education per pupil amounts to DCYF for students placed in residential settings and the overall formula used to identify LEA per pupil spending amounts for students with IEPs placed in residential settings. We request that the State address the current statute for this area in its entirety, including the formula for determining per pupil expenditures in this area.
- 9) Statewide Transportation: Examine the Effectiveness of Statewide Transportation for Students who Attend School Outside of Their Residence LEA
- 10) Statewide transportation was legislatively enacted to provide fiscal efficiencies for student transportation outside of LEA's. The system, while purportedly offering efficiencies has failed year over year to accomplish this, particularly as it relates to cost. It is not cost effective and it is not efficient. We request that the State address this issue by studying the effectiveness of statewide transportation to identify cost effective solutions for LEAs as it relates to transportation.

2. Joint Town Council/School Committee budget presentation. – No votes taken.

CONSENT AGENDA – Motion to approve as presented made by Mr. Hamilton, seconded by Mr. Kelly. Motion passed 6-0.

Directions to view licensing applications: 1) Click on [Viewpoint](#), 2) Click Records and then type in the

record number which is listed on the agenda, 3) Click on the highlighted record to view the application

1. Bills
2. CRMC – Public Notice 2021-12-014
Beth Roman, 48 Peaceful Way, Portsmouth, RI 02871 – for a State of Rhode Island Assent to construct and maintain: a Residential Boating Facility Consisting of – a 65’ fixed pier to a 20’ ramp and 18’x 8’ float extending 75 feet beyond Mean Low Water (MLW) requiring a Variance to RICRMP Section 1.3.1(D)(11)(1) 50’ MLW standard is requested. Project Location: 57 Atlantic Avenue.
3. CRMC – Cease and Desist Order Number 21-0268
Richard and Karen Hazarian Tully, 123 Power Street, Portsmouth, RI 02871 – Undertaken alteration of coastal feature (cobble beach), filling in tidal waters; alteration of the 75 foot coastal buffer zone; creation of a boat ramp on the coastal feature (vegetated coastal bluff); installation of stairs on the coastal feature (vegetated coastal bluff); installation of a kayak rack on the coastal feature (vegetated bluff); and, construction of accessory structures within 200 feet of the coastal feature at your property located at Plat 34, Lot 57B, 123 Power Street, Portsmouth without benefit of a CRMC assent or in violation of a Council order.

MINUTES – Motion to approve made by Mr. Hamilton, seconded by Dr. Ryan. Motion passed 6-0. 1/10/22 & Exec.

TAX VOUCHERS

Request approval for Tax Vouchers #20220124-01 to #20220124-04. – Motion to approve made by Mr. Hamilton, seconded by Dr. Ryan. Motion passed 6-0.

TOWN ADMINISTRATOR’S REPORT

1. Update on Management Information System hire
 - As you know, we have been interviewing candidates for the Town Information Systems Manager position since early summer. It’s my pleasure to report we selected a candidate.
 - His name is Raymond McKenna. He has extensive Information Systems knowledge and experience and has been vetted through our current consultant, the School IT Department, HR, the Police Department, and myself.
 - Let me be the first to welcome Ray aboard. He will start tomorrow just in time to assist us through the Council Chamber A/V renovation and will initially be co-located with the School IT Department.
2. RI League of Cities and Towns 2022 Convention
 - The RI League of Cities and Towns originally planned to return to an in-person convention later this month as COVID-19 infection rates decreased and vaccines became more readily available.
 - However, with the Omicron variant being more transmissible, and with the majority of attendees being critical staff, the Executive Board of the Rhode Island League of Cities and Towns decided to postpone the annual convention to Thursday, April 28, 2022.
 - They plan to have all aspects of the convention as planned, just on the new date.
 - Everyone who has already registered for 2022 Annual Convention will be automatically registered for the new date.
3. Comp Plan reminder

