

PORTSMOUTH TOWN COUNCIL MEETING  
FEBRUARY 27, 2023  
MINUTES

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

MEMBERS PRESENT: Kevin M. Aguiar, Leonard B. Katzman, David M. Gleason, Keith E. Hamilton, Charles J. Levesque, and J. Mark Ryan

MEMBERS ABSENT: Daniela T. Abbott

Time: 7:00 PM

EMERGENCY EVACUATION PLAN

PLEDGE OF ALLEGIANCE

SITTING AS THE PORTSMOUTH TOWN COUNCIL

1. Roll Call

PRESIDENT’S EXECUTIVE SUMMARY – No Executive Session prior to the Meeting.

CONSENT AGENDA – Motion to receive as presented made by Mr. Hamilton, seconded by Dr. Ryan. 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. Peddler License – Mobile Food Establishment (MFE), Renewals:

a. Newport Chowder Company, 10 Pell St, Newport, 2 vehicles (#2282)

b. Totten Foods, LLC d/b/a BIG DOG EATS, 23 Gibbons Ave, Warwick, 1 vehicle (#2286)

SITTING AS THE BOARD OF LICENSE COMMISSIONERS

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. Class F Daily Liquor License:

St. Barnabas Church, Annual Festival, 1697 East Main Rd, June 16-18, 2023 (#2280)

2. Entertainment License:

St. Barnabas Church, Annual Festival, 1697 East Main Rd, June 16-18, 2023 (#2280)

3. Victualler License – Specific Event with Fee Waiver Request:

St. Barnabas Church, Annual Festival, 1697 East Main Rd, June 16-18, 2023 (#2281)

4. Peddler License – Mobile Food Establishment (MFE), New:

Kristi’s Kraftails, LLC, 73 Child St., Warren, 1 cart (#2283)

– Motion to approve items 1, 2, and 4 made by Mr. Katzman, seconded by Mr. Gleason. Motion passed 6-0.

– Motion to approve item 3, the victualler license, without the fee waiver made by Mr. Katzman, seconded by Mr. Hamilton. Motion failed 3-3. Mr. Gleason, Dr. Ryan, and Mr. Aguiar in dissent.

– Motion to approve the victualler license with the fee waiver made by Mr. Hamilton, seconded by Mr. Katzman. Motion passed 6-0.

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

MINUTES – Motion to approve made by Mr. Katzman, seconded by Dr. Ryan. Motion passed 6-0 for 1/23/23 and 2/13/23 and 5-0-1 for Exec. with Mr. Levesque recused.

1/23/23 & Exec.

2/13/23

### TOWN ADMINISTRATOR'S REPORT

1. Budget update – The School committee will review the School Administration's second budget draft tomorrow and we will conclude the second round of Town Department reviews this week. A proposed budget of receipts and expenditures will be submitted to the council on March 31<sup>st</sup>.
2. Gull Cove update – A representative from DEM briefed staff earlier this month on pending changes to the Gull Cove fishing area off Route 24. Due to continued erosion and tidal effects, access by vehicles to the farthest extension of the point will be limited in the future. Parking is available and limited to the area closer to the roadway, but pedestrian traffic will still be allowed along the full extent of the property.
3. DPW collective bargaining negotiation update – I believe we are nearing the conclusion of our collective bargaining negotiation with Public Works. Their current contract expires on June 30<sup>th</sup>, and I hope to have a contract proposal ready for your review by mid-April.
4. Parks, Recreation and Open Spaces Masterplan update – We are nearing the finish line regarding the Parks, Recreation and Open spaces Masterplan. I am expecting a full draft plan and supporting appendices ready for staff review later next week. Once any needed revisions are made, we will make the draft plan available for public comment. Following public comment, the plan will be updated as needed and presented to Town Council for approval and adoption.
5. Portsmouth Compact at Town Hall – In honor of Founders' Day, the Portsmouth Historical Society has arranged public viewing of the Portsmouth Town Compact and the Town's copy of the Declaration of Independence. The documents will be available for public viewing on Tuesday, March 7<sup>th</sup>, from 11:00 am to 1:00 pm.

Additionally, Rhode Island is poised to receive and deploy at least \$100M in federal funding to support Internet Access for All. To gain a better understanding of what our internet needs are, and how to best invest these funds, RI Commerce is conducting a survey and internet speed tests. The test and survey only take a few minutes, and everyone is encouraged to participate. Appropriate links and information can be found at the RI Commerce or Town's websites.

### OLD BUSINESS (Discussion/Action)

1. Community Electricity Aggregate Program update. – No votes taken.
2. Request approval of Purchase and Sales Agreement between RIDOT and the Town of Portsmouth for Teddy's Beach. – Motion to approve the Purchase and Sales agreement with the amendment to change 710 Park Ave. to 701 Park Ave. for \$150,000 made by Mr. Levesque, seconded by Mr. Hamilton. Motion passed 6-0.
3. Monthly Finance Report. – Motion to receive and place on file made by Mr. Hamilton seconded by Dr. Ryan. Motion passed 6-0.

### NEW BUSINESS (Discussion/Action)

1. Presentation of FY22 Audit. – Motion to receive and place on file made by Mr. Levesque, seconded by Mr. Hamilton. Motion passed 6-0.
2. PUBLIC HEARING: Proposed amendments to Chapter 12 of the Portsmouth Town Code – Municipal Court. – Mr. Gavin explained that the amendments were made to be in line with the legislation that was passed by the General Assembly at the Town's request so that the Town would be able to have building ordinance violations be heard in Municipal Court.

Motion to close the Public Hearing made by Mr. Levesque, seconded by Dr. Ryan. Motion passed 6-0.

Motion to approve the proposed amendments made by Mr. Levesque, seconded by Dr. Ryan. Motion passed 6-0.

TOWN OF PORTSMOUTH, RI  
Ordinance # 2023-2-27

AN ORDINANCE AMENDING THE TOWN CODE OF THE  
TOWN OF PORTSMOUTH

Be it ORDAINED by the Town Council of the Town of Portsmouth:

Section 1. Chapter 12 of the Town Code entitled “Court, Municipal” is hereby amended as follows:

§ 12-1 Establishment.

Pursuant to R.I.G.L. § 45-2-62.1, there is established: (1) a Municipal Court in the Town of Portsmouth which shall assume jurisdiction of the subject matters set forth in § 12-7.A; and (2) a Municipal Housing Court which shall assume jurisdiction of the subject matters set forth in § 12-7.B hereof. The two courts shall sit concurrently as the “Portsmouth Municipal and Housing Court” under a single docket to hear and determine causes involving violations within their respective jurisdiction.

§ 12-2 Appointment, term, and qualifications of Judge.

- A. The Municipal and Housing Court shall be composed of one Judge appointed by the Town Council who shall serve as the Judge of both Courts. The Judge shall serve at the pleasure of the Town Council.
- B. The Judge shall be a lawyer admitted to practice law in this state by the Rhode Island Supreme Court, shall be in good standing, and shall have not less than five years' experience in the active practice of law.

§ 12-3 Witnesses; attendance; subpoenas.

The Municipal and Housing Court shall have the power to issue writs or summonses for witnesses, and compel their attendance, and to punish for contempt by fine or imprisonment. The Court may also issue writs of habeas corpus ad testificandum, upon continuance of any complaint or proceeding before it, may take recognizance to the state, with surety or sureties in such sum as the Court shall deem proper, with the condition to appear before the Court and make further answer to such complaint or proceeding, and in the meantime to keep the peace, and, in want thereof, may commit the same to the state adult correctional institutions until such recognizance shall be given or the parties lawfully discharged therefrom.

§ 12-4 Municipal and Housing Court Clerk; appointment and duties.

- A. The Town Council shall appoint a Clerk of the Municipal and Housing Court who shall serve at the pleasure of the Council.
- B. The Clerk of the Municipal and Housing Court shall keep a regular docket of all cases disposed of; shall record the judgments, orders, and sentences of the Court; and shall furnish certified copies thereof when required, for which copies the Clerk shall charge the same fees as are by law allowed to Clerks of the Superior Court. The Clerk shall keep the office open to the public during such hours as the Court shall determine and shall also be responsible for the administration of the Court.
- C. Nothing contained herein shall prohibit the Police Department or the Town administration from providing the secretarial and administrative assistance necessary for the Municipal and Housing Court to perform its duties and responsibilities.
- D. Nothing contained herein shall prohibit the Town Clerk from also becoming the Municipal and Housing Court Clerk.