- Just a reminder that draft Comprehensive Community Plan is available for review. It can be found via a link on the front page of the Town’s website in the News and Announcements section.
 - Public Workshops will be held March 7th, March 21st, and April 4th.
4. Audit update
 - Additionally, the annual comprehensive financial report (Audit) is available through the Finance Department’s web page. The Auditor will brief the report to the Council at the February 28th meeting.
 5. West Side Development Advisory Committee report update
 - The Council asked me to assess the need for continuation of the West Side Advisory Committee. I am still looking at this and will come back to you with a recommendation next month.
 6. Parks, Recreation and Open Space Master Plan Survey
 - As part of the development of the Parks, Recreation and Open Space Master Plan project, the Town is seeking input from community members through an online Community Survey.
 - This survey seeks to better understand how residents utilize parks and recreation amenities, if existing facilities and programs are meeting the needs of residents, resident satisfaction with recreation amenities by age group, and what is missing that would enhance the user’s experience. The survey should only take 5 to 10 minutes to complete, and all responses are anonymous.
 - The online Community Survey will be announced on our Website and in the Portsmouth Times, and can be accessed through the Recreation Department web page.

RESIGNATIONS AND APPOINTMENTS

1. Appointments:
 - a. Bristol Ferry Town Common Committee – Motion to appoint Elaine Giniewicz, made by Dr. Ryan, seconded by Mr. Katzman. Motion passed 6-0.
 - b. Tree Commission (Re-Appt.) – Motion to re-appoint both John Fitzgerald, Jim Garman made by Mr. Hamilton, seconded by Mr. Kelly. Motion passed 6-0.

OLD BUSINESS (Discussion/Action)

1. Monthly Finance Report. – Motion to receive and place on file made by Mr. Hamilton, seconded by Mr. Katzman. Motion passed 6-0.

NEW BUSINESS (Discussion/Action)

1. Request approval to amend resolution #2021-01-25 – Exemption from Taxation of the Real Estate of Certain Income Eligible Senior Citizens. – Motion to approve made by Mr. Hamilton, seconded by Mr. Kelly. Motion passed 6-0.

**TOWN OF PORTSMOUTH, RI
RESOLUTION # 2022-01-24**

**Exemption from Taxation of the Real Estate of
Certain Income Eligible Senior Citizens**

<u>IF YOUR INCOME IS:</u> (DEC. 2021)	<u>YOUR EXEMPTION IS:</u> 2022 TAX ROLL
CPI-U (7.0%) 0 - \$10,981	85% of Assessed Value
\$10,982 - \$13,686	75% of Assessed Value
\$13,687 - \$16,391	65% of Assessed Value
\$16,392 - \$19,098	55% of Assessed Value

\$19,099 - \$21,802	45% of Assessed Value
\$21,803 - \$24,512	35% of Assessed Value
\$24,513 - \$27,213	25% of Assessed Value
\$27,214 - \$29,924	15% of Assessed Value
\$29,925 - \$32,409	10% of Assessed Value

Ref.: Amends 2021-01-25

APPROVED BY TOWN COUNCIL ACTION ON January 24, 2022

Kevin M. Aguiar, President
 Portsmouth Town Council

ATTEST: _____
 Jennifer M. West, Town Clerk

2. Request permission to submit application for a Municipal Resilience Program Grant. – Motion to approve made by Mr. Hamilton, seconded by Mr. Kelly. Motion passed 6-0.

3. Request approval of a Memorandum of Understanding between the Newport County Radio Club and the Town of Portsmouth regarding the use of a shed structure at Glen Park. – Motion to approve made by Mr. Hamilton, seconded by Ms. Ujifusa. Motion passed 6-0.

MEMORANDUM OF UNDERSTANDING

TO: Mr. Richard Rainer Jr., Town Administrator Town of
 Portsmouth, RI

FROM: Mr. Peter Bartram, President
 Newport County Radio Club

RE: USE OF SHED STRUCTURE AT GLEN PARK

The Newport County Radio Club (NCRC), represented by the President and Executive Committee of NCRC, desires to engage with the Town of Portsmouth, through the Town Administrator or their Designated Authorized Representative (DAR) to arrange for the use of a particular shed structure located at Glen Park.

This Memorandum of Understanding (MOU) is not binding and does not form any part of a legally binding contract. This MOU sets forth some proposed guidelines under which NCRC and the Town of Portsmouth may operate for NCRC’s desired shed-use arrangement.