§ 12-5 Seal; oaths.

- A. The Municipal and Housing Court shall have a seal, which shall contain such words and device as the Town Council shall adopt and approve.
- B. The Municipal and Housing Court Judge and the Municipal and Housing Court Clerk shall have the power to administer oaths and affirmations.

§ 12-6 Sessions; time; place.

The Municipal and Housing Court shall be considered to be in session at all times and at such place or places in the Town as the Court, or Judge holding same, shall appoint.

§ 12-7 Jurisdiction.

- A. The Town Council hereby confers on the Municipal Court original jurisdiction to hear and determine causes involving violation of the Portsmouth Code of Ordinances; provided, however, that any defendant found guilty of any offense, excluding violations outlined in subsection B of this section, may within seven (7) days of conviction, file an appeal from the conviction to the Superior Court and be entitled to a trial de novo.
- B. The Town Council hereby confers on the Municipal Housing Court original jurisdiction to hear and determine causes involving the violation of the zoning ordinances of the town and any violation of the provisions of R.I.G.L. chapter 24 of title 45 (Rhode Island zoning enabling act of 1991); any violation of R.I.G.L. chapter 24.1 of title 45 (historical zoning act); any violation of R.I.G.L. chapter 24.2 of title 45 (minimum housing standards act); any violation of R.I.G.L. chapter 24.3 of title 45 (housing maintenance and occupancy code); any violation of R.I.G.L. chapter 23 of title 45 (subdivision and land development act); any violation of any local Portsmouth ordinance or regulation enacted pursuant to these chapters; and any violation of the provisions of chapter 27.3 of title 23 (Rhode Island state building code); and any violation of the provisions of those regulations promulgated by the state building code commission entitled SBC-1 Rhode Island state building code; SBC-2 Rhode Island state one- and two-family (2) dwelling code; SBC-3 Rhode Island state plumbing code; SBC-4 Rhode Island state mechanical code; SBC-5 Rhode Island state electrical code; SBC-6 state property maintenance code; SBC-8 Rhode Island state energy conservation code; and SBC-20 Rhode Island state fuel and gas code; and provided, further, that any party aggrieved by a final judgment, decree, or order of the Portsmouth Municipal Housing Court may, within twenty (20) days after entry of this judgment, decree, or order, file an appeal to the Superior Court and be entitled to a trial de novo.
- C. With respect to violations falling under the jurisdiction of the Municipal Housing Court, as outlined in subsection B of this section, the Town Council hereby confers upon the Municipal Housing Court, in furtherance of the aforementioned jurisdiction, the power to proceed, according to equity:
- (1) To restrain, prevent, enjoin, abate, or correct a violation;
  - (2) To order the repair, vacating, or demolition of any dwelling existing in violation;
  - (3) To otherwise compel compliance with all provisions of ordinances, regulations, and statutes; and
  - (4) To order a dwelling into receivership and to order the removal of any cloud on the title to the building or property that shall be binding upon all those claiming by, through, under, or by virtue of any inferior liens or encumbrances pursuant to R.I.G.L. chapter 44 of title 34.

§ 12-8 Fines; penalties.

The Municipal and Housing Court may impose fines not in excess of \$500 per violation, and shall be empowered to punish persons for contempt.

§ 12-9 Complaints; warrants; writs.

It shall be lawful for the Judge of the Municipal and Housing Court to prescribe and vary the form of all complaints, warrants, writs, or other process as to make the same consistent with the organization, style, and jurisdiction of the Court, and such complaints, warrants, writs, and other process shall have the same effect, validity, and extent, and be served, obeyed, enforced, and returned, in the same manner and by the same officers, as if issued from the District Courts; and they may be served by any constables of the Town who are authorized to serve process in civil or criminal cases.

§ 12-10 Costs.

- A. The Municipal and Housing Court shall be authorized to assess court costs in the amount of \$50 for each offense charged, and the payment of such costs shall be a part of the sentence.
- B. All payments shall be deposited in the general treasury of the Town.
- C. The costs incurred by the Town in securing a police officer's presence, upon the request of the defendant, shall be charged to the defendant in the event he or she should fail to appear.

§ 12-11 Compensation of Municipal and Housing Court Judge and Clerk.

- A. The compensation of the Judge of the Municipal and Housing Court shall be set by the Town Council.
- B. The compensation of the Clerk of the Municipal and Housing Court shall be set by the Town Council.

§ 12-12 Acting Judge; Acting Clerk.

- A. In cases of sickness, absence, or other disability or ineligibility of the Municipal and Housing Court Judge or Clerk which shall be less than 45 days, the Town Council may appoint an Acting Judge or an Acting Clerk, respectively, at the same compensation or at such salary as the Town Council may determine for the term of such sickness, absence, disability or ineligibility of the Judge or Clerk. An Acting Municipal and Housing Court Judge or Acting Municipal and Housing Court Clerk shall perform all duties of the Municipal and Housing Court Judge or Municipal and Housing Court Clerk, respectively.
- B. In case of a prolonged sickness, absence, or other disability or ineligibility of the Municipal and Housing Court Judge or the Municipal and Housing Court Clerk that shall be in excess of 45 days, the Town Council may, by resolution, appoint an Acting Municipal and Housing Court Judge or an Acting Municipal and Housing Court Clerk, respectively, for the term of such sickness, absence, disability or ineligibility of the Municipal and Housing Court Judge or the Municipal and Housing Court Clerk, respectively, at the same compensation or at such salary as the Town Council may determine. An Acting Municipal and Housing Court Judge or Acting Municipal and Housing Court Clerk shall perform all duties of the Municipal and Housing Court Judge or Municipal and Housing Court Clerk, respectively, and in the performance of those duties shall have the same effect as if performed by the Municipal and Housing Court Judge or Municipal and Housing Court Clerk, respectively.
- C. In case the Municipal and Housing Court Judge must recuse due to a conflict in a specific case, the Portsmouth Probate Court Judge shall sit as the Municipal and Housing Court Judge.

Section 2. This Ordinance shall take effect upon passage.

ADOPTED BY TOWN COUNCIL ACTION ON:  
February 27, 2023

Jennifer M. West, Town Clerk

- 3. Request approval to be co-applicant, along with Mr. Steven Simoni, for a proposed Hog Island Emergency Response Dock. – Motion to approve made by Mr. Levesque, seconded by Mr. Gleason. Motion passed 6-0.
- 4. American Rescue Plan Act (ARPA) update and request approvals for Fire Department garage door renovations and a Resilience Hazard Mitigation grant match. – Motion to approve made by Mr. Hamilton, seconded by Mr. Gleason. Motion passed 6-0.
- 5. Request approval to award the Computer Aided Dispatch component of the Request for Proposal (RFP) to Symposium Technologies USA and the Records Management Software component to First Due. – Motion to award the Computer Aided Dispatch component to Symposium Technologies USA and the Records Management Software component to First Due for not more than \$64,908 made by Mr. Hamilton, seconded by Mr. Gleason. Motion passed 6-0.

CORRESPONDENCE – Motion to receive and place on file items 1, 2 and 4 and to move item 3 to New Business on the 3/13/23 agenda made by Mr. Levesque, seconded by Dr. Ryan. Motion passed 6-0.

- 1. Resolution in support of housing development & land use. / Lincoln Town Council
- 2. Portsmouth Water and Fire District’s Quarterly Financial Reports for the period ending January 31, 2023. / N. Larsen, Senior Accountant, Portsmouth Water and Fire District
- 3. Resolution in Support of House Bill 2023 - H 5174, An Act Relating to Waters and Navigation Coastal Resources Management Council. / Charlestown Town Council
- 4. Resolution in Support of Full Funding of Categorical Transportation Aid as Outlined in RIGL

§16-7.2-6. / Charlestown Town Council

FUTURE MEETINGS

Mar 13 7:00 PM – Town Council Meeting

Mar 27 7:00 PM – Town Council Meeting

Apr 10 7:00 PM – Town Council Meeting

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

Time: 9:46 PM

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Jennifer M. West, CMC, Town Clerk