1. The subject shed is the former equestrian storage structure located at the south end of the Glen Park soccer and volleyball field, an image of which accompanies this document for confirmation and clarity.
2. The NCRC requests permission to use the shed structure to house and otherwise store radio antenna equipment and associated gear belonging to the NCRC and typically used to host Amateur Radio events.
3. The NCRC agrees that access to the shed structure including vehicular access will be implemented without permanent damage to the Glen Park facility and that use of the shed in general will result in no harm to Glen Park.
4. The NCRC agrees to ensure that the use of the shed structure for storage will do no permanent harm causing a compromise to the structural integrity of the shed.
5. The NCRC agrees that the use of the storage shed will not include any fees to be paid to the Town of Portsmouth and will not be used by NCRC for commercial storage or other activities resulting in remuneration to NCRC. It is to be understood that NCRC use will be exclusively for the club's activities as a 501(c)(3) organization.
6. The NCRC will refurbish the shed structure to restore its usefulness for storage purposes adding sufficient security measures to ensure protection of the radio equipment from the elements and from criminal theft to the extent practical. Any improvements to be made will be at the expense of the NCRC.
7. NCRC will be responsible for all building permits needed for any improvements for this structure and the Town will waive all the Town fees associated with the building permits. NCRC will be responsible for the State fees and permit application fees.
8. Any security measures to be implemented that include a key or code access will be shared with the DAR or other individual authorized by the Town of Portsmouth Town Council.

9. The NCRC agrees that the individual representing the NCRC membership with respect to this MOU arrangement will be the current president of the NCRC who will be acting specifically on behalf of the NCRC Executive Committee and in general on behalf of the NCRC membership.
10. The NCRC requests that this MOU arrangement be made with no definite termination date and that it shall be periodically reviewed by meeting of representatives from NCRC and the DAR or other Town of Portsmouth authority. Such reviews are to be utilized for either terminating or continuing the MOU arrangement or making corrections or adjustments to the MOU arrangement. Notwithstanding the above, this MOU may be terminated by either NCRC or the Town of Portsmouth upon thirty (30) days written notice to the other party.
11. The NCRC agrees to be responsible for maintaining the condition of the shed structure insofar as it is used for storage purposes and will agree that if the MOU arrangement is terminated the structure will be turned back over to the Town of Portsmouth in at least the same condition as it was received or better.
12. The NCRC agrees to allow authorized representatives from the Town of Portsmouth to inspect the shed structure as needed and upon request.
13. The NCRC agrees to not perform any substantial changes to the structure with respect to the current location, size and appearance without presenting a detailed plan to the DAR or other authorized entity. A two-page description of the proposed usage and modification agreed with 4H of RI is attached.
14. The NCRC agrees to collaborate with the Town of Portsmouth Recreation Director and the Portsmouth Emergency Management Agency organization during emergency events for which an activation of emergency civil services occurs. It is to be understood that the NCRC is an active participant in local emergency civil services and will join in emergency services efforts associated with the Town of Portsmouth.
15. The NCRC agrees to hold the Town of Portsmouth harmless in the event of lost, stolen or damaged items to any and all property stored in the shed structure pertaining to this Memorandum of Understanding (MOU).

It is understood that this MOU represents the general features of anticipated interactions between NCRC and the Town of Portsmouth with regard to a shed-use arrangement. It is not binding on any party and creates no rights in favor of either party. The parties have signed this MOU to evidence the matters described herein as of the ___ day of January 2022

NEWPORT COUNTY RADIO CLUB

TOWN OF PORTSMOUTH

by: _____
Peter Bartram, NCRC President

by: _____
Kevin M. Aguiar,
Town Council President

CORRESPONDENCE – Motion to move item 1 to New Business on the February 14, 2022 meeting and to receive and place on file items 2 and 3 made by Mr. Hamilton, seconded by Dr. Ryan. Motion passed 6-0.

1. Portsmouth Housing Authority Annual Report for 2020. / Portsmouth Housing Authority Board of Commissioners
2. Virtual public workshop to discuss Statewide Water Quality Assessment. / H. Travers, PE, RI Dept. of Environmental Management, Office of Water Resources
3. Land and Water Conservation Fund program compliance and property stewardship. / M. DiPrete, Chief, RI Dept. of Environmental Management Division of Planning and Development

FUTURE MEETINGS

- Feb 14 7:00 PM – Town Council Meeting
- Feb 28 7:00 PM – Town Council Meeting
- Mar 14 7:00 PM – Town Council Meeting

ADJOURN – Motion to adjourn made by Mr. Hamilton, seconded by Mr. Kelly. Motion passed 6-0

Time: 8:50 PM

Jennifer M. West, Town Clerk